

**IC 29-2**

**ARTICLE 2. MISCELLANEOUS PROVISIONS**

**IC 29-2-1**

**Chapter 1. Jurisdiction in Probate Matters and Probate of Foreign Wills**

**IC 29-2-1-1**

**Definitions**

Sec. 1. As used in this chapter:

(1) "local administration" means administration by a personal representative appointed in this state pursuant to appointment proceedings described in article 1 of this title.

(2) "local personal representative" includes any personal representative appointed in this state pursuant to appointment proceedings described in article 1 of this title and excludes foreign personal representatives who acquire the power of a local personal representative under section 6.

(3) "resident creditor" means a person domiciled in, or doing business in this state, who is, or could be, a claimant against an estate of a non-resident decedent.

(4) "non-resident decedent" means a decedent not domiciled in Indiana at his death.

(5) "foreign personal representative" means a personal representative appointed in a jurisdiction other than Indiana to administer a non-resident decedent's estate.

(6) "domiciliary foreign personal representative" means a foreign personal representative appointed in the jurisdiction where the decedent was domiciled at the time of his death.

*(Formerly: Acts 1881(ss), c.45, s.1; Acts 1975, P.L.288, SEC.39.)*

**IC 29-2-1-2**

**Indebtedness to non-resident decedent; payments to domiciliary foreign personal representative**

Sec. 2. At any time after the expiration of forty-five (45) days from the death of a non-resident decedent, any person indebted to the estate of the non-resident decedent or having possession or control of personal property, or of an instrument evidencing a debt, obligation, stock or chose in action belonging to the estate of the non-resident decedent may pay the debt, deliver the personal property, or the instrument evidencing the debt, obligation, stock or chose in action, to the domiciliary foreign personal representative of the non-resident decedent upon being presented with proof of his appointment and an affidavit made by or on behalf of the representative stating:

(1) the date of the death of the non-resident decedent;

(2) that no local administration, or application or petition therefor, is pending in this state; and

(3) that the domiciliary foreign personal representative is entitled to payment or delivery.

*(Formerly: Acts 1881(ss), c.45, s.15; Acts 1975, P.L.288, SEC.40.)*

### **IC 29-2-1-3**

#### **Payments to domiciliary foreign personal representative; release of debtor**

Sec. 3. Payment or delivery made in good faith on the basis of the proof of authority and affidavit releases the debtor or person having possession of the personal property to the same extent as if payment or delivery had been made to a local personal representative.

*(Formerly: Acts 1881(ss), c.45, s.72; Acts 1975, P.L.288, SEC.41.)*

### **IC 29-2-1-4**

#### **Payments to domiciliary foreign personal representative; notice by resident creditor to debtor as bar**

Sec. 4. Payment of delivery under section 2 of this chapter may not be made if a resident creditor of the non-resident decedent has notified the debtor of the non-resident decedent or the person having possession of the personal property belonging to the non-resident decedent that the debt should not be paid nor the property delivered to the domiciliary foreign personal representative.

*(Formerly: Acts 1881(ss), c.45, s.73; Acts 1975, P.L.288, SEC.42.)*

### **IC 29-2-1-5**

#### **Domiciliary foreign personal representative; filing copies of appointment and bond**

Sec. 5. If no local administration or application or petition therefor is pending in this state, a domiciliary foreign personal representative may file with a court in this state in a county in which property belonging to the decedent is located, authenticated copies of his appointment and of any official bond he has given.

*(Formerly: Acts 1881(ss), c.45, s.74; Acts 1975, P.L.288, SEC.43.)*

### **IC 29-2-1-6**

#### **Domiciliary foreign personal representative; powers**

Sec. 6. A domiciliary foreign personal representative who has complied with section 5 may exercise as to assets in this state all powers of a local unsupervised personal representative and may maintain actions and proceedings in this state subject to any conditions imposed upon non-resident parties generally.

*(Formerly: Acts 1881(ss), c.45, s.138; Acts 1959, c.246, s.1; Acts 1971, P.L.414, SEC.1; Acts 1975, P.L.288, SEC.44.) As amended by P.L.36-2011, SEC.5.*

### **IC 29-2-1-7**

#### **Domiciliary foreign personal representative; limitation of powers by local personal representative**

Sec. 7. The powers of a domiciliary foreign personal representative under section 2 or 6 of this chapter shall be exercised only if there is no administration or application therefor pending in this state. An application or petition for local administration of the estate terminates the power of the foreign personal representative to act under section 6 of this chapter, but the local court may allow the

foreign personal representative to exercise limited powers to preserve the estate. No person who, before receiving actual notice of a pending local administration, has changed his position in reliance upon the powers of a foreign personal representative shall be prejudiced by reason of the application or petition for, or grant of, local administration. The local personal representative is subject to all duties and obligations which have accrued by virtue of the exercise of the powers by the foreign personal representative and may be substituted for him in any action or proceedings in the state. *(Formerly: Acts 1881(ss), c.45, s.139; Acts 1971, P.L.414, SEC.2; Acts 1975, P.L.288, SEC.45.)*

#### **IC 29-2-1-8**

##### **Non-resident decedents; proceedings; application of law**

Sec. 8. In respect to a non-resident decedent, the provisions of article 1 of this title govern (a) proceedings, if any, in a court of this state for probate of the will, appointment, removal, supervision, and discharge of the local personal representative, and any other order concerning the estate; and (b) the status, powers, duties and liabilities of any local personal representative and the rights of claimants, purchasers, distributees and others in regard to a local administration. *(Formerly: Acts 1881(ss), c.45, s.140; Acts 1971, P.L.414, SEC.3; Acts 1975, P.L.288, SEC.46.)*

#### **IC 29-2-1-9**

##### **Foreign personal representative; submission to jurisdiction of state court**

Sec. 9. A foreign personal representative submits himself to the jurisdiction of the courts of this state by (a) filing authenticated copies of his appointment as provided in section 5 of this chapter, (b) receiving payment of money or taking delivery of personal property under section 2 of this chapter, or (c) doing any act as a personal representative in this state which would have given the state jurisdiction over him as an individual. Jurisdiction under (b) is limited to the money or value of personal property collected. *(Formerly: Acts 1975, P.L.288, SEC.47.)*

#### **IC 29-2-1-10**

##### **Foreign personal representative; subjection to decedent jurisdiction**

Sec. 10. In addition to jurisdiction conferred by section 9 of this chapter, a foreign personal representative is subject to the jurisdiction of the courts of this state to the same extent that his decedent was subject to jurisdiction immediately prior to death. *(Formerly: Acts 1975, P.L.288, SEC.48.)*

#### **IC 29-2-1-11**

##### **Service of process on foreign personal representative**

Sec. 11. (a) Service of process may be made upon the foreign personal representative by registered or certified mail, addressed to

his last reasonably ascertainable address, requesting a return receipt signed by addressee only. Notice by ordinary first class mail is sufficient if registered or certified mail service to the addressee is unavailable. Service may be made upon a foreign personal representative in the manner in which service could have been made under other laws of this state on either the foreign personal representative or his decedent immediately prior to death.

(b) If service is made upon a foreign personal representative as provided in subsection (a) of this section, he shall be allowed at least thirty (30) days within which to appear or respond.

*(Formerly: Acts 1975, P.L.288, SEC.49.)*

#### **IC 29-2-1-12**

##### **Adjudications binding on personal representative**

Sec. 12. An adjudication rendered in any jurisdiction in favor of or against any personal representative of the estate is as binding on the local personal representative as if he were a party to the adjudication.

*(Formerly: Acts 1975, P.L.288, SEC.50.)*

## **IC 29-2-2**

### **Chapter 2. Probate Commissioners**

## **IC 29-2-2-1**

### **Appointment; salary**

Sec. 1. (a) In all counties of this state containing a voting population of over seven thousand (7,000), as shown by the vote cast for secretary of state at the last preceding election, the judge of the circuit court of each of said counties, when he shall find:

- (1) that the probate business of his court requires it;
- (2) that the interests of heirs under the age of eighteen (18) years and other beneficiaries of estates, guardianships, receiverships, and other trusts pending in said court will be protected and subserved thereby; and
- (3) that the same is demanded for the proper protection of such interests;

shall cause such finding to be entered of record, and thereupon shall appoint some competent person as probate commissioner of such court.

(b) In such finding and order of appointment, on proof first heard in open court, the judge shall fix and specify the annual salary of such commissioner and the time of payment thereof and shall thereupon cause to be certified to the auditor of such county a copy of such finding and order, which shall be sufficient authority for said auditor to draw his warrant for the payment thereof at the times and in the amounts in said record set forth.

*(Formerly: Acts 1891, c.137, s.1; Acts 1897, c.164, s.1; Acts 1911, c.269, s.1; Acts 1973, P.L.287, SEC.12.) As amended by P.L.285-1987, SEC.1.*

## **IC 29-2-2-2**

### **Oath of office; fees and compensation**

Sec. 2. Said commissioner shall take and subscribe an oath for the faithful discharge of his duties, and shall hold his office for the term of four (4) years, subject to the provisions of this chapter, and for his services as such commissioner shall receive or be allowed no fees, emoluments or compensation whatever other than the salary fixed by said court and required to be paid out of the treasury of said county as aforesaid, and which salary shall not be increased during his said term of office.

*(Formerly: Acts 1891, c.137, s.2.) As amended by Acts 1982, P.L.171, SEC.69.*

## **IC 29-2-2-3**

### **Oaths; acknowledgments; removal from office**

Sec. 3. Said commissioner shall have power to administer oaths, take acknowledgments and do all other acts legally pertaining to said office and necessary to carry into effect the rules or orders of said court, and he may, at any time, be removed by the court for failure to properly discharge the duties of his trust.

*(Formerly: Acts 1891, c.137, s.3.)*

#### **IC 29-2-2-4**

##### **Duties defined; records**

Sec. 4. At the time of the appointment of said commissioner, or as soon thereafter as may be practicable, the court shall define the duties of such commissioner and cause a record thereof to be made upon the order-book of said court.

*(Formerly: Acts 1891, c.137, s.4.)*

#### **IC 29-2-2-5**

##### **Rules for protection of trusts; speedy transaction of probate business**

Sec. 5. Such court shall have power to make and enforce all necessary rules for the protection of the several trusts pending therein, and the requiring of delinquent guardians, administrators or other trustees to make reports, give new or additional bonds, or discharge any other duty required of them by law, or the rules of said court, and may vest such commissioner with all necessary power in the premises looking to the protection of such trusts and enforcement of the law and rules of said court in reference thereto, and the proper and speedy transaction of the probate business of such court, as the court, in its discretion, may deem advisable and necessary.

*(Formerly: Acts 1891, c.137, s.5.)*

#### **IC 29-2-2-6**

##### **Dispensing with services; salary**

Sec. 6. At any time after the appointment of such commissioner, when such court shall deem that his services may be dispensed with, either for a certain or indefinite length of time, without detriment to the business of said court, or the interests of the trusts therein pending, the court shall enter of record its finding to that effect and cause the same to be certified to the auditor of such county, and thereupon, during the time so specified in such finding, the salary of such commissioner shall cease and his services during said time be dispensed with, the said commissioner to again assume his duties and receive his salary therefor only when the court shall so order.

*(Formerly: Acts 1891, c.137, s.6.)*

**IC 29-2-3**

**Repealed**

*(Repealed by Acts 1982, P.L.1, SEC.71.)*

**IC 29-2-4****Chapter 4. Duties of Probate Commissioner in Counties With Populations from 30,000 to 150,000****IC 29-2-4-1****Report of findings; compensation**

Sec. 1. In all counties of this state, having a population of not less than thirty thousand (30,000) nor more than one hundred and fifty thousand (150,000), according to the last preceding United States census, it shall be the duty of the probate commissioner of the circuit court in any county, duly appointed as by law provided, to hear evidence upon and report his finding to the judge of the circuit court of his county, upon all matters, probate, civil and otherwise, which may be referred to such probate commissioner by such judge of the circuit court, and he shall receive no fees or compensation other than his salary, which salary shall be fixed by the judge of said circuit court, after proof heard, during any term of such court, and in such sum as, in the judgment of the judge of such circuit court, may deem proper, the same to be payable out of the treasury of such county. *(Formerly: Acts 1911, c.42, s.1.)*



## **IC 29-2-5**

### **Chapter 5. Administration of Estate of Intestate Absentee**

#### **IC 29-2-5-1**

##### **Five years absence; presumption of death**

Sec. 1. (a) When any resident of Indiana is absent from the individual's usual place of residence and gone to parts unknown for a period of five (5) years, without having made any sufficient provision for the care and management of the individual's property, real or personal, and the court having probate jurisdiction in the county where the individual last resided or where the property is situated determines that:

- (1) the individual's property is suffering waste for want of proper care; or
- (2) the family of the individual is in need of the use and proceeds of the property for support or education (or that the sale of the property, or part thereof, is necessary for the payment of the individual's debts);

it shall be presumed and taken by the court that the individual is dead. The court has jurisdiction over the estate of the individual in the same manner and to the same extent as if the individual were dead. The court shall appoint an administrator of the individual's estate, who shall have all of the powers and rights over the estate and be subject to all of the liabilities and duties that appertain to administrators of decedents' estates.

(b) Before the court may determine that an individual should be presumed dead, notice to the individual must be published once each week for three (3) consecutive weeks, with the first notice published more than thirty (30) days before the hearing in a newspaper of general circulation in the county where the individual last resided or where the individual's property is located.

(c) The will of an individual who is presumed dead under this section is admissible to probate under IC 29-1 and shall be probated as the will of a deceased individual.

*(Formerly: Acts 1859, c.4, s.1; Acts 1861, c.52, s.1; Acts 1911, c.285, s.1.) As amended by P.L.263-1989, SEC.2; P.L.4-2003, SEC.6.*

#### **IC 29-2-5-2**

##### **Discharge of administrator; return of absentee**

Sec. 2. Such administrator shall not be discharged on the return and reappearance of such person until discharged by the court, but shall retain his powers and rights and be subject to all his official liabilities and duties until so discharged.

*(Formerly: Acts 1859, c.4, s.2.)*

#### **IC 29-2-5-3**

##### **Repealed**

*(Repealed by Acts 1975, P.L.289, SEC.3.)*

#### **IC 29-2-5-4**

**Guardians; appointment**

Sec. 4. Such court shall have power to appoint guardians of the persons and estates of the children under eighteen (18) years of age of such departed person, who shall have all the powers and rights, and be subject to all the duties and liabilities, in relation to such children and their estates, which appertain to guardians of heirs under eighteen (18) years of age and their estates, under IC 34-9-2. *(Formerly: Acts 1859, c.4, s.4; Acts 1973, P.L.287, SEC.13.) As amended by P.L.1-1998, SEC.157.*

**IC 29-2-5-5****Distribution of estates; bond; trustee**

Sec. 5. (a) The property of such departed person, real and personal, and all his rights, obligations and choses in action, shall be subject to the same liabilities, incidents, rights, management and disposal under this chapter, in all respects, as if such person were known to be deceased; and all adjudications and acts done by such administrator or guardian shall be valid, effectual and binding on such person should he return, as if they were his own acts, the acts and doings of such administrator and guardian being in good faith and without fraud.

(b) Before any distribution of the estate of such absentee shall be made to the person or persons entitled to receive it, he or they shall give security, to the approval of the proper circuit or superior court or probate court of the county having jurisdiction thereof, in such sum as the court shall direct, and conditioned that if the absentee shall, in fact, be at the time alive, he or they will, respectively, refund the amounts received by each, on demand, with interest; said bond to run and be in force for the period of three (3) years from the date of the issuing of letters of administration by said court, and if, during said period of three (3) years, the absentee shall not appear and demand said estate, the rights of the absentee thereto shall be barred; but if the person or persons entitled to receive the same is or are unable to give the security aforesaid, then the court shall appoint a trustee, who shall give bond for the faithful performance of his duties in one and one-half times the amount of such money, with sufficient sureties, who shall invest said money at interest as the court may direct, which interest is to be paid annually to the person or persons entitled to it, and the money to remain at interest until the security aforesaid is given, and if the absentee does not appear and demand said money within said period of three (3) years, the court shall order it to be paid to the person or persons entitled to it absolutely.

(c) The provisions of this section shall apply to all pending and future administrations of such estates of absentees.

*(Formerly: Acts 1859, c.4, s.5; Acts 1913, c.326, s.1.) As amended by Acts 1982, P.L.171, SEC.70.*

## **IC 29-2-6**

### **Chapter 6. Administration of Absentee's Estate Where There Is a Will or Trust**

#### **IC 29-2-6-1**

##### **Distribution of estates; bond; trustee appointed**

Sec. 1. When any resident of this state shall have absented himself from his usual place of residence and gone to parts unknown for a space of five (5) years, and when, in such case, thirty (30) days' notice shall have been given to such person by publication in a newspaper of general circulation published at the capital of the state, and also in a paper published in the county where he last resided in such state, if there be any, it shall be presumed and taken by the court having probate jurisdiction in the county where such person last resided, or any county of said state where trust funds or an interest therein have been left to such person, as hereinafter set out, that such person is dead, upon presentation of proper proof of such absence and of publication of notice. Any interest any such absentee would have in any property under and by the terms of any will shall be administered upon by the executor of such will the same as though such person were in fact dead; and where, by the terms of any will, a trust has been created in favor of such absentee, such trust shall be terminated and the executor of such will or the trustee in charge of said trust funds shall administer and dispose of such funds as are provided in such will upon the death of the cestui que trust: Provided, however, That before any distribution of any such trust funds shall be made to the person or persons entitled to receive the same, he or they shall give security to the approval of the proper circuit or superior court or probate court of the county having jurisdiction thereof, in such sum as the court shall direct, and conditioned that if the absentee shall, in fact, be at the time alive, he or they will respectively refund the amounts received by each, with interest, on demand of said cestui que trust, said bond to run and be enforced for the period of three (3) years from the date of the judgment of the court declaring said absentee legally dead, and if, during said period of three (3) years, the absentee shall not appear and demand any rights he may have in said trust, the rights of the absentee thereto shall be barred; but if the person or persons entitled to receive the same is or are unable to give the security aforesaid, then the court shall appoint a trustee, who shall give bond for the faithful performance of his duties in one and one-half times the amount of such money, with sufficient sureties, who shall invest said money at interest, as the court may direct, which interest is to be paid annually to the person or persons entitled to it, and the money to remain at interest until the security aforesaid is given, and if the absentee does not appear and demand said money and his rights in said trust within said period of three (3) years, the court shall order the money so held by such trustee so appointed by said court to be paid to the person or persons entitled to it absolutely. The provisions of this section shall apply to all pending and future administrations

of trust funds left to absentees.  
(Formerly: Acts 1915, c.43, s.1.)

**IC 29-2-7**

**Repealed**

*(Repealed by P.L.263-1989, SEC.3.)*

## **IC 29-2-8**

### **Chapter 8. Conservatorship of Estate of Missing Serviceman or Seaman**

## **IC 29-2-8-1**

### **Guardians; appointment; revocation**

Sec. 1. Whenever a person (referred to as an absentee) serving in or with the armed forces of the United States, or a person serving as a Merchant Marine of the United States, has been reported or listed as:

- (1) missing;
- (2) missing in action;
- (3) interned in a neutral country; or
- (4) beleaguered, besieged, or captured by an enemy;

has an interest in property in Indiana or is a legal resident of Indiana and has not provided an adequate power of attorney authorizing another to act in regard to the property or interest, a court having probate jurisdiction in the county of the absentee's legal domicile or in the county where the property, or a part of the property, is situated, may appoint a guardian to manage the absentee's property, under the supervision of the court. The guardian may be appointed upon the filing of a verified petition alleging the facts and showing the necessity for the management and control of the property of the absentee made by an interested person, or on the court's own motion, after notice to or the filing of waiver of notice from the presumptive heirs of the absentee. Within ten (10) days after appointment the guardian shall publish a notice of appointment in a newspaper of general circulation in the county once each week for three (3) weeks and shall mail a copy of the notice to the absentee addressed to the absentee's last known address. Any interested person may on application to the court require the guardian to show cause why the appointment should not be revoked. If an appointment is revoked, the revocation shall be without prejudice to the rights and interests of any person who relied upon it in good faith.

*(Formerly: Acts 1945, c.35, s.1.) As amended by P.L.33-1989, SEC.52.*

## **IC 29-2-8-2**

### **Guardian bond; powers; removal and substitution**

Sec. 2. The court shall have full discretionary authority to appoint any suitable person as guardian and may require the guardian to post an adequate surety bond and to make reports as the court may deem necessary. The guardian shall have the same powers and authority as the guardian of the property of a minor or incapacitated person (as defined in IC 29-3-1-7.5) and shall be considered as an officer of the court, and shall be subject to removal and substitution for good cause shown.

*(Formerly: Acts 1945, c.35, s.2.) As amended by P.L.33-1989, SEC.53.*

**IC 29-2-8-3****Termination of guardianship; executor or administrator**

Sec. 3. Upon petition signed by the absentee, or on petition of an attorney-in-fact acting under an adequate power of attorney granted by the absentee, the court shall direct the termination of the guardianship and the transfer of all property held to the absentee or to the designated attorney-in-fact. If at any time subsequent to the appointment of a guardian it appears that the absentee has died and an executor or administrator has been appointed for the estate, the court shall direct the termination of the guardianship and the transfer of all property of the deceased absentee to the executor or administrator.

*(Formerly: Acts 1945, c.35, s.3.) As amended by P.L.33-1989, SEC.54.*

**IC 29-2-9**

Chapter 9. Sale of Ward's Personal Property by Non-Resident  
Guardian

**IC 29-2-9-1**

**Repealed**

*(Repealed by Acts 1982, P.L.175, SEC.4.)*

**IC 29-2-9-2**

**Repealed**

*(Repealed by Acts 1973, P.L.290, SEC.16.)*



**IC 29-2-10**

**Repealed**

*(Repealed by Acts 1973, P.L.290, SEC.16.)*

**IC 29-2-11**

Chapter 11. Waiver by Judge of Period Costs in Certain Cases

**IC 29-2-11-1**

**Estates; guardianship; assignments; trusteeship; surviving partnership**

Sec. 1. The courts of this state having jurisdiction of estates, guardianships, assignments, trusteeships, and surviving partnerships and the judges thereof, in their discretion, be and hereby are authorized and empowered to waive the period costs and payment thereof in estates for any and all years subsequent to and in addition to the first two (2) years or part of same thereof, and to waive the costs and payment thereof in guardianships for any and all years subsequent to and in addition to the first three (3) years or part of same thereof, and to waive the costs and payment thereof in assignments, trusteeships, and surviving partnerships for any and all years subsequent to and in addition to the first two (2) years or part of same thereof.

*(Formerly: Acts 1965, c.163, s.1.)*

## **IC 29-2-12**

### **Chapter 12. Apportionment of Federal Estate Taxes**

#### **IC 29-2-12-0.1**

##### **Application of certain amendments to chapter**

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of section 1.5 of this chapter by P.L.266-1989 does not apply to:

- (A) a will;
- (B) a trust; or
- (C) another instrument governing the distribution of assets following an individual's death; executed before July 1, 1989.

(2) The amendments made to section 7 of this chapter by P.L.266-1989 do not apply to:

- (A) a will;
- (B) a trust; or
- (C) another instrument governing the distribution of assets following an individual's death; executed before July 1, 1989.

*As added by P.L.220-2011, SEC.479.*

#### **IC 29-2-12-1**

##### **Purpose**

Sec. 1. The purpose of this chapter is to provide for an equitable apportionment of federal estate tax imposed upon decedents' estates under the provisions of the United States revenue code.

*(Formerly: Acts 1969, c.175, s.1.) As amended by Acts 1982, P.L.171, SEC.72.*

#### **IC 29-2-12-1.5**

##### **"Will" defined**

Sec. 1.5. As used in this chapter, "will" includes a trust or other instrument governing the distribution of assets following an individual's death.

*As added by P.L.266-1989, SEC.1.*

#### **IC 29-2-12-2**

##### **Heirs and beneficiaries; charitable or marital deduction or exemption**

Sec. 2. Unless a decedent shall otherwise direct by will, the federal estate tax imposed upon decedent's estate, shall be apportioned among all of the persons, heirs and beneficiaries of decedent's estate who receive any property which is includable in the total gross estate of said decedent for the purpose of determining the amount of federal estate tax to be paid by said estate, Provided, That no part of the federal estate tax shall be apportioned against property which, in the absence of any apportionment whatsoever, would qualify for any charitable, marital or other deduction or exemption,

nor against recipients of such property on account thereof.  
(Formerly: Acts 1969, c.175, s.2.)

### **IC 29-2-12-3**

#### **Payment; recovery**

Sec. 3. The personal representative of decedent's estate or the person paying the federal estate tax imposed upon said estate by said United States revenue code shall be entitled to recover such tax so paid proportionately from each such person, heir, or beneficiary as is hereinafter provided.

(Formerly: Acts 1969, c.175, s.3.)

### **IC 29-2-12-4**

#### **Method of apportionment**

Sec. 4. The portion of the federal estate tax to be paid by each person, heir, or beneficiary of a decedent's estate shall be determined by dividing the value of the property received by the person, heir, or beneficiary, which is included in the net taxable estate, by the amount of the net taxable estate, and multiplying the result by the amount of the total federal estate tax paid.

(Formerly: Acts 1969, c.175, s.4.) As amended by P.L.36-2011, SEC.6.

### **IC 29-2-12-5**

#### **Liens**

Sec. 5. That portion of said federal estate tax apportioned to each person, heir, or beneficiary receiving property as aforesaid, shall constitute a lien upon the property received by said person, heir or beneficiary until the amount thereof has been paid or reimbursed to the personal representative of decedent's estate or the person other than the personal representative who has paid such tax.

(Formerly: Acts 1969, c.175, s.5.)

### **IC 29-2-12-6**

#### **Deduction of amounts; action for recovery**

Sec. 6. The personal representative of decedent's estate shall, prior to final distribution of the estate, deduct the amount of federal estate tax apportioned to each heir or beneficiary, if such personal representative is in possession of sufficient property distributable to such heir or beneficiary to pay such apportioned share of said federal estate tax. In the event that such personal representative does not have property of at least the value of such apportioned share of said federal estate tax, said personal representative may recover such apportioned share by an action in court.

(Formerly: Acts 1969, c.175, s.6.)

### **IC 29-2-12-7**

#### **Will providing for payment**

Sec. 7. (a) This chapter shall not be applicable to estates where the decedent has, by will, provided for the payment of federal estate

tax either by the estate or by the residue of the estate.

(b) A specific direction in a will to pay federal estate tax from the testator's estate or the residue of the estate shall be considered a provision for payment under subsection (a).

*(Formerly: Acts 1969, c.175, s.7.) As amended by Acts 1982, P.L.171, SEC.73; P.L.266-1989, SEC.2.*

**IC 29-2-13**

**Repealed**

*(Repealed by P.L.4-1988, SEC.18.)*

## **IC 29-2-14**

### **Chapter 14. Uniform Simultaneous Death Act**

#### **IC 29-2-14-1**

##### **Disposition of property; insufficient evidence of survivorship**

Sec. 1. Where the title to property or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of as if he had survived, except as provided otherwise in this chapter.

*(Formerly: Acts 1941, c.49, s.1.) As amended by Acts 1982, P.L.171, SEC.74.*

#### **IC 29-2-14-2**

##### **Beneficiaries taking successively under another's disposition of property**

Sec. 2. Where two (2) or more beneficiaries are designated to take successively by reason of survivorship under another person's disposition of property and there is no sufficient evidence that these beneficiaries have died otherwise than simultaneously, the property thus disposed of shall be divided into as many equal portions as there are successive beneficiaries and these portions shall be distributed respectively to those who would have taken in the event that each designated beneficiary had survived.

*(Formerly: Acts 1941, c.49, s.2.)*

#### **IC 29-2-14-3**

##### **Joint tenants; tenants by entirety**

Sec. 3. Where there is no sufficient evidence that two (2) joint tenants or tenants by the entirety have died otherwise than simultaneously the property so held shall be distributed one-half (1/2) as if one (1) had survived and one-half (1/2) as if the other had survived. If there are more than two (2) joint tenants and all of them have so died the property thus distributed shall be in the proportion that one (1) bears to the whole number of joint tenants.

*(Formerly: Acts 1941, c.49, s.3.)*

#### **IC 29-2-14-4**

##### **Life or accident insurance**

Sec. 4. Where the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise than simultaneously the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.

*(Formerly: Acts 1941, c.49, s.4.)*

#### **IC 29-2-14-5**

##### **Prior death**

Sec. 5. This chapter shall not apply to the distribution of the property of a person who has died before it takes effect.

*(Formerly: Acts 1941, c.49, s.5.) As amended by Acts 1982, P.L.171, SEC.75.*

#### **IC 29-2-14-6**

##### **Wills, living trusts; deeds; insurance**

Sec. 6. This chapter shall not apply in the case of wills, living trusts, deeds, or contracts of insurance wherein provision has been made for distribution of property different from the provisions of this chapter.

*(Formerly: Acts 1941, c.49, s.6.) As amended by Acts 1982, P.L.171, SEC.76.*

#### **IC 29-2-14-7**

##### **Uniformity of interpretation**

Sec. 7. This chapter shall be so construed and interpreted as to effectuate its general purpose to make uniform the law in those states which enact it.

*(Formerly: Acts 1941, c.49, s.7.) As amended by Acts 1982, P.L.171, SEC.77.*

#### **IC 29-2-14-8**

##### **Short title**

Sec. 8. This chapter may be cited as the Uniform Simultaneous Death Act.

*(Formerly: Acts 1941, c.49, s.8.) As amended by Acts 1982, P.L.171, SEC.78.*



**IC 29-2-15**

**Repealed**

*(Repealed by Acts 1972, P.L.11, SEC.14.)*

**IC 29-2-16**

**Repealed**

*(Repealed by P.L.147-2007, SEC.21.)*

**IC 29-2-16.1**

Chapter 16.1. Revised Uniform Anatomical Gift Act

**IC 29-2-16.1-1**

**Definitions**

Sec. 1. The following definitions apply throughout this chapter:

- (1) "Adult" means an individual at least eighteen (18) years of age.
- (2) "Agent" means an individual who is:
  - (A) authorized to make health care decisions on behalf of another person by a health care power of attorney; or
  - (B) expressly authorized to make an anatomical gift on behalf of another person by a document signed by the person.
- (3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.
- (4) "Bank" or "storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts of human bodies.
- (5) "Decedent":
  - (A) means a deceased individual whose body or body part is or may be the source of an anatomical gift; and
  - (B) includes:
    - (i) a stillborn infant; and
    - (ii) except as restricted by any other law, a fetus.
- (6) "Disinterested witness" means an individual other than a spouse, child, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift or another adult who exhibited special care and concern for the individual. This term does not include a person to whom an anatomical gift could pass under section 10 of this chapter.
- (7) "Document of gift" means a donor card or other record used to make an anatomical gift, including a statement or symbol on a driver's license, identification, or donor registry.
- (8) "Donor" means an individual whose body or body part is the subject of an anatomical gift.
- (9) "Donor registry" means:
  - (A) a data base maintained by:
    - (i) the bureau of motor vehicles under IC 9-24-17-9; or
    - (ii) the equivalent agency in another state;
  - (B) the Donate Life Indiana Registry maintained by the Indiana Donation Alliance Foundation; or
  - (C) a donor registry maintained in another state;that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.
- (10) "Driver's license" means a license or permit issued by the bureau of motor vehicles to operate a vehicle.
- (11) "Eye bank" means a person that is licensed, accredited, or

regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(12) "Guardian" means an individual appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(13) "Hospital" means a facility licensed as a hospital under the laws of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(14) "Identification card" means an identification card issued by the bureau of motor vehicles.

(15) "Minor" means an individual under eighteen (18) years of age.

(16) "Organ procurement organization" means a person designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization.

(17) "Parent" means an individual whose parental rights have not been terminated.

(18) "Part" means an organ, an eye, or tissue of a human being. The term does not mean a whole body.

(19) "Pathologist" means a physician:

(A) certified by the American Board of Pathology; or

(B) holding an unlimited license to practice medicine in Indiana and acting under the direction of a physician certified by the American Board of Pathology.

(20) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, instrumentality, or any other legal or commercial entity.

(21) "Physician" or "surgeon" means an individual authorized to practice medicine or osteopathy under the laws of any state.

(22) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(23) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made an appropriate refusal.

(24) "Reasonably available" means:

(A) able to be contacted by a procurement organization without undue effort; and

(B) willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(25) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(26) "Record" means information that is inscribed on a tangible

medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(27) "Refusal" means a record created under section 6 of this chapter that expressly states the intent to bar another person from making an anatomical gift of an individual's body or part.

(28) "Sign" means, with the present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(29) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(30) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an eye enucleator.

(31) "Tissue" means a part of the human body other than an organ or an eye. The term does not include blood or other bodily fluids unless the blood or bodily fluids are donated for the purpose of research or education.

(32) "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(33) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of organ transplant patients.

*As added by P.L.147-2007, SEC.12.*

## **IC 29-2-16.1-2**

### **Chapter application**

Sec. 2. This chapter applies to:

- (1) an anatomical gift;
- (2) an amendment to an anatomical gift;
- (3) a revocation of an anatomical gift; or
- (4) a refusal to make an anatomical gift.

*As added by P.L.147-2007, SEC.12.*

## **IC 29-2-16.1-3**

### **Persons who may make anatomical gifts during the lifetime of a donor**

Sec. 3. Subject to section 7 of this chapter, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in section 4 of this chapter by:

- (1) the donor, if the donor is an adult or if the donor is a minor and is:

(A) emancipated; or

- (B) authorized under state law to apply for a driver's license because the donor is at least sixteen (16) years of age;
- (2) an agent of the donor, unless the health care power of attorney or other record prohibits the agent from making an anatomical gift;
- (3) a parent of the donor, if the donor is not emancipated; or
- (4) the donor's guardian.

*As added by P.L.147-2007, SEC.12.*

#### **IC 29-2-16.1-4**

##### **Methods of making anatomical gifts**

Sec. 4. (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 driver's license or identification card;
- (2) in a will;
- (3) during a terminal illness or injury of the donor, by any form of communication directed to at least two (2) adults, at least one (1) of whom is a disinterested witness; or
- (4) as provided in subsection (b).

(b) A donor or other person authorized to make an anatomical gift under section 3 of this chapter may make a gift by:

- (1) a donor card or other record signed by the donor or other person making the gift; or
- (2) authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry.

(c) If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

- (1) be witnessed by at least two (2) adults, at least one (1) of whom is a disinterested witness, who have signed at the request of the donor or the other person; and
- (2) state that it has been signed and witnessed as provided in subdivision (1).

(d) Revocation, suspension, expiration, or cancellation of:

- (1) a driver's license; or
- (2) an identification card;

that indicates an anatomical gift does not invalidate the gift.

(e) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

*As added by P.L.147-2007, SEC.12.*

#### **IC 29-2-16.1-5**

##### **Amendment or revocation of anatomical gifts**

Sec. 5. (a) Subject to section 7 of this chapter, a donor or other person authorized to make an anatomical gift under section 3 of this chapter may amend or revoke an anatomical gift by:

- (1) a record signed by:

- (A) the donor;
  - (B) the other person; or
  - (C) subject to subsection (b), another individual acting at the direction of the donor or the other person authorized to make an anatomical gift if the donor or other person is physically unable to sign; or
  - (2) a later executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.
  - (b) A record signed under subsection (a)(1)(C) must:
    - (1) be witnessed by two (2) adults, at least one (1) of whom is a disinterested witness, who are witnesses at the request of the donor or the other person authorized to make an anatomical gift; and
    - (2) state that the record has been signed and witnessed as described in subdivision (1).
  - (c) Subject to section 7 of this chapter, a donor or other person authorized to make an anatomical gift under section 3 of this chapter may revoke an anatomical gift by the destruction or cancellation of the:
    - (1) document of gift; or
    - (2) portion of the document of gift used to make the gift;with the intent to revoke the gift.
  - (d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness.
  - (e) A donor who makes an anatomical gift in a will may amend or revoke the gift as described in subsection (a).
- As added by P.L.147-2007, SEC.12.*

## **IC 29-2-16.1-6**

### **Refusal of anatomical gifts**

Sec. 6. (a) An individual may refuse to make an anatomical gift of the individual's body or part by:

- (1) a record signed by:
  - (A) the individual; or
  - (B) subject to subsection (b), another individual acting at the direction of the individual if the individual is physically unable to sign;
- (2) the individual's will, including if the will is admitted to probate or invalidated after the individual's death; or
- (3) any form of communication made by the individual during the individual's terminal illness or injury to at least two (2) adults, and one (1) of the adults must be a disinterested witness.
- (b) A record signed under subsection (a)(1)(B) must:
  - (1) be witnessed by two (2) adults, at least one (1) of whom is a disinterested witness, who are witnesses at the request of the donor or the other person acting at the direction of the donor; and

(2) state that the record has been signed and witnessed as described in subdivision (1).

(c) An individual who has made a refusal may amend or revoke the refusal:

(1) in the manner described in subsection (a);

(2) by subsequently making an anatomical gift under section 4 of this chapter that is inconsistent with the refusal; or

(3) by destroying or cancelling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Except as provided in section 7(h) of this chapter, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars another person from making an anatomical gift of the individual's body or part.

*As added by P.L.147-2007, SEC.12.*

#### **IC 29-2-16.1-7**

##### **Persons prohibited from making, amending, or revoking an anatomical gift; donor revocation of an anatomical gift; unemancipated minors**

Sec. 7. (a) Except as otherwise provided in subsection (g) and subject to subsection (f), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under section 4 of this chapter or an amendment to an anatomical gift of the donor's body or part under section 5 of this chapter.

(b) A donor's revocation of an anatomical gift of the donor's body or part under section 5 of this chapter is not a refusal and does not bar the person specified in section 3 or 8 of this chapter from making an anatomical gift of the donor's body or part under section 4 or 9 of this chapter.

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under section 4 of this chapter or an amendment to an anatomical gift of the donor's body or part under section 5 of this chapter, another person may not make, amend, or revoke the gift of the donor's body or part under section 9 of this chapter.

(d) A revocation of an anatomical gift of a donor's body or part under section 5 of this chapter by a person other than the donor does not bar another person from making an anatomical gift of the body or part under section 4 or 9 of this chapter.

(e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 3 of this chapter, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(f) In the absence of an express, contrary indication by the donor



or other person authorized to make an anatomical gift under section 3 of this chapter, an anatomical gift of a part for one (1) or more of the purposes set forth in section 3 of this chapter is not a limitation on the making of an anatomical gift of the part for any of the other purposes of the donor or any other person under section 4 or 9 of this chapter.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

*As added by P.L.147-2007, SEC.12. Amended by P.L.3-2008, SEC.226.*

### **IC 29-2-16.1-8**

#### **Priority of persons authorized to make an anatomical gift of a decedent's body or part**

Sec. 8. (a) Subject to subsections (b) and (c), unless barred by section 6 or 7 of this chapter, an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who are reasonably available, in the order of priority listed:

- (1) An agent of the decedent at the time of death who could have made an anatomical gift under section 3(2) of this chapter immediately before the decedent's death.
- (2) The spouse of the decedent.
- (3) Adult children of the decedent.
- (4) Parents of the decedent.
- (5) Adult siblings of the decedent.
- (6) Adult grandchildren of the decedent.
- (7) Grandparents of the decedent.
- (8) An adult who exhibited special care and concern for the decedent.
- (9) A person acting as the guardian of the decedent at the time of death.
- (10) Any other person having the authority to dispose of the decedent's body.

(b) If there is more than one (1) member of a class listed in subsection (a)(1), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), or (a)(9) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to whom the gift may pass under section 10 of this chapter knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (a) is reasonably available to make or to object to the making of an anatomical gift.

*As added by P.L.147-2007, SEC.12.*

#### **IC 29-2-16.1-9**

##### **Anatomical gift documents; amendments; revocations**

Sec. 9. (a) A person authorized to make an anatomical gift under section 8 of this chapter may make an anatomical gift by a document or may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Subject to subsection (c), an anatomical gift by a person authorized under section 8 of this chapter may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one (1) member of the prior class is reasonably available, the gift made by a person authorized under section 8 of this chapter may be:

- (1) amended only if a majority of the reasonably available members agree to the amending of the gift; or
- (2) revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(c) A revocation under subsection (b) is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

*As added by P.L.147-2007, SEC.12.*

#### **IC 29-2-16.1-10**

##### **Anatomical gift recipients; unnamed recipients; anatomical gift uses; rules; delivery of anatomical gift documents; amendment; revocation**

Sec. 10. (a) An anatomical gift may be made to the following persons named in the document of gift:

- (1) A hospital.
- (2) An accredited medical school, dental school, college, or university.
- (3) An organ procurement organization.
- (4) An appropriate person for research or education.
- (5) Subject to subsection (b), an individual designated by the person making the anatomical gift if the individual is the recipient of the part.
- (6) An eye bank.
- (7) A tissue bank.

(b) If an anatomical gift to an individual under subsection (a)(5) cannot be transplanted into the individual, the part passes in accordance with subsection (g) in the absence of an express, contrary indication by the person making the anatomical gift.

(c) If an anatomical gift of one (1) or more specific parts or of all parts is made in a document of gift that does not name a person

described in subsection (a) but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) If the part is an eye and the gift is for the purpose of:

- (A) transplantation;
- (B) therapy;
- (C) education; or
- (D) research;

the gift passes to the appropriate eye bank that has an agreement to recover donated eyes from patients who die within the hospital. The eye bank is considered to be the custodian of the donated eye.

(2) If the part is tissue and the gift is for the purpose of:

- (A) transplantation; or
- (B) therapy;

the gift passes to the appropriate tissue bank that has an agreement to recover donated tissue from patients that die within the hospital. The tissue bank is considered to be the custodian of the donated tissue.

(3) If the part is an organ and the gift is for the purpose of:

- (A) transplantation; or
- (B) therapy;

the gift passes to the appropriate organ procurement organization that has an agreement to recover donated organs from patients who die within the hospital. The procurement organization is considered to be the custodian of the donated organs.

(4) If the part is an organ, an eye, or tissue from a patient who dies within a hospital and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization that has an agreement to recover donated organs, tissue, or eyes from patients who die within the hospital.

(d) For the purpose of subsection (c), if there is more than one (1) purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(e) If an anatomical gift of one (1) or more specific parts is made in a document of gift that does not name a person described in subsection (a) and does not identify the purpose of the gift, the gift may be used only for transplantation, research, or therapy, and the gift passes in accordance with subsection (g).

(f) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor", or "body donor", or by a symbol or statement of similar import, the gift may be used only for transplantation, research, or therapy, and the gift passes in accordance with subsection (g).

(g) For purposes of subsections (b), (e), and (f), the following rules apply:

(1) If the part is an eye, the gift passes to the appropriate eye

bank.

(2) If the part is tissue, the gift passes to the appropriate tissue bank.

(3) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(h) An anatomical gift of an organ for transplantation, therapy, or research, other than an anatomical gift under subsection (a)(2), passes to the organ procurement organization as custodian of the organ.

(i) If an anatomical gift does not pass pursuant to subsections (a) through (h) or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(j) A person may not accept an anatomical gift if the person knows that the:

(1) gift was not effectively made under section 4 or 9 of this chapter; or

(2) decedent made a refusal under section 6 of this chapter that was not revoked.

(k) For purposes of subsection (j), if a person knows that an anatomical gift was made on a document of gift, the person is considered to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(l) If the gift is made by the donor to a specified donee, the will, card, or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.

(m) If the will, card, or other document, or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by:

(1) the execution and delivery to the donee of a signed statement;

(2) an oral statement made in the presence of two (2) persons and communicated to the donee;

(3) a statement during a terminal illness or injury addressed to an attending physician and communicated to the donee; or

(4) a signed card or document found on the decedent's person or in the decedent's effects.

(n) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (m) or by destruction, cancellation, or mutilation of the document and all executed copies thereof.

(o) Any gift made by a will may also be amended or revoked in

the manner provided for amendment or revocation of wills, or as provided in subsection (m).

(p) Except as otherwise provided in subsection (a)(2), this chapter does not affect the allocation of organs for transplantation or therapy.  
*As added by P.L.147-2007, SEC.12.*

#### **IC 29-2-16.1-11**

##### **Searches for documents of gift or refusal**

Sec. 11. (a) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death in a hospital for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

- (1) An organ procurement organization.
- (2) A tissue bank.
- (3) An eye bank.
- (4) If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

(b) If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection (a) and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(c) A person is not subject to civil liability for failing to discharge the duties imposed by this section but may be subject to criminal liability or administrative sanctions.

*As added by P.L.147-2007, SEC.12.*

#### **IC 29-2-16.1-12**

##### **Petitions to determine anatomical gift or revocation of anatomical gift**

Sec. 12. (a) The individual's attending physician, or, if none, the:  

- (1) physician that certifies the individual's death;
- (2) hospital where the individual is admitted;
- (3) hospital where the individual's remains are being kept; or
- (4) individual identified in section 8(a) of this chapter;

may petition a court with probate jurisdiction in the county where the remains of the individual who is the subject of the petition are located, or the county in which the individual died, for the information referred to in subsection (b).

(b) A person identified in subsection (a) may petition the court with probate jurisdiction specified in subsection (a) to determine whether the individual:

- (1) made a written anatomical gift under section 4 of this chapter or IC 9-24-17; or
- (2) made a written revocation of an anatomical gift under section 5 of this chapter or under IC 9-24-17.

(c) If the court with probate jurisdiction determines under subsection (b) that the individual made a written anatomical gift that

was not subsequently revoked in writing by the individual, the court shall order that the anatomical gift of an organ, tissue, or an eye be recovered.

(d) The court with probate jurisdiction may modify or waive notice and a hearing if the court determines that a delay would have a serious adverse effect on:

- (1) the medical viability of the individual; or
- (2) the viability of the individual's anatomical gift of an organ, tissue, or an eye.

*As added by P.L.147-2007, SEC.12.*

### **IC 29-2-16.1-13**

#### **Organ or tissue donor queries for hospital patients**

Sec. 13. (a) As used in this section:

- (1) "Administrator" means a hospital administrator or a hospital administrator's designee.
- (2) "Gift" means a gift of all or any part of the human body made under this chapter.
- (3) "Representative" means a person who is:
  - (A) authorized under section 8 of this chapter to make a gift on behalf of a decedent; and
  - (B) available at the time of the decedent's death when members of a prior class under section 8 of this chapter are unavailable.

(b) An administrator of each hospital or the administrator's designee may ask each patient who is at least eighteen (18) years of age if the patient is an organ or a tissue donor or if the patient desires to become an organ or a tissue donor.

(c) The governing board of each hospital shall adopt procedures to determine under what circumstances an administrator or an administrator's designee may ask a patient if the patient is an organ or a tissue donor or if the patient desires to become an organ or a tissue donor.

(d) The administrator shall inform the representative of the procedures available under this chapter for making a gift whenever:

- (1) an individual dies in a hospital;
- (2) the hospital has not been notified that a gift has been authorized under section 4 of this chapter; and
- (3) a procurement organization determines that the individual's body may be suitable of yielding a gift.

(e) If:

- (1) an individual makes an anatomical gift on the individual's driver's license or identification card under IC 9-24-17; and
- (2) the individual dies in a hospital;

the person in possession of the individual's driver's license or identification card shall immediately produce the driver's license or identification card for examination upon request, as provided in section 10(l) of this chapter.

(f) A gift made in response to information provided under this section must be signed by the donor or made by the donor's

telegraphic, recorded telephonic, or other recorded message.

(g) When a representative is informed under this section about the procedures available for making a gift, the fact that the representative was so informed must be noted in the decedent's medical record.

(h) A person who fails to discharge the duties imposed by this section is not subject to civil liability but may be subject to criminal liability or administrative sanctions.

*As added by P.L.147-2007, SEC.12. Amended by P.L.1-2010, SEC.114.*

#### **IC 29-2-16.1-14**

##### **Documents of gift**

Sec. 14. (a) A document of gift need not be delivered during the donor's lifetime to be effective.

(b) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under section 10 of this chapter.

*As added by P.L.147-2007, SEC.12.*

#### **IC 29-2-16.1-15**

##### **Hospital referrals to procurement organizations; record searches; examination of medical suitability; rights of person to whom a part passes**

Sec. 15. (a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of:

- (1) the bureau of motor vehicles;
- (2) the equivalent agency to the bureau of motor vehicles in another state;
- (3) the Indiana donor registry; and
- (4) any other registry that the organization knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) A procurement organization must be allowed reasonable access to information in the records of the bureau of motor vehicles to ascertain whether an individual at or near death is a donor.

(c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(d) Unless prohibited by law other than this chapter, at any time

after a donor's death, the person to whom a part passes under section 10 of this chapter may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(e) Unless prohibited by law other than this chapter, an examination under subsection (c) or (d) may include an examination of all medical and dental records of the donor or prospective donor.

(f) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(g) Upon referral by a hospital under subsection (a), a procurement organization shall make a reasonable search for any person listed in section 8 of this chapter having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(h) Subject to section 10(i) of this chapter, IC 36-2-14-21, and IC 36-2-14-22.6, the rights of the person to whom a part passes under section 10 of this chapter are superior to the rights of all others with respect to the part, including a part from a person whose death within a hospital is under investigation by a coroner. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person who accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under section 10 of this chapter, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(i) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(j) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

*As added by P.L.147-2007, SEC.12.*

#### **IC 29-2-16.1-16**

##### **Hospital agreements with procurement organizations**

Sec. 16. Each hospital in Indiana shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

*As added by P.L.147-2007, SEC.12.*

#### **IC 29-2-16.1-17**



**Liability; immunity**

Sec. 17. (a) A person who acts in accordance with this chapter is not liable for the act in a civil action or administrative proceeding.

(b) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(c) In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely upon representations of an individual listed in section 8(a)(2), 8(a)(3), 8(a)(4), 8(a)(5), 8(a)(6), 8(a)(7), or 8(a)(8) of this chapter relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

(d) A health care provider is immune from civil liability for following a donor's unrevoked anatomical gift directive under this chapter or IC 9-24-17.

(e) A hospital or a recovery agency is immune from civil liability for determining in good faith and in compliance with this section that:

- (1) an individual made a written anatomical gift; or
- (2) an individual subsequently made a written revocation of an anatomical gift.

(f) A person who, in good faith reliance upon a will, card, or other document of gift, and without actual notice of the amendment, revocation, or invalidity of the will, card, or document:

- (1) takes possession of a decedent's body or performs or causes to be performed surgical operations upon a decedent's body; or
- (2) removes or causes to be removed organs, tissues, or other parts from a decedent's body;

is not liable in damages in any civil action brought against the donor for that act.

*As added by P.L.147-2007, SEC.12.*

**IC 29-2-16.1-18****Validity of a document of gift**

Sec. 18. (a) A document of gift is valid if executed in accordance with:

- (1) this chapter;
- (2) the laws of the state or country where it was executed; or
- (3) the laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(b) If a document of gift is valid under this chapter, the law of this state governs the interpretation of the document of gift.

(c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

*As added by P.L.147-2007, SEC.12.*

**IC 29-2-16.1-19****Bureau of motor vehicles cooperation with donor registries; donor**

**registry duties; personal information on donor registries**

Sec. 19. (a) The bureau of motor vehicles shall cooperate with a person that administers any donor registry that this state establishes, contracts for, or recognizes for the purpose of transferring to the donor registry all relevant information regarding a donor's making, amendment to, or revocation of an anatomical gift.

(b) A donor registry must:

(1) allow a donor or other person authorized under section 4 of this chapter to include on the donor registry a statement or symbol that the donor has made, amended, or revoked an anatomical gift;

(2) be accessible to a procurement organization and to coroners to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift; and

(3) be accessible for purposes of subdivisions (1) and (2) seven (7) days a week on a twenty-four (24) hour basis.

(c) Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

(d) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with the state. Any such registry must comply with subsections (b) and (c).

*As added by P.L.147-2007, SEC.12.*

**IC 29-2-16.1-20**

**Declarations and advance health care directives; procurement organizations**

Sec. 20. (a) As used in this section:

(1) "Advance health care directive" means a power of attorney for health care or a record signed by a prospective donor containing the prospective donor's direction concerning a health care decision for the prospective donor.

(2) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(3) "Health care decision" means any decision made regarding the health care of the prospective donor.

(b) If a prospective donor has a declaration or advance health care directive, unless the directive expressly states the contrary, hospitals must use measures necessary to allow a procurement agency to determine the medical suitability of an organ for transplantation or therapy by insuring that life support is not withdrawn from the prospective donor before consultation with the appropriate

procurement agency to determine medical potential for donation. The procurement organization shall make every effort to determine donor potential within approximately two (2) hours from the time the procurement organization is contacted by the hospital. A hospital may, in accordance with a donor's declaration or advance health care directive, withdraw life support from the prospective donor if the procurement organization has not made a determination of donor potential within six (6) hours from the time the procurement organization is contacted by the hospital.

*As added by P.L.147-2007, SEC.12.*

#### **IC 29-2-16.1-21**

##### **Coroner cooperation with procurement organizations; postmortem examinations; removal of a part of organ from a decedent**

Sec. 21. (a) A coroner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, education, or training.

(b) If a coroner receives notice from a procurement organization that an anatomical gift might be available or was made with respect to a decedent whose body is under the jurisdiction of the coroner and a postmortem examination is going to be performed, unless the coroner denies recovery in accordance with IC 36-2-14-22.6(f), the coroner or designee shall, when practicable, conduct a postmortem examination of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift. If a coroner conducts a postmortem examination outside of a compatible period, the coroner must document why examination occurred outside of a compatible period. It is considered sufficient documentation if the coroner documents that additional time was necessary to conduct an adequate medicolegal examination.

(c) A part may not be removed from the body of a decedent under the jurisdiction of a coroner for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the coroner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude a coroner or pathologist from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the coroner or from using the body or parts of a decedent under the jurisdiction of the coroner for the purposes of research, education, or training required by the coroner or pathologist.

*As added by P.L.147-2007, SEC.12.*

**IC 29-2-17**

**Repealed**

*(Repealed by P.L.149-1991, SEC.6.)*

**IC 29-2-18****Chapter 18. Platting of Certain Property****IC 29-2-18-1****Platting; town lots**

Sec. 1. Whenever any lands are ordered by any court to be sold, on the application of any guardian, executor or administrator, the court ordering such sale may, in their discretion, authorize such guardian, executor or administrator, previous to such sale, to lay out such lands, or a portion thereof, in town lots, and to make the necessary dedication to public use of streets, alleys and squares therein; but before any sale of such lots shall take place, and before a plat of such lots, streets, alleys and squares shall be recorded in the recorder's office—the same, with a plat thereof, shall be reported to such court for approval or rejection. If confirmed by the court, such plat shall be recorded as other plats of like nature are recorded, and shall have the same validity in law as if made by a legal proprietor of such lands who is eighteen (18) years of age or over.

*(Formerly: Acts 1853, c.49, s.1; Acts 1973, P.L.287, SEC.15.)*

**IC 29-2-18-2****Land not for sale**

Sec. 2. Whenever it shall be manifestly to the interest of a protected person, the court may, under the restrictions provided in section 1 of this chapter, authorize the guardian of the protected person to lay out any portion of the estate in the manner and with the legal effect provided in section 1, as though the land was not designed for sale.

*(Formerly: Acts 1853, c.49, s.2.) As amended by Acts 1982, P.L.171, SEC.85; P.L.33-1989, SEC.55.*

## **IC 29-2-19**

### **Chapter 19. Funeral Planning Declaration**

#### **IC 29-2-19-1**

##### **"Declarant"**

Sec. 1. As used in this chapter, "declarant" means an individual who signs a funeral planning declaration executed under this chapter.  
*As added by P.L.143-2009, SEC.14.*

#### **IC 29-2-19-2**

##### **"Declaration"**

Sec. 2. As used in this chapter, "declaration" means a funeral planning declaration executed under this chapter.  
*As added by P.L.143-2009, SEC.14.*

#### **IC 29-2-19-3**

##### **"Designee"**

Sec. 3. As used in this chapter, "designee" means an individual directed by the terms of a declaration to:

- (1) carry out the funeral plan of the declarant as set forth in the declaration; or
- (2) make any arrangements concerning the disposition of the declarant's remains, funeral services, merchandise, and ceremonies that are delegated to the designee in the declaration.

*As added by P.L.143-2009, SEC.14.*

#### **IC 29-2-19-4**

##### **"Disposition"**

Sec. 4. As used in this chapter, "disposition" has the meaning set forth in IC 25-15-2-7.  
*As added by P.L.143-2009, SEC.14.*

#### **IC 29-2-19-5**

##### **"Funeral services"**

Sec. 5. As used in this chapter, "funeral services" has the meaning set forth in IC 25-15-2-17.  
*As added by P.L.143-2009, SEC.14.*

#### **IC 29-2-19-6**

##### **"Grave memorial"**

Sec. 6. As used in this chapter, "grave memorial" has the meaning set forth in IC 14-21-2-2.  
*As added by P.L.143-2009, SEC.14.*

#### **IC 29-2-19-7**

##### **"Merchandise"**

Sec. 7. As used in this chapter, "merchandise" refers to personal property described in IC 30-2-13-8.  
*As added by P.L.143-2009, SEC.14.*

## **IC 29-2-19-8**

### **Funeral planning declaration; requirements**

Sec. 8. (a) A person who is of sound mind and is at least eighteen (18) years of age may execute a funeral planning declaration substantially in the form set forth in section 13 of this chapter. A declaration may not be included in a will, a power of attorney, or a similar document.

(b) A declaration must meet the following conditions:

- (1) Be voluntary.
- (2) Be in writing.
- (3) Direct an individual to serve as the declarant's designee.
- (4) Be signed by the person making the declaration or by another person in the declarant's presence and at the direction of the declarant.
- (5) Be dated.
- (6) Be signed in the presence of at least two (2) competent witnesses who are at least eighteen (18) years of age.

(c) The following may not be a witness to a declaration under subsection (b)(6):

- (1) The person who signed the declaration on behalf of and at the direction of the declarant.
- (2) A parent, spouse, or child of the declarant.
- (3) An individual who is entitled to any part of the declarant's estate whether the declarant dies testate or intestate, including an individual who could take from the declarant's estate if the declarant's will is declared invalid.

For purposes of subdivision (3), a person is not considered to be entitled to any part of the declarant's estate solely by virtue of being nominated as a personal representative or as the attorney for the estate in the declarant's will.

(d) A declaration is not binding upon a funeral home, a cemetery, any other person engaged in the business of providing funeral services, any other person selling merchandise or grave markers, or any other person providing a service or other property subject to the declaration until the person receives consideration for the service, merchandise, or other property. If any provision of a declaration conflicts with:

- (1) IC 23-14-31;
- (2) IC 23-14-33; or
- (3) IC 25-15;

the provision contained in the declaration controls.

(e) Except as provided in subsection (f), a declarant may not direct an individual who is:

- (1) a provider of funeral services;
- (2) responsible for any aspect of the disposition of the declarant's remains; or
- (3) associated with any entity that is responsible for providing funeral services or disposing of the declarant's remains;

to be the declarant's designee in a declaration executed under this chapter.

(f) Subsection (e) does not apply to an individual who is related to the declarant by birth, marriage, or adoption.

*As added by P.L.143-2009, SEC.14.*

#### **IC 29-2-19-9**

##### **Funeral planning declaration; declarant's preferences**

Sec. 9. A declaration may specify the declarant's preferences concerning any of the following:

- (1) The disposition of the declarant's remains after the declarant's death.
- (2) Who may direct the disposition of the declarant's remains.
- (3) Who may provide funeral services after the declarant's death.
- (4) The ceremonial arrangements to be performed after the declarant's death.
- (5) The merchandise that the declarant prefers for the disposition of the declarant's remains and any ceremonial arrangements.
- (6) Who may direct the ceremonial arrangements to be performed after the declarant's death.
- (7) A grave memorial.

*As added by P.L.143-2009, SEC.14.*

#### **IC 29-2-19-10**

##### **Conflict resolution**

Sec. 10. The provisions of a declarant's most recent declaration prevail over any other document executed by the declarant concerning any preferences described in section 9 of this chapter. However, this section may not be construed to invalidate a power of attorney executed under IC 30-5-5 or an appointment of a health care representative under IC 16-36-1 with respect to any power or duty belonging to the attorney in fact or health care representative that is not related to a preference described in section 9 of this chapter.

*As added by P.L.143-2009, SEC.14.*

#### **IC 29-2-19-11**

##### **Immunity for good faith reliance**

Sec. 11. (a) A person who acts in good faith reliance on a declaration is immune from liability to the same extent as if the person had dealt directly with the declarant and the declarant had been a competent and living person.

(b) A person who deals with a declaration may presume, in the absence of actual knowledge to the contrary, that:

- (1) the declaration was validly executed; and
- (2) the declarant was competent at the time the declaration was executed.

(c) The directions of a declarant expressed in a declaration are binding as if the declarant were alive and competent.

*As added by P.L.143-2009, SEC.14.*



## **IC 29-2-19-12**

### **Funeral planning declaration; form required; additional directions permitted**

Sec. 12. A declaration must be substantially in the form set forth in section 13 of this chapter, but the declaration may include additional, specific directions. The invalidity of any additional, specific direction does not affect the validity of the declaration.

*As added by P.L.143-2009, SEC.14.*

## **IC 29-2-19-13**

### **Form of funeral planning declaration**

Sec. 13. The following is the funeral planning declaration form:

#### **FUNERAL PLANNING DECLARATION**

Declaration made this \_\_\_\_\_ day of \_\_\_\_\_ (month, year). I, \_\_\_\_\_, being at least eighteen (18) years of age and of sound mind, willfully and voluntarily make known my instructions concerning funeral services, ceremonies, and the disposition of my remains after my death.

I hereby declare and direct that after my death \_\_\_\_\_ (name of designee) shall, as my designee, carry out the instructions that are set forth in this declaration. If my designee is unwilling or unable to act, I nominate \_\_\_\_\_ as an alternate designee.

I hereby declare and direct that after my death the following actions be taken (indicate your choice by initialing or making your mark before signing this declaration):

(1) My body shall be:

(A) \_\_\_\_\_ Buried. I direct that my body be buried at \_\_\_\_\_.

(B) \_\_\_\_\_ Cremated. I direct that my cremated remains be disposed of as follows:

\_\_\_\_\_

(C) \_\_\_\_\_ Entombed. I direct that my body be entombed at \_\_\_\_\_.

(D) \_\_\_\_\_ I intentionally make no decision concerning the disposition of my body, leaving the decision to my designee (as named above).

(2) My arrangements shall be made as follows:

(A) I direct that funeral services be obtained from:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(B) I direct that the following ceremonial arrangements be made:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(C) I direct the selection of a grave memorial that:

\_\_\_\_\_  
\_\_\_\_\_

(D) I direct that the following merchandise and other property be selected for the disposition of my remains, my funeral or other ceremonial arrangements:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(E) \_\_\_\_\_ I direct that my designee (as named above) make all arrangements concerning ceremonies and other funeral services.

(3) In addition to the instructions listed above, I request the following:

\_\_\_\_\_  
\_\_\_\_\_  
(4) If it is impossible to make an arrangement specified in subdivisions (1) through (3) because:

(A) a funeral home or other service provider is out of business, impossible to locate, or otherwise unable to provide the specified service; or

(B) the specified arrangement is impossible, impractical, or illegal;

I direct my designee to make alternate arrangements to the best of the designee's ability.

It is my intention that this declaration be honored by my family and others as the final expression of my intentions concerning my funeral and the disposition of my body after my death. I understand the full import of this declaration.

Signed \_\_\_\_\_

\_\_\_\_\_  
City, County, and State of Residence

The declarant is personally known to me, and I believe the declarant to be of sound mind. I did not sign the declarant's signature above for or at the direction of the declarant. I am not a parent, spouse, or child of the declarant. I am not entitled to any part of the declarant's estate. I am competent and at least eighteen (18) years of age.

Witness \_\_\_\_\_ Date \_\_\_\_\_

Witness \_\_\_\_\_ Date \_\_\_\_\_

*As added by P.L.143-2009, SEC.14.*

**IC 29-2-19-14**

**Revocation**

Sec. 14. A declaration may be revoked by the declarant in writing or by burning, tearing, canceling, obliterating, or destroying the declaration with the intent to revoke the declaration.

*As added by P.L.143-2009, SEC.14.*

#### **IC 29-2-19-15**

##### **Effect of divorce, annulment, or separation**

Sec. 15. Except as otherwise expressly provided in a declaration, a subsequent:

- (1) dissolution of marriage;
- (2) annulment of marriage;
- (3) legal separation of the declarant and the declarant's spouse;
- or
- (4) court determination that the declarant and spouse were physically and emotionally separated at the time of death and the separation was for an extended time that clearly demonstrates an absence of due affection, trust, and regard for the declarant;

automatically revokes a delegation of authority in a declaration to the declarant's spouse to direct the disposition of the declarant's body or to make all arrangements concerning funeral services and other ceremonies after the declarant's death.

*As added by P.L.143-2009, SEC.14. Amended by P.L.34-2011, SEC.6.*

#### **IC 29-2-19-16**

##### **Law governing a designee who is unable or unwilling to serve**

Sec. 16. Except as otherwise provided in a declaration, section 17 of this chapter controls if a person to whom a declaration delegates the authority to make arrangements after a declarant's death is unable or unwilling to serve.

*As added by P.L.143-2009, SEC.14.*

#### **IC 29-2-19-17**

##### **Priority of individuals with authority to act concerning the disposition of a decedent's body and other arrangements**

Sec. 17. The right to control the disposition of a decedent's body, to make arrangements for funeral services, and to make other ceremonial arrangements after an individual's death devolves on the following, in the priority listed:

- (1) A person:
  - (A) granted the authority to serve in a funeral planning declaration executed by the decedent under this chapter; or
  - (B) named in a United States Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.
- (2) An individual specifically granted the authority in a power

of attorney or a health care power of attorney executed by the decedent under IC 30-5-5-16.

(3) The decedent's surviving spouse.

(4) A surviving adult child of the decedent or, if more than one (1) adult child is surviving, the majority of the other adult children. However, less than half of the surviving adult children have the rights under this subdivision if the adult children have used reasonable efforts to notify the other surviving adult children of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving adult children.

(5) The surviving parent or parents of the decedent. If one (1) of the parents is absent, the parent who is present has the rights under this subdivision if the parent who is present has used reasonable efforts to notify the absent parent.

(6) The decedent's surviving sibling or, if more than one (1) sibling is surviving, the majority of the surviving siblings. However, less than half of the surviving siblings have the rights under this subdivision if the siblings have used reasonable efforts to notify the other surviving siblings of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving siblings.

(7) An individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent or, if more than one (1) individual of the same degree survives, the majority of those who have the same degree of kinship. However, less than half of the individuals who have the same degree of kinship have the rights under this subdivision if they have used reasonable efforts to notify the other individuals who have the same degree of kinship of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the individuals who have the same degree of kinship.

(8) If none of the persons described in subdivisions (1) through (7) are available, any other person willing to act and arrange for the final disposition of the decedent, including a funeral home that:

(A) has a valid prepaid funeral plan executed under IC 30-2-13 that makes arrangements for the disposition of the decedent; and

(B) attests in writing that a good faith effort has been made to contact any living individuals described in subdivisions (1) through (7).

*As added by P.L.143-2009, SEC.14. Amended by P.L.101-2010, SEC.4; P.L.34-2011, SEC.7.*

## **IC 29-2-19-18**

### **Reliance on out-of-state declarations**

Sec. 18. A person in Indiana may rely on a declaration or similar instrument that was executed in another state and that complies with the requirements of this chapter to the extent that an action requested

by the declarant in the declaration or similar instrument does not violate any federal or Indiana law or any ordinance or regulation of a political subdivision.

*As added by P.L.143-2009, SEC.14.*

#### **IC 29-2-19-19**

##### **Actions to contest the validity of a funeral planning declaration**

Sec. 19. An action to contest the validity of any declaration made under this chapter must be:

- (1) brought in the same manner as an action to contest the validity of a will under IC 29-1-7;
- (2) filed in the circuit court of the county in which the declarant's remains are located;
- (3) expedited on the docket of the circuit court as a matter requiring priority; and
- (4) accompanied by a bond, cash deposit, or other surety sufficient to guarantee that the hospital, nursing home, funeral home, or other institution holding the declarant's remains is compensated for the storage charges incurred while the action is pending.

*As added by P.L.143-2009, SEC.14.*