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SENATE BILL NO. 918

Offered January 10, 2007

Prefiled January 8, 2007

A BILL to amend and reenact §§ 32.1-292.2, 46.2-342, 54.1-2982, 54.1-2984, and 57-48 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 32.1-291.1 through 32.1-291.25, and to repeal §§ 32.1-287, 32.1-289, 32.1-290, 32.1-291, 32.1-292.1, 32.1-293, and 32.1-295 of the Code of Virginia, relating to the Revised Uniform Anatomical Gift Act; penalties.

Patrons—Howell and Herring; Delegates: Amundson, Callahan, Caputo, Marsden, Plum, Rust, Scott, J.M., Sickles and Watts

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-292.2, 46.2-342, 54.1-2982, 54.1-2984, and 57-48 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 32.1-291.1 through 32.1-291.25 as follows:

§ 32.1-291.1. Revised Uniform Anatomical Gift Act; short title.

This Act consists of § 32.1-291.1 through 32.1-291.25 and may be cited as the Revised Uniform Anatomical Gift Act.

§ 32.1-291.2. Definitions.

As used in this Act, unless the context requires otherwise:

"Adult" means an individual who is at least 18 years of age.

"Agent" means an individual:

1. Authorized to make health-care decisions on the principal's behalf by a power of attorney for health care; or

2. Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

"Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

"Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this Act, a fetus.

"Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to whom an anatomical gift could pass under § 32.1-291.11.

"Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry.

"Donor" means an individual whose body or part is the subject of an anatomical gift.

"Donor registry" means a database that contains records of anatomical gifts.

"Driver's license" means a license or permit issued by the Virginia Department of Motor Vehicles to operate a vehicle, whether or not conditions are attached to the license or permit.

"Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes and that is a member of the Virginia Transplant Council, accredited by the Eye Bank Association of America or the American Association of Tissue Banks and operating in the Commonwealth of Virginia.

"Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem, except when the guardian ad litem is authorized by a court to consent to donation.

"Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

"Identification card" means an identification card issued by the Virginia Department of Motor Vehicles.

"Know" means to have actual knowledge.

"Minor" means an individual who is under 18 years of age.

"Organ procurement organization" means a person designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization that is also a member

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of the Virginia Transplant Council.

"Parent" means a parent whose parental rights have not been terminated.

"Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

"Physician" means an individual authorized to practice medicine or osteopathy under the law of any state.

"Procurement organization" means an eye bank, organ procurement organization, or tissue bank that is a member of the Virginia Transplant Council.

"Prospective donor" means an individual who is dead or whose death is imminent and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.

"Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

"Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Refusal" means a record created under § 32.1-291.7 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

"Sign" means, with the present intent to authenticate or adopt a record:

1. To execute or adopt a tangible symbol; or

2. To attach to or logically associate with the record an electronic symbol, sound, or process.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

"Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

"Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

"Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue and that is a member of the Virginia Transplant Council, accredited by the American Association of Tissue Banks, and operating in the Commonwealth of Virginia.

"Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

§ 32.1-291.3. Applicability of Act.

This Act applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

§ 32.1-291.4. Who may make anatomical gift before donor's death.

Subject to § 32.1-291.8, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in § 32.1-291.5 by:

1. The donor, if the donor is an adult or if the donor is a minor and is:

a. Emancipated; or

b. Authorized under state law to apply for a driver's license because the donor is at least 15 years and six months of age;

2. An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

3. A parent of the donor, if the donor is an unemancipated minor; or

4. The donor's guardian.

§ 32.1-291.5. Manner of making anatomical gift before donor's death.

A. A donor may make an anatomical gift:

1. By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

2. In a will;

3. During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults; or

4. As provided in subsection B.

B. A donor or other person authorized to make an anatomical gift under § 32.1-291.4 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall:

1. Be witnessed by at least two adults, who have signed at the request of the donor or the other person; and

2. State that it has been signed and witnessed as provided in subdivision 1.

C. Revocation, suspension, expiration, or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

D. An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

§ 32.1-291.6. Amending or revoking anatomical gift before donor's death.

A. Subject to § 32.1-291.8, a donor or other person authorized to make an anatomical gift under § 32.1-291.4 may amend or revoke an anatomical gift by:

1. A record signed by:

a. The donor;

b. The other person; or

c. Subject to subsection B, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

2. Later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

B. A record signed pursuant to subdivision A 1 c shall:

1. Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

2. State that it has been signed and witnessed as provided in subdivision 1.

C. Subject to § 32.1-291.8, a donor or other person authorized to make an anatomical gift under § 32.1-291.4 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

D. A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

E. A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection A.

§ 32.1-291.7. Refusal to make anatomical gift; effect of refusal.

A. An individual may refuse to make an anatomical gift of the individual's body or part by:

1. A record signed by:

a. The individual; or

b. Subject to subsection B, another individual acting at the direction of the individual if the individual is physically unable to sign;

2. The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

3. Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

B. A record signed pursuant to subdivision A 1 b shall:

1. Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

2. State that it has been signed and witnessed as provided in subdivision 1.

C. An individual who has made a refusal may amend or revoke the refusal:

1. In the manner provided in subsection A for making a refusal;

2. By subsequently making an anatomical gift pursuant to § 32.1-291.5 that is inconsistent with the refusal; or

3. By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

D. Except as otherwise provided in subsection H of § 32.1-291.8, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

§ 32.1-291.8. Preclusive effect of anatomical gift, amendment, or revocation.

A. Except as otherwise provided in subsection G and subject to subsection F, in the absence of an

express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under § 32.1-291.5 or an amendment to an anatomical gift of the donor's body or part under § 32.1-291.6.

B. A donor's revocation of an anatomical gift of the donor's body or part under § 32.1-291.6 is not a refusal and does not bar another person specified in § 32.1-291.4 or 32.1-291.9 from making an anatomical gift of the donor's body or part under § 32.1-291.5 or 32.1-291.10.

C. If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under § 32.1-291.5 or an amendment to an anatomical gift of the donor's body or part under § 32.1-291.6, another person may not make, amend, or revoke the gift of the donor's body or part under § 32.1-291.10.

D. A revocation of an anatomical gift of a donor's body or part under § 32.1-291.6 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under § 32.1-291.5 or 32.1-291.10.

E. In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under § 32.1-291.4, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

F. In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under § 32.1-291.4, an anatomical gift of a part for one or more of the purposes set forth in § 32.1-291.4 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under § 32.1-291.5 or 32.1-291.10.

G. If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

H. If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

§ 32.1-291.9. Who may make anatomical gift of decedent's body or part.

A. Subject to subsections B and C and unless barred by § 32.1-291.7 or 32.1-291.8, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

1. An agent of the decedent at the time of death who could have made an anatomical gift under subdivision 2 of § 32.1-291.4 immediately before the decedent's death;

2. The persons who were acting as the guardians of the person of the decedent at the time of death;

3. The spouse of the decedent;

4. Adult children of the decedent;

5. Parents of the decedent;

6. Adult siblings of the decedent;

7. Adult grandchildren of the decedent;

8. Grandparents of the decedent;

9. An adult who exhibited special care and concern for the decedent; and

10. Any other person having the authority to dispose of the decedent's body.

B. If there is more than one member of a class listed in subdivisions A 1, A 2, A 4, A 5, A 6, A 7, or A 8 entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under § 32.1-291.11 knows of an objection by another member of the class. If an objection is known, the gift may be made only by those members who constitute at least 50 percent of the class who are reasonably available.

C. A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection A is reasonably available to make or to object to the making of an anatomical gift.

§ 32.1-291.10. Manner of making, amending, or revoking anatomical gift of decedent's body or part.

A. A person authorized to make an anatomical gift under § 32.1-291.9 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

B. Subject to subsection C, an anatomical gift by a person authorized under § 32.1-291.9 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under § 32.1-291.9 may be:

1. Amended only if a majority of the reasonably available members agree to the amending of the gift; or

2. Revoked only if a majority of the reasonably available members agree to the revoking of the gift.

C. A revocation under subsection B is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

§ 32.1-291.11. Persons that may receive anatomical gift; purpose of anatomical gift.

A. An anatomical gift may be made to the following persons named in the document of gift:

1. A hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person authorized by the Virginia Transplant Council, for research or education;

2. Subject to subsection B, an individual designated by the person making the anatomical gift if the individual is the recipient of the part; or

3. An eye bank or tissue bank.

B. If an anatomical gift to an individual under subdivision A 2 cannot be transplanted into the individual, the part passes in accordance with subsection G in the absence of an express, contrary indication by the person making the anatomical gift.

C. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection A but identifies the purpose for which an anatomical gift may be used, the following rules apply:

1. If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

2. If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

3. If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

4. If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

D. For the purpose of subsection C, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

E. If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection A and does not identify the purpose of the gift, the gift may be used for transplantation, therapy, research and education, and the gift passes in accordance with subsection G. The gift shall be used first for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

F. If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift may be used for transplantation, therapy, research and education and the gift passes in accordance with subsection G. The gift shall be used first for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

G. For purposes of subsections B, E, and F the following rules apply:

1. If the part is an eye, the gift passes to the appropriate eye bank.

2. If the part is tissue, the gift passes to the appropriate tissue bank.

3. If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

H. An anatomical gift of an organ for transplantation, therapy, research or education other than an anatomical gift under subdivision A 2, passes to the organ procurement organization as custodian of the organ.

I. If an anatomical gift does not pass pursuant to subsections A through H or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the surviving spouse, next of kin or other person under obligation to dispose of the body or part.

J. A person may not accept an anatomical gift if the person knows that the gift was not effectively made under § 32.1-291.5 or 32.1-291.10 or if the person knows that the decedent made a refusal under § 32.1-291.7 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

K. Except as otherwise provided in subdivision A 2, nothing in this Act affects the allocation of organs for transplantation therapy, research or education.

§ 32.1-291.12. Search and notification.

A. The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or whose death is imminent for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

1. A law-enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual; and

2. If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

B. If a document of gift or a refusal to make an anatomical gift is located by the search required by subdivision A 1 and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

C. A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

§ 32.1-291.13. Delivery of document of gift not required; right to examine.

A. A document of gift need not be delivered during the donor's lifetime to be effective.

B. Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under § 32.1-291.11.

§ 32.1-291.14. Rights and duties of procurement organization and others.

A. When a hospital refers an individual who is dead or whose death is imminent to a procurement organization, the organization shall make a reasonable search of the records of the Virginia Department of Motor Vehicles and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

B. A procurement organization shall be allowed reasonable access to information in the records of the Virginia Department of Motor Vehicles to ascertain whether an individual who is dead or whose death is imminent is a donor.

C. When a hospital refers an individual who is dead or whose death is imminent to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

D. Unless prohibited by law other than this Act, at any time after a donor's death, the person to which a part passes under § 32.1-291.11 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

E. Unless prohibited by law other than this Act, an examination under subsection C or D may include an examination of all medical and dental records of the donor or prospective donor.

F. Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

G. Upon referral by a hospital under subsection A, a procurement organization shall make a reasonable search for any person listed in § 32.1-291.9 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

H. Subject to subsection I of § 32.1-291.11 and § 32.1-291.23, the rights of the person to which a part passes under § 32.1-291.11 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this Act, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under § 32.1-291.11, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

I. Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

J. A donated part from the body of a donor may be removed only by a physician or technician. The physician or technician performing the removal shall be qualified to remove the donated part from the body. For the purposes of this section, "qualified" means:

1. If the part is an organ, a physician or technician who is authorized by the appropriate organ procurement organization;

2. If the part is an eye, a physician or technician who is approved by an eye bank as qualified to perform the act of eye recovery;

3. If the part is tissue, any physician or technician who is approved by LifeNet as qualified to perform the act of tissue recovery.

An organ procurement organization may screen, test, and recover eyes and tissue on behalf of an eye bank or tissue bank. Any person authorized by this subsection to recover organs, tissues or eyes may draw blood from the donor and order such tests as may be appropriate to protect his health and the health of the recipients of the organs, tissues or eyes.

§ 32.1-291.15. Coordination of procurement and use.

Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

§ 32.1-291.16. Sale or purchase of parts prohibited; penalty.

A. Except as otherwise provided in subsection B, a person that for valuable consideration, knowingly purchases or sells a part for transplantation, research, therapy or education if removal of a part from an individual is intended to occur after the individual's death is guilty of a Class 4 felony.

B. A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

§ 32.1-291.17. Falsification, etc. of document of gift; penalty.

A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal is guilty of a Class 4 felony.

§ 32.1-291.18. Immunity.

A. A person that acts in accordance with this Act or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

B. Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

C. In determining whether an anatomical gift has been made, amended, or revoked under this Act, a person may rely upon representations of an individual listed in subdivisions A 3, A 4, A 5, A 6, A 7, A 8, or A 9 of § 32.1-291.9 relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

§ 32.1-291.19. Law governing validity; choice of law as to execution of document of gift; presumption of validity.

A. A document of gift is valid if executed in accordance with:

1. This Act;

2. The laws of the state or country where it was executed; or

3. The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

B. If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

C. A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

§ 32.1-291.20. Donor registry.

For the purposes of this Act, the donor registry is the Virginia Donor Registry established under § 32.1-292.2.

§ 32.1-291.21. Effect of anatomical gift on advance health-care directive.

A. In this section:

"Advance health-care directive" means an advance directive executed by a prospective donor as provided in the Heath Care Decisions Act (§ 54.1-2981 et seq.).

B. If a prospective donor has an advance health-care directive, measures necessary to ensure the medical suitability of an organ for transplantation or therapy may not be withheld or withdrawn from the prospective donor, unless the advance health-care directive expressly provides to the contrary.

§ 32.1-291.22. Cooperation between medical examiner and procurement organization.

A. A medical examiner and procurement organizations shall cooperate with each other to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education.

B. If a medical examiner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination is going to be performed, unless the medical examiner denies recovery in accordance with § 32.1-291.23, the medical examiner or designee shall conduct, when practicable, a postmortem examination of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift.

C. A part may not be removed from the body of a decedent under the jurisdiction of a medical examiner for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the medical examiner may not be

delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude a medical examiner from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the medical examiner or from using the body or parts of a decedent under the jurisdiction of the medical examiner for the purposes of education, training, and research required by the medical examiner.

§ 32.1-291.23. Facilitation of anatomical gift from decedent whose body is under jurisdiction of medical examiner.

A. Upon request of a procurement organization, a medical examiner shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the medical examiner. If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, the medical examiner shall release postmortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the postmortem examination results or other information received from the medical examiner only if relevant to transplantation, therapy, research or education.

B. The medical examiner may conduct a medicolegal investigation by reviewing all medical records, laboratory test results, x-rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the medical examiner that the medical examiner determines may be relevant to the investigation.

C. A person that has any information requested by a medical examiner pursuant to subsection B shall provide that information as expeditiously as possible to allow the medical examiner to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research, or education.

D. If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination is not required, or the medical examiner determines that a postmortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the medical examiner and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research, or education.

E. The medical examiner and procurement organizations shall enter into an agreement setting forth protocols and procedures to govern relations between the parties when an anatomical gift of a part from a decedent under the jurisdiction of the medical examiner has been or might be made, but the medical examiner believes that the recovery of the part could interfere with the postmortem investigation into the decedent's cause or manner of death. Decisions regarding the recovery of organs, tissue and eyes from such a decedent shall be made in accordance with the agreement. In the event that the medical examiner denies recovery of an anatomical gift, the procurement organization may request the Chief Medical Examiner to reconsider the denial and to permit the recovery to proceed. The parties shall evaluate the effectiveness of the protocols and procedures at regular intervals but no less frequently than every two years.

F. If the medical examiner or designee allows recovery of a part under subsection D or E, the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the medical examiner with a record describing the condition of the part, a biopsy, a photograph, and any other information and observations that would assist in the postmortem examination.

G. If a medical examiner or designee is required to be present at a removal procedure under subsection E, upon request the procurement organization requesting the recovery of the part shall reimburse the medical examiner or designee for the additional costs incurred in complying with subsection E.

§ 32.1-291.24. Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 32.1-291.25. Relation to Electronic Signatures in Global and National Commerce Act.

This Act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit or supersede Section 101(a) of that act, 15 U.S.C. Section 7001, or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

§ 32.1-292.2. The Virginia Donor Registry.

A. In order to save lives by reducing the shortage of organs and tissues for transplantation and to implement cost savings for patients and various state agencies by eliminating needless bureaucracy, there is hereby established the Virginia Donor Registry (hereinafter referred to as the Registry), which shall be created, compiled, maintained, and modified as necessary by the Virginia Transplant Council in accordance with the regulations of the Board of Health and the administration of the Department of Health. Pertinent information on all Virginians who have indicated a willingness to donate organs and

tissues in accordance with ~~§ 32.1-290~~ *the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq.)* shall be compiled, maintained, and modified as necessary in the Registry by the Virginia Transplant Council.

B. The Registry and all information therein shall be confidential and subject to access only by personnel of the Department of Health and designated organ procurement organizations, eye banks, and tissue banks, operating in or serving Virginia that are members of the Virginia Transplant Council, for the purpose of identifying and determining the suitability of a potential donor according to the provisions of subdivision B 4 of § 32.1-127 or subsection F of § 46.2-342.

C. The purpose of the Registry shall include, but not be limited to:

1. Providing a means of recovering an anatomical gift for transplantation or research as authorized by ~~§ 32.1-295~~ *the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq.)* and subsection F of § 46.2-342; and

2. Collecting data to develop and evaluate the effectiveness of educational initiatives promoting organ, eye, and tissue donation that are conducted or coordinated by the Virginia Transplant Council or its members.

D. The Board, in consultation with the Virginia Transplant Council, shall promulgate regulations necessary to create, compile, maintain, modify as necessary, and administer the Virginia Donor Registry. The regulations shall include, but not be limited to:

1. Recording the data subject's full name, address, sex, birth date, age, driver's license number or unique identifying number, and other pertinent identifying personal information;

2. Authorizing the Virginia Transplant Council to analyze Registry data under research protocols that are designed to identify and assess the effectiveness of mechanisms to promote and increase organ, eye, and tissue donation within the Commonwealth; and

3. Providing that any Virginian whose name has been placed in the registry may have his name deleted by filing an appropriate form with the Virginia Transplant Council or in accordance with subsections ~~E~~ ~~and~~ ~~F~~ ~~of~~ ~~§ 32.1-290~~ *the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq.)* or subsection G of § 46.2-342.

§ 46.2-342. What license to contain; organ donor information; Uniform Donor Document.

A. Every license issued under this chapter shall bear:

1. For licenses issued or renewed on or after July 1, 2003, a license number which shall be assigned by the Department to the licensee and shall not be the same as the licensee's social security number;

2. A color photograph of the licensee;

3. The licensee's full name, year, month, and date of birth;

4. The licensee's address, subject to the provisions of subsection A1 of this section;

5. A brief description of the licensee for the purpose of identification;

6. A space for the signature of the licensee; and

7. Any other information deemed necessary by the Commissioner for the administration of this title.

No abbreviated names or nicknames shall be shown on any license.

A1. At the option of the licensee, the address shown on the license may be either the post office box, business, or residence address of the licensee, provided such address is located in Virginia. However, regardless of which address is shown on the license, the licensee shall supply the Department with his residence address, which shall be an address in Virginia. This residence address shall be maintained in the Department's records. Whenever the licensee's address shown either on his license or in the Department's records changes, he shall notify the Department of such change as required by § 46.2-324.

B. The license shall be made of a material and in a form to be determined by the Commissioner.

C. Licenses issued to persons less than 21 years old shall be immediately and readily distinguishable from those issued to persons 21 years old or older. Distinguishing characteristics shall include unique design elements of the document and descriptors within the photograph area to identify persons who are at least 15 years old but less than 21 years old. These descriptors shall include the month, day, and year when the person will become 21 years old.

D. The Department shall establish a method by which an applicant for a driver's license or an identification card may designate his willingness to be an organ donor as provided in Article 2 ~~(§ 32.1-289 et seq.)~~ *(§ 32.1-289.2 et seq.)* of Chapter 8 of Title 32.1 and shall cooperate with the Virginia Transplant Council to ensure that such method is designed to encourage organ donation with a minimum of effort on the part of the donor and the Department.

E. If an applicant designates his willingness to be a donor pursuant to subsection D, the Department may make a notation of this designation on his license or card and shall make a notation of this designation in his driver record.

F. The donor designation authorized in subsection E shall be sufficient legal authority for the removal, following death, of the subject's organs or tissues without additional authority from the donor,

or his family or estate. No family member, guardian, agent named pursuant to an advance directive or person responsible for the decedent's estate shall refuse to honor the donor designation or, in any way, seek to avoid honoring the donor designation.

G. The donor designation provided pursuant to subsection D may be rescinded by notifying the Department.

H. With the written consent of his parent or legal guardian, a minor may make a donor designation.

I. When requested by the applicant, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's driver's license that the applicant is (i) an insulin-dependent diabetic, or (ii) hearing or speech impaired.

J. In the absence of gross negligence or willful misconduct, the Department and its employees shall be immune from any civil or criminal liability in connection with the making of or failure to make a notation of donor designation on any license or card or in any person's driver record.

K. Notwithstanding the foregoing provisions of this section, the Department shall continue to use the uniform donor document, as formerly set forth in subsection D above, for organ donation designation until such time as a new method is fully implemented, which shall be no later than July 1, 1994. Any such uniform donor document shall, when properly executed, remain valid and shall continue to be subject to all conditions for execution, delivery, amendment, and revocation as set out in Article 2 ~~(§ 32.1-289 et seq.)~~ *(§ 32.1-289.2 et seq.)* of Chapter 8 of Title 32.1.

L. The Department shall, in coordination with the Virginia Transplant Council, prepare an organ donor information brochure describing the organ donor program and providing instructions for completion of the uniform donor document information describing the bone marrow donation program and instructions for registration in the National Bone Marrow Registry. The Department shall include a copy of such brochure with every driver's license renewal notice or application mailed to licensed drivers in Virginia.

§ 54.1-2982. Definitions.

As used in this article:

"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provisions of § 54.1-2983.

"Agent" means an adult appointed by the declarant under an advance directive, executed or made in accordance with the provisions of § 54.1-2983, to make health care decisions for him, including visitation, provided the advance directive makes express provisions for visitation and subject to physician orders and policies of the institution to which the declarant is admitted. The declarant may also appoint an adult to make, after the declarant's death, an anatomical gift of all or any part of his body pursuant to Article 2 ~~(§ 32.1-289 et seq.)~~*(§ 32.1-289.2 et seq.)* of Chapter 8 of Title 32.1.

"Attending physician" means the primary physician who has responsibility for the treatment and care of the patient.

"Declarant" means an adult who makes an advance directive, as defined in this article, while capable of making and communicating an informed decision.

"Durable Do Not Resuscitate Order" means a written physician's order issued pursuant to § 54.1-2987.1 to withhold cardiopulmonary resuscitation from a particular patient in the event of cardiac or respiratory arrest. For purposes of this article, cardiopulmonary resuscitation shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, and defibrillation and related procedures. As the terms "advance directive" and "Durable Do Not Resuscitate Order" are used in this article, a Durable Do Not Resuscitate Order is not and shall not be construed as an advance directive.

"Incapable of making an informed decision" means the inability of an adult patient, because of mental illness, mental retardation, or any other mental or physical disorder which precludes communication or impairs judgment and which has been diagnosed and certified in writing by his attending physician and a second physician or licensed clinical psychologist after personal examination of such patient, to make an informed decision about providing, withholding or withdrawing a specific medical treatment or course of treatment because he is unable to understand the nature, extent or probable consequences of the proposed medical decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision. For purposes of this article, persons who are deaf, dysphasic or have other communication disorders, who are otherwise mentally competent and able to communicate by means other than speech, shall not be considered incapable of making an informed decision.

"Life-prolonging procedure" means any medical procedure, treatment or intervention which (i) utilizes mechanical or other artificial means to sustain, restore or supplant a spontaneous vital function, or is otherwise of such a nature as to afford a patient no reasonable expectation of recovery from a terminal condition and (ii) when applied to a patient in a terminal condition, would serve only to prolong the dying process. The term includes artificially administered hydration and nutrition. However, nothing in

this act shall prohibit the administration of medication or the performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain, including the administration of pain relieving medications in excess of recommended dosages in accordance with §§ 54.1-2971.01 and 54.1-3408.1. For purposes of §§ 54.1-2988, 54.1-2989, and 54.1-2991, the term also shall include cardiopulmonary resuscitation.

"Persistent vegetative state" means a condition caused by injury, disease or illness in which a patient has suffered a loss of consciousness, with no behavioral evidence of self-awareness or awareness of surroundings in a learned manner, other than reflex activity of muscles and nerves for low level conditioned response, and from which, to a reasonable degree of medical probability, there can be no recovery.

"Physician" means a person licensed to practice medicine in the Commonwealth of Virginia or in the jurisdiction where the treatment is to be rendered or withheld.

"Qualified patient" means a patient who has made an advance directive in accordance with this article and either (i) has been diagnosed and certified in writing by the attending physician and a second physician or licensed clinical psychologist after personal examination to be incapable of making an informed decision about providing, withholding or withdrawing a specific medical treatment or course of treatment, in accordance with § 54.1-2986 or (ii) has been diagnosed and certified in writing by the attending physician to be afflicted with a terminal condition.

"Terminal condition" means a condition caused by injury, disease or illness from which, to a reasonable degree of medical probability a patient cannot recover and (i) the patient's death is imminent or (ii) the patient is in a persistent vegetative state.

"Witness" means any person over the age of 18, including a spouse or blood relative of the declarant. Employees of health care facilities and physician's offices, who act in good faith, shall be permitted to serve as witnesses for purposes of this article.

§ 54.1-2984. Suggested form of written advance directives.

An advance directive executed pursuant to this article may, but need not, be in the following form, and may (i) direct a specific procedure or treatment to be provided, such as artificially administered hydration and nutrition; (ii) direct a specific procedure or treatment to be withheld; or (iii) appoint an agent to make health care decisions for the declarant as specified in the advance directive if the declarant is determined to be incapable of making an informed decision, including the decision to make, after the declarant's death, an anatomical gift of all of the declarant's body or an organ, tissue or eye donation pursuant to Article 2 ~~(§ 32.1-289 et seq.)~~ *(§ 32.1-289.2 et seq.)* of Chapter 8 of Title 32.1 and in compliance with any directions of the declarant. Should any other specific directions be held to be invalid, such invalidity shall not affect the advance directive. If the declarant appoints an agent in an advance directive, that agent shall have the authority to make health care decisions for the declarant as specified in the advance directive if the declarant is determined to be incapable of making an informed decision and shall have decision-making priority over any individuals authorized under § 54.1-2986 to make health care decisions for the declarant. In no case shall the agent refuse or fail to honor the declarant's wishes in relation to anatomical gifts or organ, tissue or eye donation.

ADVANCE MEDICAL DIRECTIVE

I, ..., willfully and voluntarily make known my desire and do hereby declare:

If at any time my attending physician should determine that I have a terminal condition where the application of life-prolonging procedures would serve only to artificially prolong the dying process, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care or to alleviate pain (OPTION: I specifically direct that the following procedures or treatments be provided to me: .....)

In the absence of my ability to give directions regarding the use of such life-prolonging procedures, it is my intention that this advance directive shall be honored by my family and physician as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences of such refusal.

OPTION: APPOINTMENT OF AGENT (CROSS THROUGH IF YOU DO NOT WANT TO APPOINT AN AGENT TO MAKE HEALTH CARE DECISIONS FOR YOU.)

I hereby appoint ..... (primary agent), of ..... (address and telephone number), as my agent to make health care decisions on my behalf as authorized in this document. If ..... (primary agent) is not reasonably available or is unable or unwilling to act as my agent, then I appoint ..... (successor

agent), of ..... (address and telephone number), to serve in that capacity.

I hereby grant to my agent, named above, full power and authority to make health care decisions on my behalf as described below whenever I have been determined to be incapable of making an informed decision about providing, withholding or withdrawing medical treatment. The phrase "incapable of making an informed decision" means unable to understand the nature, extent and probable consequences of a proposed medical decision or unable to make a rational evaluation of the risks and benefits of a proposed medical decision as compared with the risks and benefits of alternatives to that decision, or unable to communicate such understanding in any way. My agent's authority hereunder is effective as long as I am incapable of making an informed decision.

The determination that I am incapable of making an informed decision shall be made by my attending physician and a second physician or licensed clinical psychologist after a personal examination of me and shall be certified in writing. Such certification shall be required before treatment is withheld or withdrawn, and before, or as soon as reasonably practicable after, treatment is provided, and every 180 days thereafter while the treatment continues.

In exercising the power to make health care decisions on my behalf, my agent shall follow my desires and preferences as stated in this document or as otherwise known to my agent. My agent shall be guided by my medical diagnosis and prognosis and any information provided by my physicians as to the intrusiveness, pain, risks, and side effects associated with treatment or nontreatment. My agent shall not authorize a course of treatment which he knows, or upon reasonable inquiry ought to know, is contrary to my religious beliefs or my basic values, whether expressed orally or in writing. If my agent cannot determine what treatment choice I would have made on my own behalf, then my agent shall make a choice for me based upon what he believes to be in my best interests.

OPTION: POWERS OF MY AGENT (CROSS THROUGH ANY LANGUAGE YOU DO NOT WANT AND ADD ANY LANGUAGE YOU DO WANT.)

The powers of my agent shall include the following:

A. To consent to or refuse or withdraw consent to any type of medical care, treatment, surgical procedure, diagnostic procedure, medication and the use of mechanical or other procedures that affect any bodily function, including, but not limited to, artificial respiration, artificially administered nutrition and hydration, and cardiopulmonary resuscitation. This authorization specifically includes the power to consent to the administration of dosages of pain-relieving medication in excess of recommended dosages in an amount sufficient to relieve pain, even if such medication carries the risk of addiction or inadvertently hastens my death;

B. To request, receive, and review any information, verbal or written, regarding my physical or mental health, including but not limited to, medical and hospital records, and to consent to the disclosure of this information;

C. To employ and discharge my health care providers;

D. To authorize my admission to or discharge (including transfer to another facility) from any hospital, hospice, nursing home, adult home or other medical care facility for services other than those for treatment of mental illness requiring admission procedures provided in Article 1 (§ 37.2-800 et seq.) of Chapter 8 of Title 37.2; and

E. To take any lawful actions that may be necessary to carry out these decisions, including the granting of releases of liability to medical providers.

Further, my agent shall not be liable for the costs of treatment pursuant to his authorization, based solely on that authorization.

OPTION: APPOINTMENT OF AN AGENT TO MAKE AN ANATOMICAL GIFT OR ORGAN, TISSUE OR EYE DONATION (CROSS THROUGH IF YOU DO NOT WANT TO APPOINT AN AGENT TO MAKE AN ANATOMICAL GIFT OR ANY ORGAN, TISSUE OR EYE DONATION FOR YOU.)

Upon my death, I direct that an anatomical gift of all of my body or certain organ, tissue or eye donations may be made pursuant to Article 2 ~~(§ 32.1-289 et seq.)~~*(§ 32.1-289.2 et seq.)* of Chapter 8 of Title 32.1 and in accordance with my directions, if any. I hereby appoint ..... as my agent, of ..... (address and telephone number), to make any such anatomical gift or organ, tissue or eye donation following my death. I further direct that: ..... (declarant's directions concerning anatomical gift or organ, tissue or eye donation).

This advance directive shall not terminate in the event of my disability.

By signing below, I indicate that I am emotionally and mentally competent to make this advance directive and that I understand the purpose and effect of this document.

_____ _____

(Date) (Signature of Declarant)

The declarant signed the foregoing advance directive in my presence.
(Witness) _____
(Witness) _____

§ 57-48. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board of Agriculture and Consumer Services.

"Commissioner" means the Commissioner of Agriculture and Consumer Services, or a member of his staff to whom he may delegate his duties under this chapter.

"Charitable organization" means any person which is or holds itself out to be organized or operated for any charitable purpose, or any person which solicits or obtains contributions solicited from the public. This definition shall not be deemed to include (i) any church or convention or association of churches, primarily operated for nonsecular purposes and no part of the net income of which inures to the direct benefit of any individual; (ii) any political party as defined in § 24.2-101 or any political campaign committee or political action committee or other political committee required by state or federal law to file a report or statement of contributions and expenditures; or (iii) any authorized individual who solicits, by authority of such organization, solely on behalf of a registered or exempt charitable organization or on behalf of an organization excluded from the definition of charitable organization.

"Charitable purpose" means any charitable, benevolent, humane, philanthropic, patriotic, or eleemosynary purpose and the purposes of influencing legislation or influencing the actions of any public official or instigating, prosecuting, or intervening in litigation.

"Charitable sales promotion" means advertised sales that feature the names of both the commercial co-venturer and the charitable or civic organization and which state that the purchase or use of the goods, services, entertainment, or any other thing of value that the commercial co-venturer normally sells, will benefit the charitable or civic organization or its purposes. To qualify as a charitable sales promotion, the consumer must pay the same price for the thing of value as the commercial co-venturer usually charges without the charitable sales promotion and the consumer retains the thing of value.

"Civic organization" means any local service club, veterans' post, fraternal society or association, volunteer fire or rescue groups, or local civic league or association of 10 or more persons not organized for profit but operated exclusively for educational or charitable purposes as defined herein, including the promotion of community welfare, and the net earnings of which are devoted exclusively to charitable, educational, recreational or social welfare purposes.

"Commercial co-venturer" means any person who (i) is organized for profit, (ii) is regularly and primarily engaged in trade or commerce, other than in connection with soliciting for charitable or civic organizations or charitable purposes, and (iii) conducts an advertised charitable sales promotion for a specified limited period of time.

"Contribution" means any gift, bequest, devise or other grant of any money, credit, financial assistance or property of any kind or value, including the promise to contribute, except payments by the membership of an organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, and except money, credit, financial assistance or property received from any governmental authority. The term "contribution" shall not include any donation of blood or any gift made pursuant to Article 2 ~~(§ 32.1-289 et seq.)~~ *(§ 32.1-289.2 et seq.)* of Chapter 8 of Title 32.1.

"Federated fund-raising organization" means any federation of independent charitable organizations which have voluntarily joined together, including but not limited to a United Fund or Community Chest, for purposes of raising and distributing money for and among themselves and where membership does not confer operating authority and control of the individual agencies upon the federated group organization.

"File with the Commissioner" means depositing the originals of the documents required to be filed, along with the payment of the appropriate fee and all supporting documents with the Office of Consumer Affairs, or submitting the required documents and any appropriate attachments and fees by utilizing an online filing system approved by the Commissioner.

"Fund-raising expenses" means the expenses of all activities that constitute or are an integral and inseparable part of a solicitation.

"Membership" means those persons to whom, for payment of fees, dues, assessments, etc., an organization provides services and confers a bona fide right, privilege, professional standing, honor or other direct benefit, in addition to the right to vote, elect officers, or hold offices. The term "membership" shall not include those persons who are granted a membership upon making a contribution as the result of solicitation.

"Parent organization" means that part of a charitable organization which coordinates, supervises or exercises control over policy, fund raising, and expenditures, or assists or advises one or more chapters, branches or affiliates.

"Person" means any individual, organization, trust, foundation, association, partnership, corporation, society, or other group or combination acting as a unit.

"Professional fund-raising counsel" means any person who for a flat fixed fee under a written agreement plans, conducts, manages, carries on, advises or acts as a consultant, whether directly or indirectly, in connection with soliciting contributions for, or on behalf of, any charitable or civic organization, but who actually solicits no contributions as a part of such services. A bona fide salaried officer or employee of a registered or exempt charitable organization or the bona fide salaried officer or employee of a registered parent organization shall not be deemed to be a professional fund-raising counsel.

"Professional solicitor" means any person who, for a financial or other consideration, solicits contributions for, or on behalf of, a charitable or civic organization, whether such solicitation is performed personally or through his agents, servants, or employees or through agents, servants, or employees specially employed by, or for a charitable or civic organization, who are engaged in the solicitation of contributions under the direction of such person, or any person who, for a financial or other consideration, plans, conducts, manages, carries on, advises or acts as a consultant to a charitable or civic organization in connection with the solicitation of contributions but does not qualify as a professional fund-raising counsel. A bona fide salaried officer or employee of a registered or exempt charitable organization or a bona fide salaried officer or employee of a registered parent organization shall not be deemed to be a professional solicitor.

"Sale," "sell" and "sold" mean the transfer of any property or the rendition of any service to any person in exchange for consideration, including any purported contribution without which such property would not have been transferred or such services would not have been rendered.

"Solicit" and "solicitation" mean the request or appeal, directly or indirectly, for any contribution on the plea or representation that such contribution will be used for a charitable purpose, including, without limitation, the following methods of requesting such contribution:

1. Any oral or written request;

2. Any announcement to the press, over the radio or television, or by telephone or telegraph concerning an appeal or campaign to which the public is requested to make a contribution for any charitable purpose connected therewith;

3. The distribution, circulation, posting or publishing of any handbill, written advertisement or other publication which directly or by implication seeks to obtain public support; or

4. The sale of, offer or attempt to sell, any advertisement, advertising space, subscription, ticket, or any service or tangible item in connection with which any appeal is made for any charitable purpose or where the name of any charitable or civic organization is used or referred to in any such appeal as an inducement or reason for making any such sale, or when or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale will be donated to any charitable purpose.

"Solicitation" as defined herein, shall be deemed to occur when the request is made, at the place the request is received, whether or not the person making the same actually receives any contribution.

"Terrorists and terrorist organizations" means any person, organization, group or conspiracy who assists or has assisted terrorist organizations, as provided in 18 U.S.C. § 2339 B or who commits or attempts to commit acts of terrorism, as defined in § 18.2-46.4.

2. That §§ 32.1-287, 32.1-289, 32.1-290, 32.1-291, 32.1-292.1, 32.1-293 and 32.1-295 of the Code of Virginia are repealed.

3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is $0 for periods of commitment to the custody of the Department of Juvenile Justice.