

HOUSE BILL No. 1409

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-15-9-8; IC 29-2-16.1.

Synopsis: Anatomical gifts. Requires a person who makes certain anatomical gifts to: (1) designate on a form prescribed by the state board of funeral and cemetery service the funeral home licensee to whom custodial care of the decedent's body will be granted following the recovery of the donated organ or tissue; and (2) submit the designation to the appropriate procurement organization. Requires a procurement organization to provide notice and certain information to the designated funeral home licensee before the body of the decedent subject to the anatomical gift is transported and recovery of the donated organs or tissue begins.

Effective: July 1, 2025.

Genda

January 13, 2025, read first time and referred to Committee on Judiciary.



First Regular Session of the 124th General Assembly (2025)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2024 Regular Session of the General Assembly.

HOUSE BILL No. 1409

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-15-9-8, AS AMENDED BY P.L.65-2007,
- 2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2025]: Sec. 8. The board shall do the following:
- 4 (1) Adopt rules under IC 4-22-2 to do the following:
- 5 (A) Establish standards for the sale and payment of funeral or
- 6 burial services or merchandise in advance of need.
- 7 (B) Establish the terms of contracts authorized under
- 8 IC 30-2-13.
- 9 (C) Implement IC 30-2-13.
- 10 (D) Implement IC 23-14-48.5.
- 11 (2) Register and issue certificates to sellers of merchandise or
- 12 services under IC 30-2-13.
- 13 (3) Determine compliance with this article by persons engaged in
- 14 the sale and payment of funeral or burial services or merchandise
- 15 in advance of need under IC 30-2-13.
- 16 (4) Investigate any complaint alleging a violation of IC 30-2-13.
- 17 (5) Set fees under IC 25-1-8.



(6) For a violation of this article or IC 30-2-13 by a person engaged in the sale and payment of funeral or burial services or merchandise in advance of need under IC 30-2-13, if necessary, take any combination of the following actions:

- (A) Issue an appropriate order to correct the violation.
- (B) Suspend the seller's certificate of authority.
- (C) Permanently revoke the seller's certificate of authority.
- (D) Censure the seller.
- (E) Issue a letter of reprimand to the seller.
- (F) Place the seller on probation.
- (G) Assess a civil penalty against the seller in an amount not to exceed one thousand dollars (\$1,000) for each violation, except for a finding of incompetency due to a physical or mental disability. When imposing a civil penalty, the board shall consider the seller's ability to pay the amount assessed. If the seller fails to pay the civil penalty within the time specified by the board, the board may suspend the seller's certificate of authority without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the seller's inability to pay a civil penalty.
- (H) Refer the matter to the attorney general or prosecuting attorney for enforcement.

(7) In addition to any actions taken under subdivision (6), permanently revoke a seller's certificate of authority, if the seller demonstrates a pattern or practice of violating the following provisions:

- (A) The requirement under IC 30-2-13-12 that all property paid or delivered to fund a contract for prepaid services or merchandise be irrevocably deposited to trust or escrow thirty (30) days after the contract is signed.
- (B) The prohibition against knowingly inducing a purchaser to breach an existing contract under IC 30-2-13-13(e).

(8) Prescribe a form for designating the funeral home licensee to whom custodial care of a decedent's body will be granted following the recovery of organs or tissues donated under IC 29-2-16.1.

SECTION 2. IC 29-2-16.1-8, AS AMENDED BY P.L.26-2021, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 8. (a) Subject to subsections (b) and (c), unless barred by section 6 or 7 of this chapter, an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education may be made by any member of the following



1 classes of persons who are reasonably available, in the order of priority
2 listed:

- 3 (1) An agent of the decedent at the time of death who could have
- 4 made an anatomical gift under section 3(2) of this chapter
- 5 immediately before the decedent's death.
- 6 (2) The spouse of the decedent.
- 7 (3) Adult children of the decedent.
- 8 (4) Parents of the decedent.
- 9 (5) Adult siblings of the decedent.
- 10 (6) A guardian appointed by a court under IC 29-3-5-3.
- 11 (7) Adult grandchildren of the decedent.
- 12 (8) Grandparents of the decedent.
- 13 (9) An adult who exhibited special care and concern for the
- 14 decedent.
- 15 (10) Any other person having the authority to dispose of the
- 16 decedent's body.

17 (b) If there is more than one (1) member of a class listed in
18 subsection (a)(1), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), or (a)(8) entitled
19 to make an anatomical gift, an anatomical gift may be made by a
20 member of the class unless that member or a person to whom the gift
21 may pass under section 10 of this chapter knows of an objection by
22 another member of the class. If an objection is known, the gift may be
23 made only by a majority of the members of the class who are
24 reasonably available.

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

29 **(d) A person who makes an anatomical gift under this section**
30 **must:**

- 31 **(1) designate on a form prescribed by the state board of**
- 32 **funeral and cemetery service the funeral home licensee (as**
- 33 **defined in IC 25-15-2-16) to whom custodial care of the**
- 34 **decedent's body will be granted following the recovery of the**
- 35 **donated organ or tissue; and**
- 36 **(2) submit the designation to the appropriate procurement**
- 37 **organization.**

38 SECTION 3. IC 29-2-16.1-21, AS ADDED BY P.L.147-2007,
39 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2025]: Sec. 21. (a) A coroner shall cooperate with
41 procurement organizations to maximize the opportunity to recover
42 anatomical gifts for the purpose of transplantation, therapy, research,



education, or training.

(b) If a coroner 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 coroner and a postmortem examination is going to be performed, unless the coroner denies recovery in accordance with IC 36-2-14-22.6(f), the coroner or designee shall, when practicable, conduct 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. If a coroner conducts a postmortem examination outside of a compatible period, the coroner must document why examination occurred outside of a compatible period. It is considered sufficient documentation if the coroner documents that additional time was necessary to conduct an adequate medicolegal examination.

(c) A part may not be removed from the body of a decedent under the jurisdiction of a coroner 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 coroner 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 coroner or pathologist from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the coroner or from using the body or parts of a decedent under the jurisdiction of the coroner for the purposes of research, education, or training required by the coroner or pathologist.

(d) The coroner's release, delivery, or other transport of the body of a decedent that is the subject of an anatomical gift under section 8 of this chapter is subject to the requirements of section 22 of this chapter.

SECTION 4. IC 29-2-16.1-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: **Sec. 22. (a) The following may not occur until after the person making an anatomical gift under section 8 of this chapter submits the designation required by section 8(d) of this chapter to the appropriate procurement organization:**

(1) The body of a decedent that is the subject of an anatomical gift under section 8 of this chapter may not be removed from the place of death or the custody of the coroner.

(2) The procurement organization may not begin recovering the donated organ or tissue from the decedent's body.

(b) A procurement organization that receives a designation



1 under section 8(d) of this chapter may not direct the transport of
2 the decedent's body for recovery of the donated organ or tissue
3 until after the procurement organization:

4 (1) notifies the designated funeral home licensee of the
5 designation; and

6 (2) provides the following information to the designated
7 funeral home licensee:

8 (A) The name of the decedent.

9 (B) The date and time of death as communicated to the
10 procurement organization by a hospital or the coroner.

11 (C) The name, telephone number, and other contact
12 information of the person who made the designation under
13 section 8(d) of this chapter.

14 (D) The estimated time that the recovery of donated organs
15 or tissue from the decedent's body will be completed.

16 (E) The estimated time that the custodial care of the
17 decedent's body will be transferred to the funeral home
18 licensee.

19 (c) The designated funeral home licensee that receives notice
20 from a procurement organization under subsection (b) shall
21 acknowledge receipt of the notice.

22 (d) A communication required by this section must be made in
23 a reasonable time that does not compromise or interfere with the
24 timely recovery of donated organs and tissues from the decedent's
25 body.

