

Approved 3-4-86  
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at  
Chairperson

10:00 a.m. ~~p.m.~~ on February 28, 1986 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Legislative Research  
Bill Wolff, Legislative Research  
Norman Furse, Revisors Office  
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Others present: See attached list

Sub-committee report on SB-532 - An Act relating to anatomical gifts; placing certain duties upon persons in charge of hospitals or their designees to request anatomical gifts;

Senator Salisbury, chairman of the subcommittee passed out minutes of the subcommittee meeting. Attachment I A copy of the bill changes was distributed. Attachment II

Senator Salisbury stated that SB-532 and SB-434 held different policies in that one placed responsibilities on the hospital and the other dealt with protocol.

Lines 27-18 "other than a person connected with the determination of death" had caused difficulties but the concensus was that the sponsors of the bill preferred it remain as it is.

Senator Salisbury noted that basically lines 32-37 were deleted in Section I (a) and reinserted in Section I (b). Throughout the bill the words organ or tissue were replaced with language compatible with the uniform anatomical gift act.

Senator Salisbury stated that the most controversial provision was Section (e) on Page 2 which would allow smaller hospitals to be exempt if necessary facilities to maintain a potential donor were not available. Staff noted that using the definitions from the anatomical gift act would take care of that problem to a certain degree, thereby limiting the number of hospitals that would be subject to this exemption.

Senator Kerr requested permission to offer several amendments. The first was to insert a new subsection (d). Attachment III It was felt that this information would be helpful for the purpose of pointing out whether the bank was working. Senator Kerr moved that this amendment be accepted and Senator Mulich seconded the motion. Motion carried. The second amendment by Senator Kerr was requested by the nurses' organization. It would direct the Secretary of Health and Environment to obtain from the organ bank organizations information on the best procedures for maintainance and that the Secretary disseminate said information. Senator Salisbury seconded the motion. The motion failed.

Senator Walker stated that no one could be against the idea of transplants and felt that due to the sensitive areas there are times when a doctor or hospital administrator just could not ask. There are many loop holes so why have the bill. It was a feeling that the educational process will take care of the situation rather than mandate it.

Senator Hayden questioned the author of the bill as to whether or not he still felt he wanted the bill and the reply was yes.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE,  
room 526-S, Statehouse, at 10:00 a.m.~~pm~~ on February 28, 1986

It was questioned whether or not a living will could be overruled by survivors if you had specifically requested a donation. It was felt that it would be handled the same as a living will normally was handled.

Senator Morris stated he felt the government should not be involved with this process but sometimes it takes legislation to bring about the necessary education.

Senator Mulich stated there had been a lot of information that people were in favor of the bill and that he was still in favor of the bill.

Senator Riley stated he would like to be in both corners. He agreed with Senator Walker but on the other hand he agreed with Senator Morris that he was lukewarm on the bill.

Senator Salisbury questioned whether or not a resolution would accomplish the same thing. Dr. Walker felt he would be in favor of a resolution.

Senator Morris mentioned that the hospital in Salina had supplied 4 hearts last year and that it does work to ask for donors.

Senator Mulich moved to adopt the bill including Senator Kerr's amendment. Senator Kerr seconded the motion and the motion carried.

Senator Mulich moved favorable passage of SB-532 as amended. Senator Morris seconded the motion and the motion carried. Senator Walker requested that his NO vote be recorded.

Meeting adjourned at 10:52 a.m.

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-28-86

(PLEASE PRINT)

NAME AND ADDRESS

ORGANIZATION

M. Howe

Capital Journal

Marilyn Bradt Lawrence

KINH

Carolyn Middelborg Topeka

KSAW

Jim Snyder Topeka

WRB

Theresa Shively Topeka

KANSAS HAZAL

Tom Bell Topeka

KHA

Minutes of the Sub-Committee on SB 532

February 24, 1986, 2:45 P.M.

Members Present: Senator Salisbury, Chairman  
Senator Hayden, Senator Dave Kerr

Staff Present: Norman Furst, Revisor's Office  
Emalene Correll, Legislative Research  
Berniece Myers, Secretary

Others Present: Senator Langworthy  
Several Conferees

The sub-committee reviewed recommendations which came before the Public Health and Welfare Committee during the public hearing February 19 and 20.

This committee recommends the following amendments:

Line 27. Delete, ----

Line 33. Delete, ----  
Change to, ----

Change the language "Organ or tissue donation to "all or any part of the decedent's body" or similar language that will be compatible with the uniform anatomical gift act.

The sub-committee requested staff to draft for committee consideration an amendment to Section 1. (e) to include a documentation requirement for supporting the failure to proceed with family consent and language that will clarify the agency responsible for collection of documentation and for what length of time documentation should be kept on file. This committee suggests that some mechanism for record keeping may be of value should future legislation be required to meet the objective of SB 532 and 434.

Deletion of the provision contained in lines 63-68 of SB 532 was discussed. Though there is some support from several conferees for removal of this section in order to close what could be considered a loophole for non-compliance on the part of hospitals, this recommendation is by no means unanimous. The sub-committee recommends the retention of section (e) at this time.

The sub-committee recommends the inclusion of language pertaining to protocol which is contained in Section 1 of SB 434 be amended into SB 532.

Attachment I  
2/28/86 S. PH&W

Attachment I

## Subcommittee Proposed Amendments, SENATE BILL NO. 532

AN ACT relating to anatomical gifts; placing certain duties upon persons in charge of hospitals or their designees to request anatomical gifts.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Where, based on hospital accepted criteria for organ donations of all or part of the body under the uniform anatomical gift act, a patient in any hospital located in this state is a suitable candidate for ~~organ-or-tissue~~ such donation, the person in charge of the hospital or designated representative of the person in charge of the hospital, other than a person connected with the determination of death, shall at the time of death request any of the persons in the classes specified in items (1) through (5) of subsection (b) of K.S.A. 65-3210 and amendments thereto, in the order of priority stated when persons in prior classes are not available, ~~and-in-the-absence-of-(1) actual-notice-of-contrary-intentions-by-the-decedent, or-(2) actual-notice-of-opposition-by-a-member-of-any-of-the-classes specified-in-items-(1)-through-(5)-of-subsection-(b)-of-K.S.A. 65-3210-and-amendments-thereto, or-(3)-other-reason-to-believe that-an-anatomical-gift-is-contrary-to-the-decedent's-religious beliefs,~~ to consent to the gift of all or any part of the decedent's body for any purpose specified in K.S.A. 65-3211 and amendments thereto.

(b) Where the ~~hospital-administrator-or-designee-of-the hospital-administrator-shall-have-received~~ person in charge of the hospital or designated representative of the person in charge of the hospital has (1) actual notice that the decedent was opposed to an anatomical gift of all or part of the decedent's body or (2) actual notice of opposition from-any-of-the-persons by a member of any of the classes specified in items (1) through

(5) of subsection (b) of K.S.A. 65-3210 and amendments thereto ~~or where there is otherwise~~ or (3) other reason to believe that an anatomical gift is contrary to the decedent's religious beliefs, such gift of all or any part of the decedent's body shall not be requested. Where a donation is requested, consent or refusal need only be obtained from the person or persons in the highest priority class available.

(c) Where a request for consent to an anatomical gift has been made, the person in charge of the hospital, or the designated representative of the person in charge of the hospital, shall verify such request in the patient's medical record. The verification of request for ~~organ-or-tissue~~ donation under this section shall include a statement to the effect that a request for consent to an anatomical gift has been made and shall further indicate thereupon whether or not consent was granted, the name of the person granting or refusing the consent and such person's relationship to the decedent. Where a patient is a suitable candidate for an anatomical gift under this section and a request for consent to an anatomical gift has not been made, the person in charge of the hospital, or the designated representative of the person in charge of the hospital, shall include a statement in the patient's medical record that a request was not made and shall indicate thereupon why the request was not made.

(d) Upon the consent to an anatomical gift, the hospital shall then notify an ~~organ--or--tissue--procurement--organization~~ organization which procures anatomical gifts and cooperate in the procurement of the anatomical gift or gifts pursuant to applicable provisions of the uniform anatomical gift act.

(e) A request for consent to an anatomical gift under this section is not required if the hospital does not have the facilities necessary to maintain the potential donor in a condition which would allow for retrieval of the ~~organ-or-tissue~~ or anatomical gift and the potential donor cannot be transferred to a hospital that does have such facilities.

(f) In carrying out the provisions of this section, each hospital in this state shall adopt written policies relating thereto.

~~(f)~~ (g) This section shall be part of and supplemental to the uniform anatomical gift act.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Proposed Amendment, SENATE BILL NO. ~~569~~ 532

Be Amended:

By inserting in section 1 a new subsection (d) to read as follows:

"(d) Every hospital in this state shall annually submit a written report to the secretary of health and environment, in the manner and form prescribed by the secretary, of the number of requests for anatomical gifts made under this section, the number of requests not made and the reason or reasons for not making the requests. The report shall not include the names of individuals."