

Honolulu, Hawaii

Feb 29, 2008

RE: H.B. No. 2139  
H.D. 2

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2139, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ANATOMICAL GIFTS,"

begs leave to report as follows:

The purpose of this bill is to revise and update the process for organ donations for transplantation.

Specifically, this measure:

- (1) Directs the process for making anatomical gifts of a deceased person's body or parts for transplantation, therapy, research, or education;
- (2) Stipulates the manner by which such gifts can be made;
- (3) Establishes a priority list of persons who are reasonably available, who may make an anatomical gift of a deceased person's body or part;
- (4) Limits the liability of persons who act in good faith in making the decision that a deceased person meant to make an anatomical gift; and
- (5) Prohibits falsification of records or fraudulent actions by a person trying to make a profit from anatomical gifts.



The Commission to Promote Uniform Legislation, Kokua Mau, National Kidney Foundation of Hawaii, Organ Donor Center of Hawaii, Minority Organ Tissue Transplant Education Program, and two concerned individuals supported this bill.

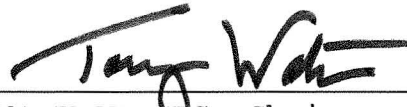
Your Committee has amended this bill by:

- (1) Adding a reciprocal beneficiary along with a surviving spouse for equal priority purposes in the making of a decision concerning an anatomical gift of a decedent's body or part, in the event that no specific gift or refusal to make a gift was made during the life of the deceased person;
- (2) Clarifying that a minor who is legally married is deemed emancipated;
- (3) Clarifying that any person commits a Class C felony for knowingly purchasing or selling a part intended for donation as an anatomical gift, and that it is also a Class C felony for intentionally falsifying or forging a document relating to an anatomical gift;
- (4) Establishing procedures for events in which there is a conflict between an advance health care directive and the measures necessary to maintain the suitability of a part for transplantation or therapy;
- (5) Requiring the medical examiner or coroner to make "reasonable" efforts, rather than "every" effort, to attend a removal procedure in a case relating to possible interference with post mortem examination;
- (6) Ensuring that funds currently in the existing Organ and Tissue Education Special Fund will be transferred to the new Hawaii Organ and Tissue Education Special Fund created by section 327-X; and
- (7) Making technical nonsubstantive changes for clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2139, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2139, H.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,



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TOMMY WATERS, Chair



State of Hawaii  
House of Representatives  
The Twenty-fourth Legislature

HSCR 982-08

**Record of Votes of the Committee on Judiciary**

<b>Bill/Resolution No.:</b> HB 2139, HD 1 (HSCR 458-08)	<b>Committee Referral:</b> HLT, JUD	<b>Date:</b> 2-26-08		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
<b>The recommendation is to:</b> <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <b>2</b> <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. WATERS, Tommy (C)	✓			
2. OSHIRO, Blake K. (VC)	✓			
3. EVANS, Cindy				✓
4. GREEN, Josh, M.D.				✓
5. ITO, Ken	✓			
6. LUKE, Sylvia	✓			
7. McKELVEY, Angus L.K.				✓
8. MORITA, Hermina M.				✓
9. SONSON, Alex M.				✓
10. SOUKI, Joseph M.	✓			
11. TSUJI, Clift	✓			
12. YAMANE, Ryan I.	✓			
13. YAMASHITA, Kyle T.	✓			
14. MARUMOTO, Barbara C.	✓			
15. PINE, Kymberly Marcos				✓
16. THIELEN, Cynthia				✓
<b>TOTAL (16)</b>	<b>9</b>			<del>7</del> <b>8</b>
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
<b>Vice Chair's or designee's signature:</b> _____ <i>Frank Oles</i>				
<b>Distribution:</b> Original (White) – Committee      Duplicate (Yellow) – Chief Clerk's Office				