

**First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 11-0247.01 Kristen Forrestal

**SENATE BILL 11-042**

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**SENATE SPONSORSHIP**

**Guzman,**

**HOUSE SPONSORSHIP**

**Pabon,**

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**Senate Committees**  
Health and Human Services

**House Committees**

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**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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

renewal process to reflect the change.

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

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

4 **12-34-105. Manner of making anatomical gift before donor's**  
5 **death.** (a) A donor may make an anatomical gift:

6 (1) ~~By authorizing a statement or symbol indicating that the donor~~  
7 ~~has made an anatomical gift to be imprinted on the donor's~~ THROUGH THE  
8 APPLICATION AND RENEWAL PROCESS FOR A driver's license or  
9 identification card;

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

12 **42-2-107. Application for license or instruction permit -**  
13 **anatomical gifts - donations to Emily Maureen Ellen Keyes organ and**  
14 **tissue donation awareness fund - legislative declaration - repeal.**

15 (4) (b) (II) There is hereby created in the state treasury the Emily  
16 Maureen Ellen Keyes organ and tissue donation awareness fund, which  
17 ~~shall consist~~ CONSISTS of all moneys credited thereto from all sources,  
18 including ~~but not limited to~~ moneys collected from voluntary  
19 contributions for organ and tissue donation pursuant to  
20 SUB-SUBPARAGRAPH (A) OF subparagraph (V) of this paragraph (b) and  
21 sections 39-22-2702, C.R.S., and 42-2-118 (1) (a) ~~(H)~~ (II) (A). All  
22 moneys in the fund are hereby continuously appropriated to the  
23 department of the treasury and shall remain in the fund to be used for the  
24 purposes set forth in subparagraph (III) of this paragraph (b) and shall not  
25 revert to the general fund or any other fund. All interest derived from the

1 deposit and investment of this fund shall be credited to the fund. At least  
2 quarterly, the state treasurer shall transfer all available moneys in the  
3 Emily Maureen Ellen Keyes organ and tissue donation awareness fund to  
4 the transplant council of the rockies (TCOR), or its successor  
5 organization, as directed by sub-subparagraph (A) of subparagraph (III)  
6 of this paragraph (b).

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

25 (B) THE DEPARTMENT SHALL MODIFY THE DRIVER'S LICENSE AND  
26 IDENTIFICATION CARD APPLICATION PROCESS TO ADVISE ALL APPLICANTS  
27 THAT, AT THE TIME OF APPLYING FOR A DRIVER'S LICENSE OR

1 IDENTIFICATION CARD, THE APPLICANT SHALL BE DEEMED TO HAVE  
2 CONSENTED TO ANATOMICAL DONATION OF HIS OR HER ORGANS AND  
3 TISSUE UPON THE DETERMINATION OF THE APPLICANT'S LEGAL DEATH,  
4 UNLESS THE APPLICANT EXPRESSLY ELECTS NOT TO BE AN ORGAN AND  
5 TISSUE DONOR. THE DEPARTMENT SHALL PROVIDE THE FOLLOWING  
6 STATEMENT AND INSTRUCTIONS AT THE TIME OF APPLICATION FOR AN  
7 APPLICANT'S DRIVER'S LICENSE OR IDENTIFICATION CARD:

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

17 \_\_\_\_\_ AT THIS TIME, I DO NOT WISH TO BE  
18 INCLUDED ON THE ORGAN DONOR REGISTRY.

19 UNLESS AN APPLICANT RESPONDS THAT HE OR SHE DOES NOT WANT TO BE  
20 CONSIDERED A POSSIBLE ORGAN AND TISSUE DONOR, THE APPLICANT WILL  
21 BE DEEMED TO HAVE CONSENTED TO ORGAN AND TISSUE DONATION. THE  
22 CONSENT IS SUFFICIENT TO SATISFY ALL REQUIREMENTS NECESSARY TO  
23 EVIDENCE THE APPLICANT'S CONSENT TO ANATOMICAL DONATION OF THE  
24 APPLICANT'S ORGANS AND TISSUE. The department shall ~~also~~ provide  
25 written information designed and approved by the advisory body created  
26 under sub-subparagraph (A) of subparagraph (III) of this paragraph (b)  
27 to each applicant ~~volunteering to become an organ and tissue donor~~ WHO

1 DID NOT OPT OUT OF ORGAN AND TISSUE DONATION. The written  
2 information shall disclose that the applicant's name shall be transmitted  
3 to the organ and tissue donor registry authorized in section 12-34-120,  
4 C.R.S., and that the applicant shall notify the federally designated organ  
5 procurement organization of any changes to the applicant's donor status.

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

8 **42-2-118. Renewal of license in person or by mail - donations**  
9 **to Emily Maureen Ellen Keyes organ and tissue donation awareness**  
10 **fund - repeal.** (1) (a) (II) (A) An applicant may make a donation of one  
11 dollar or more to the Emily Maureen Ellen Keyes organ and tissue  
12 donation awareness fund, created in section 42-2-107 (4) (b) (II), to  
13 promote the donation of organs and tissues under the provisions of the  
14 "Revised Uniform Anatomical Gift Act", part 1 of article 34 of title 12,  
15 C.R.S. The department shall collect such donations and transmit them to  
16 the state treasurer, who shall credit the same to the Emily Maureen Ellen  
17 Keyes organ and tissue donation awareness fund. The donation  
18 prescribed in this sub-subparagraph (A) is voluntary and may be refused  
19 by the applicant. The department shall make available informational  
20 booklets or other informational sources on the importance of organ and  
21 tissue donations to applicants as designed and approved by the advisory  
22 body created under section 42-2-107 (4) (b) (III) (A). The department  
23 shall inquire of each applicant at the time the completed application is  
24 presented whether the applicant is interested in making a donation of one  
25 dollar or more. ~~and shall also specifically inform the applicant of the~~  
26 ~~option for organ and tissue donations by having a "Y" placed in the donor~~  
27 ~~field on the front of the document.~~

1 (B) THE DEPARTMENT SHALL MODIFY THE DRIVER'S LICENSE AND  
2 IDENTIFICATION CARD RENEWAL PROCESS TO ADVISE ALL APPLICANTS  
3 THAT, AT THE TIME OF RENEWING A DRIVER'S LICENSE OR IDENTIFICATION  
4 CARD, THE APPLICANT SHALL BE DEEMED TO HAVE CONSENTED TO  
5 ANATOMICAL DONATION OF HIS OR HER ORGANS AND TISSUE UPON THE  
6 DETERMINATION OF THE APPLICANT'S LEGAL DEATH, UNLESS THE  
7 APPLICANT EXPRESSLY ELECTS NOT TO BE AN ORGAN AND TISSUE DONOR.  
8 THE DEPARTMENT SHALL PROVIDE THE FOLLOWING STATEMENT AND  
9 INSTRUCTIONS AT THE TIME OF RENEWAL OF AN APPLICANT'S DRIVER'S  
10 LICENSE OR IDENTIFICATION CARD:

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

20 \_\_\_\_\_ AT THIS TIME, I DO NOT WISH TO BE  
21 INCLUDED ON THE ORGAN DONOR REGISTRY.

22 UNLESS AN APPLICANT RESPONDS THAT HE OR SHE DOES NOT WANT TO BE  
23 CONSIDERED A POSSIBLE ORGAN AND TISSUE DONOR, THE APPLICANT WILL  
24 BE DEEMED TO HAVE CONSENTED TO ORGAN AND TISSUE DONATION. THE  
25 CONSENT IS SUFFICIENT TO SATISFY ALL REQUIREMENTS NECESSARY TO  
26 EVIDENCE THE APPLICANT'S CONSENT TO ANATOMICAL DONATION OF THE  
27 APPLICANT'S ORGANS AND TISSUE. The department shall also advise each

1 applicant ~~volunteering to become an organ and tissue donor~~ WHO DID NOT  
2 OPT OUT OF ORGAN AND TISSUE DONATION that the applicant's name shall  
3 be transmitted to the organ and tissue donor registry authorized in section  
4 12-34-120, C.R.S., and that the applicant shall notify the federally  
5 designated organ procurement organization of any changes to the  
6 applicant's donation.

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

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

10 **6-16-103. Definitions.** As used in this article, unless the context  
11 otherwise requires:

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

24 (5) "Contribution" means the grant, promise, or pledge of money,  
25 credit, property, financial assistance, or any other thing of value in  
26 response to a solicitation. "Contribution" does not include voluntary  
27 contributions for organ and tissue donations under ~~the provisions of~~

1 sections 42-2-107 (4) (b) ~~(V)~~ (V) (A) and 42-2-118 (1) (a) ~~(H)~~ (II) (A),  
2 C.R.S., and bona fide fees, dues, or assessments paid by members of a  
3 charitable organization if membership is not conferred primarily as  
4 consideration for making a contribution in response to a solicitation.

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

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

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