A BILL FOR AN ACT

101 CONCERNING PRESUMED CONSENT FOR ORGAN AND TISSUE DONATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://www.leg.state.co.us/billsummaries.)

The bill changes the organ donation program so that a person is presumed to have consented to organ and tissue donation at the time the person applies for or renews a driver's license or identification card unless the person initials a statement that states that the person does not want to be considered as a possible organ and tissue donor. Current law allows a person to opt in to the organ donation program. The bill requires the department of revenue to change the driver's license application and
renewal process to reflect the change.

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

SECTION 1. 12-34-105 (a) (1), Colorado Revised Statutes, is amended to read:

12-34-105. 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 THROUGH THE APPLICATION AND RENEWAL PROCESS FOR A driver's license or identification card;

SECTION 2. 42-2-107 (4) (b) (II) and (4) (b) (V), Colorado Revised Statutes, are amended to read:

42-2-107. Application for license or instruction permit - anatomical gifts - donations to Emily Maureen Ellen Keyes organ and tissue donation awareness fund - legislative declaration - repeal.

(4) (b) (II) There is hereby created in the state treasury the Emily Maureen Ellen Keyes organ and tissue donation awareness fund, which shall consist of all moneys credited thereto from all sources, including but not limited to moneys collected from voluntary contributions for organ and tissue donation pursuant to sub-subparagraph (A) of subparagraph (V) of this paragraph (b) and sections 39-22-2702, C.R.S., and 42-2-118 (1) (a) (H) (II) (A). All moneys in the fund are hereby continuously appropriated to the department of the treasury and shall remain in the fund to be used for the purposes set forth in subparagraph (III) of this paragraph (b) and shall not revert to the general fund or any other fund. All interest derived from the
deposit and investment of this fund shall be credited to the fund. At least quarterly, the state treasurer shall transfer all available moneys in the Emily Maureen Ellen Keyes organ and tissue donation awareness fund to the transplant council of the rockies (TCOR), or its successor organization, as directed by sub-subparagraph (A) of subparagraph (III) of this paragraph (b).

(V) (A) An applicant may make a donation of one dollar or more to the Emily Maureen Ellen Keyes organ and tissue donation awareness fund, created in subparagraph (II) of this paragraph (b), to promote the donation of organs and tissues under the provisions of the "Revised Uniform Anatomical Gift Act", part 1 of article 34 of title 12, C.R.S. The department shall collect such donations and transmit them to the state treasurer, who shall credit the same to the Emily Maureen Ellen Keyes organ and tissue donation awareness fund. The donation prescribed in this subparagraph (V) sub-subparagraph (A) is voluntary and may be refused by the applicant. The department shall make available informational booklets or other informational sources on the importance of organ and tissue donations to applicants as designed and approved by the advisory body created under sub-subparagraph (A) of subparagraph (III) of this paragraph (b). The department shall inquire of each applicant at the time the completed application is presented whether the applicant is interested in making a donation of one dollar or more and shall also specifically inform the applicant of the option for organ and tissue donations.

(B) THE DEPARTMENT SHALL MODIFY THE DRIVER'S LICENSE AND IDENTIFICATION CARD APPLICATION PROCESS TO ADVISE ALL APPLICANTS THAT, AT THE TIME OF APPLYING FOR A DRIVER'S LICENSE OR
IDENTIFICATION CARD, THE APPLICANT SHALL BE DEEMED TO HAVE
CONSENTED TO ANATOMICALLY DONATION OF HIS OR HER ORGANS AND
TISSUE UPON THE DETERMINATION OF THE APPLICANT'S LEGAL DEATH,
UNLESS THE APPLICANT EXPRESSLY ELECTS NOT TO BE AN ORGAN AND
TISSUE DONOR. THE DEPARTMENT SHALL PROVIDE THE FOLLOWING
STATEMENT AND INSTRUCTIONS AT THE TIME OF APPLICATION FOR AN
APPLICANT'S DRIVER'S LICENSE OR IDENTIFICATION CARD:

YOU ARE AUTOMATICALLY DEEMED TO HAVE
CONSENTED TO BEING AN ORGAN AND TISSUE
DONOR AND THIS DESIGNATION WILL APPEAR ON
YOUR DRIVER'S LICENSE OR IDENTIFICATION
CARD. IF YOU DO NOT WANT TO BE CONSIDERED
AN ORGAN AND TISSUE DONOR, YOU MUST ELECT
TO NOT BE INCLUDED ON THE ORGAN DONOR
REGISTRY BY INSERTING YOUR INITIALS ON THE
LINE BELOW.

_____ AT THIS TIME, I DO NOT WISH TO BE
INCLUDED ON THE ORGAN DONOR REGISTRY.

UNLESS AN APPLICANT RESPONDS THAT HE OR SHE DOES NOT WANT TO BE
CONSIDERED A POSSIBLE ORGAN AND TISSUE DONOR, THE APPLICANT WILL
BE DEEMED TO HAVE CONSENTED TO ORGAN AND TISSUE DONATION. THE
CONSENT IS SUFFICIENT TO SATISFY ALL REQUIREMENTS NECESSARY TO
EVIDENCE THE APPLICANT'S CONSENT TO ANATOMICALLY DONATION OF THE
APPLICANT'S ORGANS AND TISSUE. The department shall also provide
written information designed and approved by the advisory body created
under sub-subparagraph (A) of subparagraph (III) of this paragraph (b)
to each applicant volunteering to become an organ and tissue donor.
DID NOT OPT OUT OF ORGAN AND TISSUE DONATION. The written information shall disclose that the applicant's name shall be transmitted to the organ and tissue donor registry authorized in section 12-34-120, C.R.S., and that the applicant shall notify the federally designated organ procurement organization of any changes to the applicant's donor status.

SECTION 3. 42-2-118 (1) (a) (II), Colorado Revised Statutes, is amended to read:

42-2-118. Renewal of license in person or by mail - donations to Emily Maureen Ellen Keyes organ and tissue donation awareness fund - repeal. (1) (a) (II) (A) An applicant may make a donation of one dollar or more to the Emily Maureen Ellen Keyes organ and tissue donation awareness fund, created in section 42-2-107 (4) (b) (II), to promote the donation of organs and tissues under the provisions of the "Revised Uniform Anatomical Gift Act", part 1 of article 34 of title 12, C.R.S. The department shall collect such donations and transmit them to the state treasurer, who shall credit the same to the Emily Maureen Ellen Keyes organ and tissue donation awareness fund. The donation prescribed in this sub-subparagraph (A) is voluntary and may be refused by the applicant. The department shall make available informational booklets or other informational sources on the importance of organ and tissue donations to applicants as designed and approved by the advisory body created under section 42-2-107 (4) (b) (III) (A). The department shall inquire of each applicant at the time the completed application is presented whether the applicant is interested in making a donation of one dollar or more. and shall also specifically inform the applicant of the option for organ and tissue donations by having a "Y" placed in the donor field on the front of the document.
(B) The department shall modify the driver's license and
identification card renewal process to advise all applicants
that, at the time of renewing a driver's license or identification
card, the applicant shall be deemed to have consented to
anatomical donation of his or her organs and tissue upon the
determination of the applicant's legal death, unless the
applicant expressly elects not to be an organ and tissue donor.
The department shall provide the following statement and
instructions at the time of renewal of an applicant's driver's
license or identification card:

YOU ARE AUTOMATICALLY DEEMED TO HAVE
CONSENTED TO BEING AN ORGAN AND TISSUE
DONOR AND THIS DESIGNATION WILL APPEAR ON
YOUR DRIVER'S LICENSE OR IDENTIFICATION
CARD. IF YOU DO NOT WANT TO BE CONSIDERED
ON ORGAN AND TISSUE DONOR, YOU MUST ELECT
TO NOT BE INCLUDED ON THE ORGAN DONOR
REGISTRY BY INSERTING YOUR INITIALS ON THE
LINE BELOW.

_____ AT THIS TIME, I DO NOT WISH TO BE
INCLUDED ON THE ORGAN DONOR REGISTRY.

Unless an applicant responds that he or she does not want to be
considered a possible organ and tissue donor, the applicant will
be deemed to have consented to organ and tissue donation. The
consent is sufficient to satisfy all requirements necessary to
evidence the applicant's consent to anatomical donation of the
applicant's organs and tissue. The department shall also advise each
applicant volunteering to become an organ and tissue donor WHO DID NOT OPT OUT OF ORGAN AND TISSUE DONATION that the applicant's name shall be transmitted to the organ and tissue donor registry authorized in section 12-34-120, C.R.S., and that the applicant shall notify the federally designated organ procurement organization of any changes to the applicant's donation.

(B) (C) This subparagraph (II) is repealed, effective July 1, 2018.

SECTION 4. 6-16-103 (1), (5), and (7) (e), Colorado Revised Statutes, are amended to read:

6-16-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Charitable organization" means any person who is or holds himself OR HERSELF out to be established for any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary purpose, any person who operates for the benefit of the objectives of law enforcement officers, firefighters, other persons who protect the public safety, or veterans, or any person who in any manner employs a charitable appeal or an appeal which suggests that there is a charitable purpose as the basis for any solicitation. "Charitable organization" does not include the department of revenue collecting voluntary contributions for organ and tissue donations under the provisions of sections 42-2-107 (4) (b) (V) (A) and 42-2-118 (1) (a) (H) (II) (A), C.R.S.

(5) "Contribution" means the grant, promise, or pledge of money, credit, property, financial assistance, or any other thing of value in response to a solicitation. "Contribution" does not include voluntary contributions for organ and tissue donations under the provisions of
sections 42-2-107 (4) (b) (V) (A) and 42-2-118 (1) (a) (II) (A), C.R.S., and bona fide fees, dues, or assessments paid by members of a charitable organization if membership is not conferred primarily as consideration for making a contribution in response to a solicitation.

(7) "Paid solicitor" means a person who, for monetary compensation, performs any service in which contributions will be solicited in this state by such compensated person or by any compensated person he or she employs, procures, or engages, directly or indirectly, to solicit for contributions. The following persons are not "paid solicitors":

(e) Any employee of the department of revenue collecting voluntary contributions for organ and tissue donations under the provisions of sections 42-2-107 (4) (b) (V) (A) and 42-2-118 (1) (a) (II) (A), C.R.S.; or

SECTION 5. Act subject to petition - effective date. This act shall take effect January 1, 2012; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2012 and shall take effect on January 1, 2012, or on the date of the official declaration of the vote thereon by the governor, whichever is later.