

AMENDED IN SENATE JULY 28, 1998
AMENDED IN SENATE JUNE 3, 1998
AMENDED IN SENATE APRIL 20, 1998
AMENDED IN SENATE FEBRUARY 23, 1998
AMENDED IN ASSEMBLY JANUARY 16, 1998
AMENDED IN ASSEMBLY JANUARY 5, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1225

Introduced by Assembly Member Granlund
(Coauthor: Senator Kopp)

February 28, 1997

An act to amend Sections 27491.4 ~~and 27491.41 of, and to repeal Section, 27491.41, and 27491.47~~ of, the Government Code, to amend Section 7150.5 of, and to add Chapter 3.55 (commencing with Section 7158) to Part 1 of Division 7 of, the Health and Safety Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1225, as amended, Granlund. Health: sudden infant death syndrome and anatomical gifts.

(1) Existing law requires a coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths, including deaths where the suspected cause is sudden infant death syndrome.



Existing law permits a coroner, as part of this inquiry, to take possession of the body and make, or cause to be made, a postmortem examination or autopsy of the body to make findings pertinent to establishing the cause of death.

Existing law requires this examination or autopsy where sudden infant death syndrome is the suspected cause of death, unless the infant's physician of record certifies sudden infant death syndrome as the cause of death and a parent objects to an autopsy on religious or ethical grounds.

This bill would delete this exception. By requiring examination or autopsy in all cases in which sudden infant death syndrome is suspected as the cause of death, this bill would impose a state-mandated local program.

(2) Existing law requires a coroner to perform an autopsy in any case where an infant has died suddenly and unexpectedly. Existing law provides that no consent is required prior to undertaking this autopsy. Existing law provides, however, that no autopsy is required if the physician of record certifies the cause of death is sudden infant death syndrome and the parents object to an autopsy on religious or ethical grounds.

This bill would revise this exception to provide, instead, that no autopsy is required if the attending physician certifies the cause of death is sudden infant death syndrome and the coroner agrees.

(3) The Uniform Anatomical Gift Act sets forth the standards and procedures for making, revoking, and refusing anatomical gifts. Among other things, the act authorizes an individual who is at least 18 years of age to make an anatomical gift for certain purposes, limit an anatomical gift to one or more of those purposes, refuse to make an anatomical gift, or amend or revoke an anatomical gift. Existing law also specifies the manner that consent may be given to make an anatomical gift.

This bill would permit a person between 15 and 18 years of age to make an anatomical gift, to the same extent as a person who is at least 18 years of age, upon the written consent of the person's parent or guardian. This bill would also permit an anatomical gift to be made, amended, or revoked by an oral



statement made by means of a tape recording in the donor's own voice.

(4) Existing law authorizes the Department of Motor Vehicles to indicate on a form carried with the driver's license or an identification card the licensee's or cardholder's desires with regard to making an anatomical gift.

This bill would exempt these provisions from the authority granted by this bill regarding anatomical gifts and would make conforming changes.

(5) Existing law authorizes a coroner, in the course of an autopsy, to remove and release, or authorize the removal and release of, corneal eye tissue from a body within the coroner's custody if certain conditions are met, *including that the coroner has no knowledge of objection to the removal and release of the tissue by the decedent or any other person as specified by law.* ~~Existing law further prohibits the coroner or medical examiner authorizing the removal of the corneal tissue, or any hospital, medical center, tissue bank, storage facility, or person acting upon the request, order, or direction of the coroner or medical examiner in the removal of corneal tissue, from incurring civil liability for that removal in an action brought by any person who did not object prior to the removal of the corneal tissue, or from being subject to criminal prosecution for the removal of that tissue.~~

~~This bill would repeal those provisions.~~

This bill would in addition require the coroner or medical examiner to obtain the written consent or an audio tape, transcript, or other document, recording the telephonic consent of the donor, the decedent's next of kin, or any other person as specified by law.

(6) Existing law regulates the donation of human organs and tissues in a variety of contexts.

This bill would require the Controller to prepare, or cause to be prepared, an organ donor information brochure for insertion in all payroll warrants issued by the Controller for specified pay periods.

This bill would require the Licensing and Certification Division of the State Department of Health Services to audit, as a part of its ongoing audit and review process, the existence ~~and effectiveness~~ of organ and tissue procurement



procedures for all inpatient hospital facilities. The bill would require the department to note and report any deficiencies in these procedures in a written audit or site review.

This bill would also set forth requirements, applicable to specified health care service plan contracts, regarding the establishment and maintenance of organ and tissue procurement procedures.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 27491.4 of the Government
2 Code is amended to read:
3 27491.4. (a) For purposes of inquiry the coroner
4 shall, within 24 hours or as soon as feasible thereafter,
5 where the suspected cause of death is sudden infant death
6 syndrome and, in all other cases, the coroner may, in his
7 or her discretion, take possession of the body, which shall
8 include the authority to exhume the body, order it
9 removed to a convenient place, and make or cause to be
10 made a postmortem examination or autopsy thereon, and
11 make or cause to be made an analysis of the stomach,
12 stomach contents, blood, organs, fluids, or tissues of the
13 body. The detailed medical findings resulting from an
14 inspection of the body or autopsy by an examining
15 physician shall be either reduced to writing or
16 permanently preserved on recording discs or other



1 similar recording media, shall include all positive and
2 negative findings pertinent to establishing the cause of
3 death in accordance with medicolegal practice and this,
4 along with the written opinions and conclusions of the
5 examining physician, shall be included in the coroner's
6 record of the death. The coroner shall have the right to
7 retain only those tissues of the body removed at the time
8 of the autopsy as may, in his or her opinion, be necessary
9 or advisable to the inquiry into the case, or for the
10 verification of his or her findings. No person may be
11 present during the performance of a coroner's autopsy
12 without the express consent of the coroner.

13 (b) In any case in which the coroner knows, or has
14 reason to believe, that the deceased has made valid
15 provision for the disposition of his or her body or a part
16 or parts thereof for medical or scientific purposes in
17 accordance with Chapter 3.5 (commencing with Section
18 7150) of Part 1 of Division 7 of the Health and Safety Code,
19 the coroner shall neither perform nor authorize any other
20 person to perform an autopsy on the body unless the
21 coroner has contacted or attempted to contact the
22 physician last in attendance to the deceased. If the
23 physician cannot be contacted, the coroner shall then
24 notify or attempt to notify one of the following of the need
25 for an autopsy to determine the cause of death: (1) the
26 surviving spouse; (2) a surviving child or parent; (3) a
27 surviving brother or sister; (4) any other kin or person
28 who has acquired the right to control the disposition of
29 the remains. Following a period of 24 hours after
30 attempting to contact the physician last in attendance
31 and notifying or attempting to notify one of the
32 responsible parties listed above, the coroner may perform
33 or authorize the performance of an autopsy, as otherwise
34 authorized or required by law.

35 (c) Nothing in this section shall be deemed to prohibit
36 the discretion of the coroner to conduct autopsies upon
37 any victim of sudden, unexpected, or unexplained death
38 or any death known or suspected of resulting from an
39 accident, suicide, or apparent criminal means, or other
40 death, as described in Section 27491.



1 SEC. 2. Section 27491.41 of the Government Code is
2 amended to read:

3 27491.41. (a) For purposes of this section, “sudden
4 infant death syndrome” means the sudden death of any
5 infant that is unexpected by the history of the infant and
6 where a thorough postmortem examination fails to
7 demonstrate an adequate cause of death.

8 (b) The Legislature finds and declares that sudden
9 infant death syndrome (SIDS) is the leading cause of
10 death for children under age one, striking one out of
11 every 500 children. The Legislature finds and declares
12 that sudden infant death syndrome is a serious problem
13 within the State of California, and that public interest is
14 served by research and study of sudden infant death
15 syndrome, and its potential causes and indications.

16 (c) (1) To facilitate these purposes, the coroner shall,
17 within 24 hours, or as soon thereafter as feasible, perform
18 an autopsy in any case where an infant has died suddenly
19 and unexpectedly.

20 (2) However, if the attending physician certifies that
21 the cause of death is sudden infant death syndrome and
22 the coroner agrees, no autopsy shall be required pursuant
23 to this subdivision.

24 (d) The autopsy shall be conducted pursuant to a
25 standardized protocol developed by the State
26 Department of Health Services. The protocol is exempt
27 from the procedural requirements pertaining to the
28 adoption of administrative rules and regulations pursuant
29 to Article 2 (commencing with Section 11342) of Chapter
30 3.5 of Part 1 of Division 3 of Title 2 of the Government
31 Code. The protocol shall be developed and approved by
32 July 1, 1990.

33 (e) The protocol shall be followed by all coroners
34 throughout the state when conducting the autopsies
35 required by this section. The coroner shall state on the
36 certificate of death that sudden infant death syndrome
37 was the cause of death when the coroner’s findings are
38 consistent with the definition of sudden infant death
39 syndrome specified in the standardized autopsy protocol.
40 The protocol may include requirements and standards for



1 scene investigations, requirements for specific data,
2 criteria for ascertaining cause of death based on the
3 autopsy, and criteria for any specific tissue sampling, and
4 any other requirements. The protocol may also require
5 that specific tissue samples must be provided to a central
6 tissue repository designated by the State Department of
7 Health Services.

8 (f) The State Department of Health Services shall
9 establish procedures and protocols for access by
10 researchers to any tissues, or other materials or data
11 authorized by this section. Research may be conducted
12 by any individual with a valid scientific interest and prior
13 approval from the State Committee for the Protection of
14 Human Subjects. The tissue samples, the materials, and
15 all data shall be subject to the confidentiality
16 requirements of Section 103850 of the Health and Safety
17 Code.

18 (g) The coroner may take tissue samples for research
19 purposes from infants who have died suddenly and
20 unexpectedly without consent of the responsible adult if
21 the tissue removal is not likely to result in any visible
22 disfigurement.

23 (h) A coroner shall not be liable for damages in a civil
24 action for any act or omission done in compliance with
25 this section.

26 (i) No consent of any person is required prior to
27 undertaking the autopsy required by this section.

28 SEC. 3. Section 27491.47 of the Government Code is
29 ~~repealed~~ *amended to read:*

30 27491.47. (a) Notwithstanding any other provision of
31 law, the coroner may, in the course of an autopsy, remove
32 and release or authorize the removal and release of
33 corneal eye tissue from a body within the coroner's
34 custody, if all of the following conditions are met:

- 35 (1) The autopsy has otherwise been authorized.
36 (2) The coroner has no knowledge of objection to the
37 removal and release of corneal tissue having been made
38 by the decedent or any other person specified in Section
39 ~~7151.5~~ 7151 of the Health and Safety Code *and has*
40 *obtained any one of the following:*



1 (A) A dated and signed written consent by the donor,
2 next of kin, or any other person specified in Section 7151
3 of the Health and Safety Code on a form that clearly
4 indicates the general intended use of the tissue and
5 contains the signature of at least one witness.

6 (B) Proof of the existence of a recorded telephonic
7 consent by the donor, next of kin, or any other person
8 specified in Section 7151 of the Health and Safety Code
9 in the form of an audio tape recording of the conversation
10 or a transcript of the recorded conversation, which
11 indicates the general intended use of the tissue.

12 (C) A document recording a verbal telephonic
13 consent by the donor, next of kin, or any other person
14 specified in Section 7151 of the Health and Safety Code,
15 witnessed and signed by no less than two members of the
16 requesting entity, hospital, eye bank, or procurement
17 organization, memorializing the consenting person's
18 knowledge of and consent to the general intended use of
19 the gift.

20 The form of consent obtained under subparagraph (A),
21 (B), or (C) shall be kept on file by the requesting entity
22 and the official agency for a minimum of three years.

23 (3) The removal of such tissue will not unnecessarily
24 mutilate the body, be accomplished by enucleation, nor
25 interfere with the autopsy.

26 (4) The tissue will be removed by a coroner, licensed
27 physician and surgeon, or a trained transplant technician.

28 (5) The tissue will be released to a public or nonprofit
29 facility for transplant, therapeutic, or scientific purposes.

30 (b) Neither the coroner nor medical examiner
31 authorizing the removal of the corneal tissue, nor any
32 hospital, medical center, tissue bank, storage facility, or
33 person acting upon the request, order, or direction of the
34 coroner or medical examiner in the removal of corneal
35 tissue pursuant to this section, shall incur civil liability for
36 ~~such~~ the removal in an action brought by any person who
37 did not object prior to the removal of the corneal tissue,
38 nor be subject to criminal prosecution for the removal of
39 ~~such~~ the corneal tissue pursuant to the provisions of this
40 section.



1 (c) *This section may not be construed to interfere with*
2 *the ability of a person to make an anatomical gift pursuant*
3 *to the Uniform Anatomical Gift Act (Chapter 3.5*
4 *(commencing with Section 7150) of Part 1 of Division 7*
5 *of the Health and Safety Code).*

6 SEC. 4. Section 7150.5 of the Health and Safety Code
7 is amended to read:

8 7150.5. (a) Except as provided in subdivision (b) of
9 Section 12811 of, and subdivision (b) of Section 13005 of,
10 the Vehicle Code, an individual who is at least 18 years of
11 age, or an individual who is between 15 and 18 years of age
12 as specified in subdivision (m), may make an anatomical
13 gift for any of the purposes stated in subdivision (a) of
14 Section 7153, limit an anatomical gift to one or more of
15 those purposes, or refuse to make an anatomical gift.

16 (b) An anatomical gift may be made only by one of the
17 following:

18 (1) A document of gift signed by the donor.

19 (2) A document of gift signed by another individual
20 and by two witnesses, all of whom have signed at the
21 direction and in the presence of the donor and of each
22 other, and state that it has been so signed.

23 (3) A document of gift orally made by a donor by
24 means of a tape recording in his or her own voice.

25 (c) If a document of gift is attached to or imprinted on
26 a donor's motor vehicle operator's or chauffeur's license,
27 the document of gift shall comply with subdivision (b).
28 Revocation, suspension, expiration, or cancellation of the
29 license does not invalidate the anatomical gift.

30 (d) A document of gift may designate a particular
31 physician or surgeon to carry out the appropriate
32 procedures. In the absence of a designation or if the
33 designee is not available, the donee or other person
34 authorized to accept the anatomical gift may employ or
35 authorize any physician, surgeon, technician, or
36 enucleator to carry out the appropriate procedures.

37 (e) An anatomical gift by will takes effect upon death
38 of the testator, whether or not the will is probated. If, after
39 death, the will is declared invalid for testamentary
40 purposes, the validity of the anatomical gift is unaffected.



1 (f) A donor may amend or revoke an anatomical gift,
2 not made by will, only by one or more of the following:

3 (1) A signed statement.

4 (2) An oral statement made in the presence of two
5 individuals or by means of a tape recording in the donor's
6 own voice.

7 (3) Any form of communication during a terminal
8 illness or injury addressed to a physician or surgeon.

9 (4) The delivery of a signed statement to a specified
10 donee to whom a document of gift had been delivered.

11 (g) The donor of an anatomical gift made by will may
12 amend or revoke the gift in the manner provided for
13 amendment or revocation of wills, or as provided in
14 subdivision (f).

15 (h) An anatomical gift that is not revoked by the donor
16 before death is irrevocable and does not require the
17 consent or concurrence of any person after the donor's
18 death.

19 (i) An individual may refuse to make an anatomical
20 gift of the individual's body or part by a writing signed in
21 the same manner as a document of gift, a statement
22 attached to or imprinted on a donor's motor vehicle
23 operator's or chauffeur's license, or any other writing
24 used to identify the individual as refusing to make an
25 anatomical gift. During a terminal illness or injury, the
26 refusal may be an oral statement or other form of
27 communication.

28 (j) In the absence of contrary indications by the donor,
29 an anatomical gift of a part is neither a refusal to give
30 other parts nor a limitation on an anatomical gift under
31 Section 7151 or on a removal or release of other parts
32 under Section 7151.5.

33 (k) In the absence of contrary indications by the
34 donor, a revocation or amendment of an anatomical gift
35 is not a refusal to make another anatomical gift. If the
36 donor intends a revocation to be a refusal to make an
37 anatomical gift, the donor shall make the refusal pursuant
38 to subdivision (i).

39 (l) Any signed statement that is in compliance with
40 this chapter, or a driver's license or identification card



1 that meets the requirements for validity set forth in
2 subdivision (b) of Section 12811 of the Vehicle Code or
3 subdivision (b) of Section 13005 of the Vehicle Code, shall
4 be honored and no further consent or approval from the
5 next of kin or other person listed in subdivision (a) of
6 Section 7151 shall be required.

7 (m) Notwithstanding subdivision (a), an individual
8 who is between 15 and 18 years of age may make an
9 anatomical gift for any purpose stated in subdivision (a)
10 of Section 7153, limit an anatomical gift to one or more of
11 those purposes, refuse to make an anatomical gift, or
12 amend or revoke an anatomical gift, only upon the
13 written consent of a parent or guardian.

14 SEC. 5. Chapter 3.55 (commencing with Section
15 7158) is added to Part 1 of Division 7 of the Health and
16 Safety Code, to read:

17
18 CHAPTER 3.55. ORGAN AND TISSUE DONATION
19 INFORMATION AND PROCEDURES
20

21 7158. (a) The Controller shall prepare, or cause to be
22 prepared, an organ donor information brochure for
23 insertion in all payroll warrants issued by the Controller
24 for the March 1999 ~~and the November 1999 pay periods~~
25 *pay period*, and for every March ~~and November~~ pay
26 period thereafter, in recognition of National Organ and
27 Tissue Awareness Week, which occurs in April of each
28 year.

29 (b) *In lieu of developing an organ donor brochure*
30 *pursuant to subdivision (a), the Controller may use a*
31 *brochure developed by a regional organ donor*
32 *organization. The Controller shall screen for*
33 *appropriateness for wide distribution by the Controller.*

34 7158.1. (a) As a part of its ongoing audit and review
35 process, the Licensing and Certification Division of the
36 State Department of Health Services shall audit *for the*
37 *existence and effectiveness* of organ and tissue
38 procurement procedures for all inpatient hospital
39 facilities. The audit shall include a determination of
40 whether these procedures are in place in the facility,

1 whether the procedures are operational and functioning,
2 and whether the procedures are being used. *The*
3 *department shall not be required to audit for the*
4 *effectiveness of the procedures. No additional audits shall*
5 *be required for purposes of this section. Instead, the*
6 *department shall add an organ and tissue audit element*
7 *to its regular ongoing audits of inpatient facilities.*

8 (b) For purposes of this chapter, “organ and tissue
9 procurement procedures” shall include protocols
10 required to be developed pursuant to Section 7184. The
11 audit criteria shall, at a minimum, include all of the
12 following:

13 (1) That the protocols have been developed.

14 (2) That the protocols are operational.

15 (3) That notification requirements to next of kin or
16 other individuals as set forth in Section 7151 and to organ
17 procurement organizations are within a timeframe that
18 is consistent with the maintenance of the organs for the
19 purpose of transplantation.

20 (c) The absence of any of the required organ and
21 tissue procurement procedures at any facility shall be
22 noted by the division, and included in a written audit
23 report or site review summary. In the event that an audit
24 or facility review is conducted in conjunction with review
25 by a national accreditation agency, and that agency
26 prepares a report, the department shall request that the
27 information required by this section with respect to organ
28 and tissue procurement procedures be included in the
29 report prepared by the national accreditation agency. In
30 this event, the department shall not be required to
31 prepare a separate report.

32 7158.2. (a) Every health care service plan contract
33 that is issued, amended, delivered, or renewed on or after
34 January 1, 1999, shall provide for the establishment and
35 maintenance of organ and tissue procurement
36 procedures, including all of the following:

37 (1) Procedures for organ and tissue solicitation and
38 coordination with organ procurement agencies.

39 (2) Notification to enrollees of organ donation options,
40 upon enrollment, and annually thereafter.



1 ~~(3)~~ July 1, 1999, shall provide, upon enrollment and
2 annually thereafter, a notice to subscribers in the
3 evidence of coverage, health plan newsletter, or any
4 direct plan communication to subscribers, information
5 regarding organ donation options. This notice shall
6 inform subscribers of the societal benefits of organ
7 donations and the method whereby they may elect to be
8 an organ or tissue donor.

9 (b) A health care service plan shall also provide for all
10 of the following:

11 (1) Coordination with organ procurement agencies.

12 (2) (A) A computerized data base, or written record
13 of enrollees' agreements to donate organs or tissue.

14 (B) The collection of data and the provision of the
15 computerized data base or written records for purposes
16 of this paragraph shall be phased in beginning July 1, 1999,
17 or as soon thereafter as practical. However, all
18 modifications to enrollment or other forms that may be
19 used to collect organ donor subscriber data shall be
20 completed by June 30, 2001. All system and program
21 modifications used to collect organ donor subscriber data
22 shall be completed by June 30, 2001. Organ donor
23 subscriber data may continue after that date until all
24 subscribers have a recorded indicator of organ donor
25 status. In meeting this requirement, a health care service
26 plan may manage the phase in to use up existing stocks of
27 enrollment and enrollment update forms. A health care
28 service plan shall include an organ donor indicator on the
29 first printing or reporting of these forms subsequent to
30 July 1, 1999. The collection and recording of organ donor
31 subscriber data shall continue until all subscribers have
32 exercised their option to be or not to be an organ donor.

33 (b) On or before June 30, 2001, all membership cards
34 or other membership identification documents for every
35 health care service plan contract that is issued, amended,
36 delivered, or renewed on or after ~~January~~ July 1, 1999,
37 shall include enrollees' donor information.

38 (c) For purposes of this section, "health care service
39 plan" means a plan regulated by the Knox-Keene Health



1 Care Service Plan Act of 1975, Chapter 2.2 (commencing
2 with Section 1340) of Division 2.
3 SEC. 6. Notwithstanding Section 17610 of the
4 Government Code, if the Commission on State Mandates
5 determines that this act contains costs mandated by the
6 state, reimbursement to local agencies and school
7 districts for those costs shall be made pursuant to Part 7
8 (commencing with Section 17500) of Division 4 of Title
9 2 of the Government Code. If the statewide cost of the
10 claim for reimbursement does not exceed one million
11 dollars (\$1,000,000), reimbursement shall be made from
12 the State Mandates Claims Fund.
13 Notwithstanding Section 17580 of the Government
14 Code, unless otherwise specified, the provisions of this act
15 shall become operative on the same date that the act
16 takes effect pursuant to the California Constitution.

