

2006 Bill 201

Second Session, 26th Legislature, 55 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 201

HUMAN TISSUE GIFT (NOTIFICATION PROCEDURE) AMENDMENT ACT, 2006

MR. LIEPERT

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 201

2006

HUMAN TISSUE GIFT (NOTIFICATION PROCEDURE) AMENDMENT ACT, 2006

(Assented to , 2006)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends RSA 2000 cH-15

1 The *Human Tissue Gift Act* is amended by this Act.

2 The following preamble is added:

WHEREAS an increase in human tissue donations and
transplants will greatly enhance and restore the health and well-
being of Albertans in need of transplants; and

WHEREAS the Legislative Assembly believes in the right of
Albertans to donate human tissue and encourages them to do so;

**3 The enacting clause is amended by adding “THEREFORE”
before “HER MAJESTY”.**

4 Section 1 is amended

(a) by adding the following after clause (a):

(a.1) “Comprehensive Tissue Centre” means the centre that

(i) operates in Edmonton and Calgary at the time of the
coming into force of this Act,

- (ii) is involved in the co-ordination and support of activities in connection with the donation and transplant of human tissue, and
- (iii) receives funds directly or indirectly from the Department of Health and Wellness;

(b) by adding the following after clause (b):

- (b.1) “designated facility” means
 - (i) a hospital as defined in the *Hospitals Act*, and
 - (ii) a health care facility that has been designated by regulation;
- (b.2) “Human Organ Procurement and Exchange Program” means the program that
 - (i) operates in Edmonton and Calgary at the time of the coming into force of this Act,
 - (ii) is involved in the co-ordination and support of activities in connection with the donation and transplant of human organs, and
 - (iii) receives funds directly or indirectly from the Department of Health and Wellness;
- (b.3) “human tissue gift agency” includes
 - (i) the Human Organ Procurement and Exchange Program,
 - (ii) the Comprehensive Tissue Centre, and
 - (iii) any other entity that is designated by the Minister as a human tissue gift agency;

(c) by adding the following after clause (c):

- (c.1) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for the Act;

5 The following is added after section 8:

**Part 2.1
Notification Procedure**

Human tissue gift agency to be notified

8.1(1) Subject to the requirements and circumstances established pursuant to section 8.3, a designated facility shall notify the required human tissue gift agency when

- (a) a person at the facility dies,
- (b) a physician advises that the death of a person at the facility is imminent, or
- (c) the facility receives a dead body.

(2) When a human tissue gift agency is notified under subsection (1), the agency shall use reasonable efforts to determine whether the deceased or dying person provided consent under this Act.

(3) If the agency cannot promptly determine whether consent was provided, the agency shall decide, in consultation with the designated facility, whether it is appropriate to make a request under subsection (4) and, in doing so, shall consider the following factors:

- (a) the emotional and physical condition of the person to be asked,
- (b) the suitability of the body and its tissue, and
- (c) the purposes for which the tissue to be donated may be used.

(4) If circumstances are appropriate, the agency shall

- (a) in the case of a dying person, ask
 - (i) the person whether he or she wishes to give consent under this Act, or
 - (ii) his or her next of kin, in accordance with section 5, whether he or she wishes to give consent under this Act;
- (b) in the case of a deceased person, ask the person's next of kin, in accordance with section 5, whether he or she wishes to give consent under this Act.

(5) A request shall not be made under subsection (4) if the agency has reason to believe that

- (a) the person who died or whose death is imminent would have objected to the request, or
- (b) the use of the person's body or the removal and use of tissue from the person's body after death would be contrary to the person's religious beliefs.

Assistance from health care facility

8.2 A human tissue gift agency may request the designated facility to ask for consent on its behalf and, when asking for consent, the facility shall comply with section 8.1.

Additional requirements

8.3(1) The human tissue gift agencies shall jointly establish

- (a) requirements relating to a notification under section 8.1 including
 - (i) which human tissue gift agency must be notified,
 - (ii) the time period in which notification must be given, and
 - (iii) information, including confidential personal information, that is to be provided in respect of a deceased or dying person,and a designated facility shall comply with those requirements; and
- (b) circumstances in which notification is not required.

(2) In the course of preparing the requirements under subsection (1), the human tissue gift agencies shall consult with the operators of the designated facilities, and may consult with other persons and entities that the agencies consider appropriate.

Disclosure of information

8.4(1) A human tissue gift agency may require a designated facility, or a physician who provides services to the facility, to provide it with confidential personal information in respect of a deceased or dying person that the agency considers reasonably necessary to permit it to determine the appropriateness of making a request under this Part.

(2) Any person required to provide information under subsection (1) shall do so.

(3) A human tissue gift agency may share information it receives under this Act, including confidential personal information, with another human tissue gift agency if doing so is reasonably necessary to facilitate a transplant of human tissue.

6 Section 11(1) is amended by adding “or permitted under this Act,” after “legally required,”.

7 The following is added after section 14:

Regulations

15 The Minister may make regulations

- (a) defining for the purposes of this Act any term that is used in this Act but is not defined in this Act;
- (b) designating a health care facility as a designated facility;
- (c) designating an entity as a human tissue gift agency.

Report by Minister of Health

16(1) Within one year of the coming into force of this Act, the Minister shall complete a report on the following matters relating to organ and tissue donation:

- (a) recommendations for a co-ordinated government response that will encourage organ and tissue donation, including improvements to government forms and documents, such as drivers' licences and health care cards;
 - (b) the feasibility of an on-line donor registry;
 - (c) the effectiveness of the notification procedure outlined in Part 2.1, including recommendations for amendments to this Act, if required.
- (2) The Minister shall lay the report prepared under this section before the Legislative Assembly if it is sitting when the report is completed or, if it is not then sitting, within 15 days after the commencement of the next sitting.
- (3) If the Legislative Assembly is not sitting when the report is completed, the Minister shall deliver copies of the report to the Speaker of the Legislative Assembly, who shall immediately distribute a copy to the office of each Member of the Assembly.
- (4) After the Speaker has distributed copies of the report under subsection (3), the Minister shall make the report public.

8 This Act comes into force on January 1, 2007.

Explanatory Notes

- 1 Amends chapter H-15 of the Revised Statutes of Alberta 2000.
- 2 Preamble added.
- 3 Consequential to addition of preamble.
- 4 Section 1 presently reads in part:
 - 1 *In this Act,*
 - (a) *“agent” means an agent as defined in the Personal Directives Act;*
 - (b) *“consent” means a consent given under this Act;*

(c) *“maker” means a maker as defined in the Personal Directives Act;*

5 New part establishing notification procedure for tissue donation.

6 Section 11 presently reads:

11(1) Except when legally required, no person shall disclose or give to any other person any information or document whereby the identity of a person

- (a) who has given or refused to give a consent,*
- (b) with respect to whom a consent has been given, or*
- (c) into whose body tissue has been, is being or may be transplanted,*

may become known publicly.

(2) When the information or document disclosed or given pertains only to the person who disclosed or gave the information or document, subsection (1) does not apply.

(3) If there is an inconsistency or conflict between subsection (1) and the Health Information Act, subsection (1) prevails.

7 New regulation-making powers and requirement for Minister to submit report to the Assembly.

8 Coming into force.