

THE HOUSE OF REPRESENTATIVES  
Wednesday, April 9, 2008

Committee Substitute for  
ENGROSSED  
Senate Bill No. 1708

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1708 - By:  
COFFEE AND GUMM of the Senate and DUNCAN AND PITTMAN of the House.

( Public health - Oklahoma Uniform Anatomical Gift Act - Commissioner of  
Health – codification - noncodification – repealer -  
effective date )

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma  
2 Statutes as Section 2200.1 of Title 63, unless there is created a duplication in numbering,  
3 reads as follows:

4 This act shall be known and may be cited as the “Oklahoma Uniform Anatomical  
5 Gift Act”.

6 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma  
7 Statutes as Section 2200.2 of Title 63, unless there is created a duplication in numbering,  
8 reads as follows:

9 As used in the Oklahoma Uniform Anatomical Gift Act:

- 10 1. “Adult” means an individual who is at least eighteen (18) years of age;  
11 2. “Agent” means an individual:

- 1 a. authorized to make health care decisions on the principal’s behalf by a  
2 power of attorney for health care, or
- 3 b. expressly authorized to make an anatomical gift on the principal’s  
4 behalf by any other record signed by the principal;
- 5 3. “Anatomical gift” means a donation of all or part of a human body to take effect  
6 after the donor’s death for the purpose of transplantation, therapy, research, or  
7 education;
- 8 4. “Decedent” means a deceased individual whose body or part is or may be the  
9 source of an anatomical gift and includes a stillborn infant and, subject to restrictions  
10 imposed by any other provisions of law, a fetus;
- 11 5. “Disinterested witness” means a witness other than the spouse, child, parent,  
12 sibling, grandchild, grandparent, or guardian of the individual who makes, amends,  
13 revokes, or refuses to make an anatomical gift, or another adult who exhibited special  
14 care and concern for the individual and does not include a person to whom an anatomical  
15 gift could pass under Section 11 of this act;
- 16 6. “Document of gift” means a donor card or other record used to make an  
17 anatomical gift, including a statement or symbol on a driver license, identification card,  
18 or donor registry;
- 19 7. “Donor” means an individual whose body or part is the subject of an anatomical  
20 gift;
- 21 8. “Donor registry” means a database that contains records of anatomical gifts and  
22 amendments to or revocations of anatomical gifts;

- 1           9. “Driver license” means a license or permit issued by the Department of Public  
2 Safety to operate a vehicle, whether or not conditions are attached to the license or  
3 permit;
- 4           10. “Eye bank” means a person that is licensed, accredited, or regulated under  
5 federal or state law to engage in the recovery, screening, testing, processing, storage, or  
6 distribution of human eyes or portions of human eyes;
- 7           11. “Guardian” means a person appointed by a court to make decisions regarding  
8 the support, care, education, health, or welfare of an individual and does not include a  
9 guardian ad litem;
- 10          12. “Hospital” means a facility licensed as a hospital under the law of any state or a  
11 facility operated as a hospital by the United States, a state, or a subdivision of a state;
- 12          13. “Identification card” means an identification card issued by the Department of  
13 Public Safety;
- 14          14. “Know” means to have actual knowledge;
- 15          15. “Minor” means an individual who is under eighteen (18) years of age;
- 16          16. “Organ procurement organization” means a person designated by the Secretary  
17 of the United States Department of Health and Human Services as an organ  
18 procurement organization;
- 19          17. “Parent” means a parent whose parental rights have not been terminated;
- 20          18. “Part” means an organ, an eye, or tissue of a human being and does not include  
21 the whole body;

1           19. “Person” means an individual, corporation, business trust, estate, trust,  
2 partnership, limited liability company, association, joint venture, public corporation,  
3 government or governmental subdivision, agency, or instrumentality, or any other legal  
4 or commercial entity;

5           20. “Physician” means an individual authorized to practice medicine or osteopathy  
6 under the law of any state;

7           21. “Procurement organization” means an eye bank, organ procurement  
8 organization, or tissue bank;

9           22. “Prospective donor” means an individual who is dead or near death and who  
10 has been determined by a procurement organization to have a part that could be  
11 medically suitable for transplantation, therapy, research, or education and does not  
12 include an individual who has made a refusal;

13           23. “Reasonably available” means able to be contacted by a procurement  
14 organization without undue effort and willing and able to act in a timely manner  
15 consistent with existing medical criteria necessary for the making of an anatomical gift;

16           24. “Recipient” means an individual into whose body a decedent’s part has been or  
17 is intended to be transplanted;

18           25. “Record” means information that is inscribed on a tangible medium or that is  
19 stored in an electronic or other medium and is retrievable in perceivable form;

20           26. “Refusal” means a record created under Section 7 of this act that expressly  
21 states an intent to bar other persons from making an anatomical gift of an individual’s  
22 body or part;

1 27. "Sign" means, with the present intent to authenticate or adopt a record, to:

2 a. execute or adopt a tangible symbol, or

3 b. attach to or logically associate with the record an electronic symbol,  
4 sound, or process;

5 28. "State" means a state of the United States, the District of Columbia, Puerto  
6 Rico, the United States Virgin Islands, or any territory or insular possession subject to  
7 the jurisdiction of the United States;

8 29. "Technician" means an individual determined to be qualified to remove or  
9 process parts by an appropriate organization that is licensed, accredited, or regulated  
10 under federal or state law, including an enucleator;

11 30. "Tissue" means a portion of the human body other than an organ or an eye and  
12 does not include blood unless the blood is donated for the purpose of research or  
13 education;

14 31. "Tissue bank" means a person that is licensed, accredited, or regulated under  
15 federal or state law to engage in the recovery, screening, testing, processing, storage, or  
16 distribution of tissue; and

17 32. "Transplant hospital" means a hospital that furnishes organ transplants and  
18 other medical and surgical specialty services required for the care of transplant patients.

19 SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma  
20 Statutes as Section 2200.3 of Title 63, unless there is created a duplication in numbering,  
21 reads as follows:

1 This act applies to an anatomical gift or amendment to, revocation of, or refusal to  
2 make an anatomical gift, whenever made.

3 SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma  
4 Statutes as Section 2220.4 of Title 63, unless there is created a duplication in numbering,  
5 reads as follows:

6 Subject to Section 8 of this act, an anatomical gift of a donor's body or part may be  
7 made during the life of the donor for the purpose of transplantation, therapy, research, or  
8 education in the manner provided in Section 5 of this act by:

9 1. The donor, if the donor is an adult or if the donor is a minor and is:

10 a. emancipated, or

11 b. authorized under state law to apply for a driver license because the  
12 donor is at least sixteen (16) years of age;

13 2. An agent of the donor, unless the power of attorney for health care or other  
14 record prohibits the agent from making an anatomical gift;

15 3. A parent of the donor, if the donor is an unemancipated minor; or

16 4. The donor's guardian.

17 SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma  
18 Statutes as Section 2200.5 of Title 63, unless there is created a duplication in numbering,  
19 reads as follows:

20 A. A donor may make an anatomical gift:

21 1. By authorizing a statement or symbol indicating that the donor has made an  
22 anatomical gift to be imprinted on the donor's driver license or identification card;

- 1           2. In a will;
- 2           3. During a terminal illness or injury of the donor, by any form of communication
- 3 addressed to at least two adults, at least one of whom is a disinterested witness; or
- 4           4. As provided in subsection B of this section.

5           B. A donor or other person authorized to make an anatomical gift under Section 4

6 of this act may make a gift by a donor card or other record signed by the donor or other

7 person making the gift or by authorizing that a statement or symbol indicating that the

8 donor has made an anatomical gift be included on a donor registry. If the donor or other

9 person is physically unable to sign a record, the record may be signed by another

10 individual at the direction of the donor or other person and must:

11           1. Be witnessed by at least two adults, at least one of whom is a disinterested

12 witness, who have signed at the request of the donor or the other person; and

13           2. State that it has been signed and witnessed as provided in paragraph 1 of this

14 subsection.

15           C. Revocation, suspension, expiration, or cancellation of a driver license or

16 identification card upon which an anatomical gift is indicated does not invalidate the gift.

17           D. An anatomical gift made by will takes effect upon the donor's death whether or

18 not the will is probated. Invalidation of the will after the donor's death does not

19 invalidate the gift.

20           SECTION 6.   NEW LAW   A new section of law to be codified in the Oklahoma

21 Statutes as Section 2200.6 of Title 63, unless there is created a duplication in numbering,

22 reads as follows:

1           A. Subject to Section 8 of this act, a donor or other person authorized to make an  
2 anatomical gift under Section 4 of this act may amend or revoke an anatomical gift by:

3           1. A record signed by:

4               a.     the donor,

5               b.     the other person, or

6               c.     subject to subsection B, another individual acting at the direction of  
7                     the donor or the other person if the donor or other person is physically  
8                     unable to sign; or

9           2. A later-executed document of gift that amends or revokes a previous anatomical  
10 gift or portion of an anatomical gift, either expressly or by inconsistency.

11          B. A record signed pursuant to subparagraph c of paragraph 1 of subsection A of  
12 this section must:

13           1. Be witnessed by at least two adults, at least one of whom is a disinterested  
14 witness, who have signed at the request of the donor or the other person; and

15           2. State that it has been signed and witnessed as provided in paragraph 1 of this  
16 subsection.

17          C. Subject to Section 8 of this act, a donor or other person authorized to make an  
18 anatomical gift under Section 4 of this act may revoke an anatomical gift by the  
19 destruction or cancellation of the document of gift, or the portion of the document of gift  
20 used to make the gift, with the intent to revoke the gift.

1 D. A donor may amend or revoke an anatomical gift that was not made in a will by  
2 any form of communication during a terminal illness or injury addressed to at least two  
3 adults, at least one of whom is a disinterested witness.

4 E. A donor who makes an anatomical gift in a will may amend or revoke the gift in  
5 the manner provided for amendment or revocation of wills or as provided in subsection A  
6 of this section.

7 SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma  
8 Statutes as Section 2200.7 of Title 63, unless there is created a duplication in numbering,  
9 reads as follows:

10 A. An individual may refuse to make an anatomical gift of the individual's body or  
11 part by:

12 1. A record signed by:

13 a. the individual, or

14 b. subject to subsection B of this section, another individual acting at the  
15 direction of the individual if the individual is physically unable to sign;

16 2. The individual's will, whether or not the will is admitted to probate or  
17 invalidated after the individual's death; or

18 3. Any form of communication made by the individual during the individual's  
19 terminal illness or injury addressed to at least two adults, at least one of whom is a  
20 disinterested witness.

21 B. A record signed pursuant to subparagraph b of paragraph 1 of subsection A of  
22 this section must:

1           1. Be witnessed by at least two adults, at least one of whom is a disinterested  
2 witness, who have signed at the request of the individual; and

3           2. State that it has been signed and witnessed as provided in paragraph 1 of this  
4 subsection.

5           C. An individual who has made a refusal may amend or revoke the refusal:

6           1. In the manner provided in subsection A of this section for making a refusal;

7           2. By subsequently making an anatomical gift pursuant to Section 5 of this act that  
8 is inconsistent with the refusal; or

9           3. By destroying or canceling the record evidencing the refusal, or the portion of the  
10 record used to make the refusal, with the intent to revoke the refusal.

11          D. Except as otherwise provided in subsection H of Section 8 of this act, in the  
12 absence of an express, contrary indication by the individual set forth in the refusal, an  
13 individual's unrevoked refusal to make an anatomical gift of the individual's body or part  
14 bars all other persons from making an anatomical gift of the individual's body or part.

15          SECTION 8.   NEW LAW   A new section of law to be codified in the Oklahoma  
16 Statutes as Section 2200.8 of Title 63, unless there is created a duplication in numbering,  
17 reads as follows:

18          A. Except as otherwise provided in subsection G of this section and subject to  
19 subsection F of this section, in the absence of an express, contrary indication by the  
20 donor, a person other than the donor is barred from making, amending, or revoking an  
21 anatomical gift of a donor's body or part if the donor made an anatomical gift of the

1 donor's body or part under Section 5 of this act or an amendment to an anatomical gift of  
2 the donor's body or part under Section 6 of this act.

3 B. A donor's revocation of an anatomical gift of the donor's body or part under  
4 Section 6 of this act is not a refusal and does not bar another person specified in Section  
5 4 or 9 of this act from making an anatomical gift of the donor's body or part under  
6 Section 5 or 10 of this act.

7 C. If a person other than the donor makes an unrevoked anatomical gift of the  
8 donor's body or part under Section 5 of this act or an amendment to an anatomical gift of  
9 the donor's body or part under Section 6 of this act, another person may not make,  
10 amend, or revoke the gift of the donor's body or part under Section 10 of this act.

11 D. A revocation of an anatomical gift of a donor's body or part under Section 6 of  
12 this act by a person other than the donor does not bar another person from making an  
13 anatomical gift of the body or part under Section 5 or 10 of this act.

14 E. In the absence of an express, contrary indication by the donor or other person  
15 authorized to make an anatomical gift under Section 4 of this act, an anatomical gift of a  
16 part is neither a refusal to give another part nor a limitation on the making of an  
17 anatomical gift of another part at a later time by the donor or another person.

18 F. In the absence of an express, contrary indication by the donor or other person  
19 authorized to make an anatomical gift under Section 4 of this act, an anatomical gift of a  
20 part for one or more of the purposes set forth in Section 4 of this act is not a limitation on  
21 the making of an anatomical gift of the part for any of the other purposes by the donor or  
22 any other person under Section 5 or 10 of this act.

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

3 H. If an unemancipated minor who signed a refusal dies, a parent of the minor who  
4 is reasonably available may revoke the minor's refusal.

5 SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma  
6 Statutes as Section 2200.9 of Title 63, unless there is created a duplication in numbering,  
7 reads as follows:

8 A. Subject to subsections B and C of this section and unless barred by Section 7 or 8  
9 of this act, an anatomical gift of a decedent's body or part for purpose of transplantation,  
10 therapy, research, or education may be made by any member of the following classes of  
11 persons who is reasonably available, in the order of priority listed:

12 1. An agent of the decedent at the time of death who could have made an  
13 anatomical gift under paragraph 2 of Section 4 of this act immediately before the  
14 decedent's death;

15 2. The spouse of the decedent;

16 3. Adult children of the decedent;

17 4. Parents of the decedent;

18 5. Adult siblings of the decedent;

19 6. Adult grandchildren of the decedent;

20 7. Grandparents of the decedent;

21 8. An adult who exhibited special care and concern for the decedent;

1           9. The persons who were acting as the guardians of the person of the decedent at  
2 the time of death; and

3           10. Any other person having the authority to dispose of the decedent's body.

4           B. If there is more than one member of a class listed in paragraph 1, 3, 4, 5, 6, 7 or  
5 9 of subsection A of this section entitled to make an anatomical gift, an anatomical gift  
6 may be made by a member of the class unless that member or a person to whom the gift  
7 may pass under Section 11 of this act knows of an objection by another member of the  
8 class. If an objection is known, the gift may be made only by a majority of the members  
9 of the class who are reasonably available.

10          C. A person may not make an anatomical gift if, at the time of the decedent's death,  
11 a person in a prior class under subsection A of this section is reasonably available to  
12 make or to object to the making of an anatomical gift.

13          SECTION 10.   NEW LAW   A new section of law to be codified in the Oklahoma  
14 Statutes as Section 2200.10 of Title 63, unless there is created a duplication in  
15 numbering, reads as follows:

16          A. A person authorized to make an anatomical gift under Section 9 of this act may  
17 make an anatomical gift by a document of gift signed by the person making the gift or by  
18 that person's oral communication that is electronically recorded or is contemporaneously  
19 reduced to a record and signed by the individual receiving the oral communication.

20          B. Subject to subsection C of this section, an anatomical gift by a person authorized  
21 under Section 9 of this act may be amended or revoked orally or in a record by any  
22 member of a prior class who is reasonably available. If more than one member of the

1 prior class is reasonably available, the gift made by a person authorized under Section 9  
2 of this act may be:

3 1. Amended only if a majority of the reasonably available members agree to  
4 amending the gift; or

5 2. Revoked only if a majority of the members agree to the revoking of the gift or if  
6 they are equally divided as to whether to revoke the gift.

7 C. A revocation under subsection B of this section is effective only if, before an  
8 incision has been made to remove a part from the donor's body or before invasive  
9 procedures have begun to prepare the recipient, the procurement organization,  
10 transplant hospital, or physician or technician knows of the revocation.

11 SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma  
12 Statutes as Section 2200.11 of Title 63, unless there is created a duplication in  
13 numbering, reads as follows:

14 A. An anatomical gift may be made to the following persons named in the document  
15 of gift:

16 1. A hospital; accredited medical school, dental school, college, or university; organ  
17 procurement organization; or other appropriate person, for research or education;

18 2. Subject to subsection B of this section, an individual designated by the person  
19 making the anatomical gift if the individual is the recipient of the part; or

20 3. An eye bank or tissue bank.

21 B. If an anatomical gift to an individual under paragraph 2 of subsection A of this  
22 section cannot be transplanted into the individual, the part passes in accordance with

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 subsection G of this section in the absence of an express, contrary indication by the  
2 person making the anatomical gift.

3 C. If an anatomical gift of one or more specific parts or of all parts is made in a  
4 document of gift that does not name a person described in subsection A of this section but  
5 identifies the purpose for which an anatomical gift may be used, the following rules  
6 apply:

7 1. If the part is an eye and the gift is for the purpose of transplantation or therapy,  
8 the gift passes to the appropriate eye bank;

9 2. If the part is tissue and the gift is for the purpose of transplantation or therapy,  
10 the gift passes to the appropriate tissue bank;

11 3. If the part is an organ and the gift is for the purpose of transplantation or  
12 therapy, the gift passes to the appropriate organ procurement organization as custodian  
13 of the organ; and

14 4. If the part is an organ, an eye, or tissue and the gift is for the purpose of research  
15 or education, the gift passes to the appropriate procurement organization.

16 D. For the purpose of subsection C of this section, if there is more than one purpose  
17 of an anatomical gift set forth in the document of gift but the purposes are not set forth  
18 in any priority, the gift must be used for transplantation or therapy, if suitable. If the  
19 gift cannot be used for transplantation or therapy, the gift may be used for research or  
20 education.

21 E. If an anatomical gift of one or more specific parts is made in a document of gift  
22 that does not name a person described in subsection A of this section and does not

1 identify the purpose of the gift, the gift may be used only for transplantation or therapy,  
2 and the gift passes in accordance with subsection G of this section.

3 F. If a document of gift specifies only a general intent to make an anatomical gift by  
4 words such as “donor”, “organ donor”, or “body donor”, or by a symbol or statement of  
5 similar import, the gift may be used for transplantation, research, or therapy, and the  
6 gift passes in accordance with subsection G of this section.

7 G. For purposes of subsections B, E and F of this section, the following rules apply:

8 1. If the part is an eye, the gift passes to the appropriate eye bank;

9 2. If the part is tissue, the gift passes to the appropriate tissue bank; and

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

12 H. An anatomical gift of an organ for transplantation or therapy, other than an  
13 anatomical gift under paragraph 2 of subsection A of this section, passes to the organ  
14 procurement organization as custodian of the organ.

15 I. If an anatomical gift does not pass pursuant to subsections A through H of this  
16 section or the decedent’s body or part is not used for transplantation, therapy, research,  
17 or education, custody of the body or part passes to the person under obligation to dispose  
18 of the body or part.

19 J. A person may not accept an anatomical gift if the person knows that the gift was  
20 not effectively made under Section 5 or 10 of this act or if the person knows that the  
21 decedent made a refusal under Section 7 of this act that was not revoked. For purposes  
22 of this subsection, if a person knows that an anatomical gift was made on a document of

1 gift, the person is deemed to know of any amendment or revocation of the gift or any  
2 refusal to make an anatomical gift on the same document of gift.

3 K. Except as otherwise provided in paragraph 2 of subsection A of this section,  
4 nothing in this act affects the allocation of organs for transplantation or therapy.

5 SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma  
6 Statutes as Section 2200.12 of Title 63, unless there is created a duplication in  
7 numbering, reads as follows:

8 A. The following persons shall make a reasonable search of an individual who the  
9 person reasonably believes is dead or near death for a document of gift or other  
10 information identifying the individual as a donor or as an individual who made a refusal:

11 1. A law enforcement officer, firefighter, paramedic, or other emergency rescuer  
12 finding the individual; and

13 2. If no other source of the information is immediately available, a hospital, as soon  
14 as practical after the individual's arrival at the hospital.

15 B. If a document of gift or a refusal to make an anatomical gift is located by the  
16 search required by paragraph 1 of subsection A of this section and the individual or  
17 deceased individual to whom it relates is taken to a hospital, the person responsible for  
18 conducting the search shall send the document of gift or refusal to the hospital.

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

1 SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma  
2 Statutes as Section 2200.13 of Title 63, unless there is created a duplication in  
3 numbering, reads as follows:

4 A. A document of gift need not be delivered during the donor's lifetime to be  
5 effective.

6 B. Upon or after an individual's death, a person in possession of a document of gift  
7 or a refusal to make an anatomical gift with respect to the individual shall allow  
8 examination and copying of the document of gift or refusal by a person authorized to  
9 make or object to the making of an anatomical gift with respect to the individual or by a  
10 person to which the gift could pass under Section 11 of this act.

11 SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma  
12 Statutes as Section 2200.14 of Title 63, unless there is created a duplication in  
13 numbering, reads as follows:

14 A. When a hospital refers an individual at or near death to a procurement  
15 organization, the organization shall make a reasonable search of the records of the  
16 Department of Public Safety and any donor registry that it knows exists for the  
17 geographical area in which the individual resides to ascertain whether the individual has  
18 made an anatomical gift.

19 B. A procurement organization must be allowed reasonable access to information in  
20 the records of the Department of Public Safety to ascertain whether an individual at or  
21 near death is a donor.

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

8 D. Unless prohibited by any other provisions of law, at any time after a donor's  
9 death, the person to whom a part passes under Section 11 of this act may conduct any  
10 reasonable examination necessary to ensure the medical suitability of the body or part  
11 for its intended purpose.

12 E. Unless prohibited by any other provisions of law, an examination under  
13 subsection C or D of this section may include an examination of all medical and dental  
14 records of the donor or prospective donor.

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

20 G. Upon referral by a hospital under subsection A of this section, a procurement  
21 organization shall make a reasonable search for any person listed in Section 9 of this act  
22 having priority to make an anatomical gift on behalf of a prospective donor. If a

1 procurement organization receives information that an anatomical gift to any other  
2 person was made, amended, or revoked, it shall promptly advise the other person of all  
3 relevant information.

4 H. Subject to subsection I of Section 11 and Section 23 of this act, the rights of the  
5 person to which a part passes under Section 11 of this act are superior to the rights of all  
6 others with respect to the part. The person may accept or reject an anatomical gift in  
7 whole or in part. Subject to the terms of the document of gift and this act, a person that  
8 accepts an anatomical gift of an entire body may allow embalming, burial or cremation,  
9 and use of remains in a funeral service. If the gift is of a part, the person to which the  
10 part passes under Section 11 of this act, upon the death of the donor and before  
11 embalming, burial, or cremation, shall cause the part to be removed without unnecessary  
12 mutilation.

13 I. Neither the physician who attends the decedent at death nor the physician who  
14 determines the time of the decedent's death may participate in the procedures for  
15 removing or transplanting a part from the decedent.

16 J. A physician or technician may remove a donated part from the body of a donor  
17 that the physician or technician is qualified to remove.

18 SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma  
19 Statutes as Section 2200.15 of Title 63, unless there is created a duplication in  
20 numbering, reads as follows:

21 Each hospital in this state shall enter into agreements or affiliations with  
22 procurement organizations for coordination of procurement and use of anatomical gifts.

1 SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma  
2 Statutes as Section 2200.16 of Title 63, unless there is created a duplication in  
3 numbering, reads as follows:

4 A. Except as otherwise provided in subsection B of this section, a person that, for  
5 valuable consideration, knowingly purchases or sells a part for transplantation or  
6 therapy if removal of a part from an individual is intended to occur after the individual's  
7 death commits a felony and upon conviction is subject to a fine of not more than Fifty  
8 Thousand Dollars (\$50,000.00) or imprisonment for not more than five (5) years, or both  
9 such fine and imprisonment.

10 B. A person may charge a reasonable amount for the removal, processing,  
11 preservation, quality control, storage, transportation, implantation, or disposal of a part.

12 SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma  
13 Statutes as Section 2200.17 of Title 63, unless there is created a duplication in  
14 numbering, reads as follows:

15 A person that, in order to obtain a financial gain, intentionally falsifies, forges,  
16 conceals, defaces, or obliterates a document of gift, an amendment or revocation of a  
17 document of gift, or a refusal commits a felony and upon conviction is subject to a fine of  
18 not more than Fifty Thousand Dollars (\$50,000.00) or imprisonment for not more than  
19 five (5) years, or both such fine and imprisonment.

20 SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma  
21 Statutes as Section 2200.18 of Title 63, unless there is created a duplication in  
22 numbering, reads as follows:

1           A. A person who acts in accordance with this act or with the applicable anatomical  
2 gift law of another state or attempts in good faith to do so, is not liable for the act in a  
3 civil action, criminal prosecution, or administrative proceeding.

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

6           C. In determining whether an anatomical gift has been made, amended, or revoked  
7 under this act, a person may rely upon representations of an individual listed in  
8 paragraph 2, 3, 4, 5, 6, 7 or 8 of subsection A of Section 9 of this act relating to the  
9 individual's relationship to the donor or prospective donor unless the person knows that  
10 the representation is untrue.

11           SECTION 19.   NEW LAW   A new section of law to be codified in the Oklahoma  
12 Statutes as Section 2200.19 of Title 63, unless there is created a duplication in  
13 numbering, reads as follows:

14           A. A document of gift is valid if executed in accordance with:

15           1. This act;

16           2. The laws of the state or country where it was executed; or

17           3. The laws of the state or country where the person making the anatomical gift  
18 was domiciled, has a place of residence, or was a national at the time the document of gift  
19 was executed.

20           B. If a document of gift is valid under this section, the law of this state governs the  
21 interpretation of the document of gift.

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

3 SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma  
4 Statutes as Section 2200.20 of Title 63, unless there is created a duplication in  
5 numbering, reads as follows:

6 A. 1. There is hereby established within the State Department of Health, an organ,  
7 eye and tissue donor registry for the State of Oklahoma to be known as the “Life Share  
8 Donor Registry”. The Department is authorized to contract with the designated organ  
9 procurement organization who shall act on behalf of the Department by carrying out the  
10 functions of the Department in the administration of the Registry, in compliance with 18  
11 U.S.C. Section 2721. The contract between the Department and the designated organ  
12 procurement organization shall be subject to the concurrence and approval of the  
13 Department of Public Safety.

14 2. The registry shall maintain and update as needed the pertinent information on  
15 all Oklahomans who have indicated a willingness to be an organ donor, eye donor or  
16 tissue donor by a designation on a driver license, a state identification card, a donor card,  
17 an online or other organ donor registry enrollment form, or any other document of gift.

18 3. The registry and all information therein shall be confidential and shall be subject  
19 to access only by the designated organ procurement organization and by eye banks and  
20 tissue banks licensed by the State of Oklahoma seven (7) days a week, twenty-four (24)  
21 hours per day; however, the personal information and highly restricted personal  
22 information shall only be available to the designated organ, tissue, and eye procurement

1 organizations solely for the purpose of identifying a potential donor and only when acting  
2 on behalf of the State Department of Health as prescribed in paragraph 1 of this  
3 subsection. The placement of any personal information and highly restricted personal  
4 information on the Registry that, at the time of placement, was confidential under the  
5 Open Records Act or the Driver's Privacy Protection Act (DPPA), 18 U.S.C. Sections 2721  
6 through 2725, shall remain confidential.

- 7 4. The purpose of the registry shall include, but not be limited to:
- 8 a. providing a means of recovering an anatomical gift for transplantation
  - 9 or research, and
  - 10 b. collecting data to develop and evaluate the effectiveness of educational
  - 11 initiatives promoting organ, eye and tissue donation.

12 B. Procedures to administer the Life Share Donor Registry shall specify:

- 13 1. The information placed in the registry may include personal information and  
14 highly restricted personal information, as defined in 18 U.S.C. Section 2721, and access  
15 to such information shall conform to the Driver's Privacy Protection Act (DPPA), 18  
16 U.S.C. Sections 2721 through 2725;
- 17 2. Authorization for the designated organ procurement organization or an eye or  
18 tissue bank, licensed by the State of Oklahoma, to analyze registry data under research  
19 protocols directed toward determination and identification of the means to promote and  
20 increase organ, eye and tissue donation within this state;
- 21 3. A process for updating information in the registry including a method whereby  
22 an individual may revoke his or her intent to be an organ, eye, or tissue donor;

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1           4. The method for making information on the registry available to the designated  
2 organ procurement organizations and to tissue banks and eye banks licensed by the  
3 State of Oklahoma;

4           5. Limitations on the use of and access to the registry;

5           6. A toll-free telephone number, available twenty-four (24) hours a day, for use by  
6 the public to obtain information on becoming an organ, tissue or eye donor;

7           7. A process for establishing, implementing, maintaining, and administering an  
8 online organ, eye and tissue donor registration process and ensuring the confidentiality  
9 of information provided;

10          8. A process for a donor who has registered online to sign a confirmation card that  
11 will be returned to the designated organ procurement organization and made part of the  
12 registry record; and

13          9. Procedures for collaborating with the Department of Public Safety to transmit  
14 stored driver license data by the Department of Public Safety, in conformance with 18  
15 U.S.C. Section 2721, to the Life Share Donor Registry maintained by the designated  
16 organ procurement organization, and to ensure the confidentiality of such information for  
17 present and potential donors. Monies credited to the Oklahoma Organ Donor Education  
18 and Awareness Program Revolving Fund created in Section 2220.3 of this title may be  
19 used for a one-time transfer to the Department of Public Safety for the reasonable costs  
20 associated with the initial installation and setup of equipment and software for electronic  
21 transfer of donor information. All actual electronic transfers of donor information shall  
22 be at no charge to the designated organ procurement organization; however, all costs

1 associated with the creation and maintenance of the Life Share Donor Registry shall be  
2 paid by the designated organ procurement organization.

3 C. Information obtained by the designated organ procurement organization shall be  
4 used for the purpose of:

5 1. Establishing a statewide organ, eye, and tissue donor registry that is accessible  
6 to designated organ procurement organizations and to eye banks and tissue banks,  
7 licensed by the State of Oklahoma, for the recovery, preservation, transportation, and  
8 placement of organs, eyes, and tissue; and

9 2. Designated organ procurement organizations in other states when an Oklahoma  
10 resident is a donor of an anatomical gift and is not located in Oklahoma at the time of  
11 death or immediately before the death of the donor.

12 SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma  
13 Statutes as Section 2200.21 of Title 63, unless there is created a duplication in  
14 numbering, reads as follows:

15 A. As used in this section:

16 1. "Advance health care directive" means a power of attorney for health care or a  
17 record signed or authorized by a prospective donor containing the prospective donor's  
18 direction concerning a health care decision for the prospective donor;

19 2. "Declaration" means a record signed by a prospective donor specifying the  
20 circumstances under which a life support system may be withheld or withdrawn from the  
21 prospective donor; and

1           3. “Health care decision” means any decision regarding the health care of the  
2 prospective donor.

3           B. If a prospective donor has a declaration or advance health care directive and the  
4 terms of the declaration or directive and the express or implied terms of a potential  
5 anatomical gift are in conflict with regard to the administration of measures necessary to  
6 ensure the medical suitability of a part for transplantation or therapy, the prospective  
7 donor’s attending physician and prospective donor shall confer to resolve the conflict. If  
8 the prospective donor is incapable of resolving the conflict, an agent acting under the  
9 prospective donor’s declaration or directive, or, if none or the agent is not reasonably  
10 available, another person authorized by law other than this act to make health-care  
11 decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict.  
12 The conflict must be resolved as expeditiously as possible. Information relevant to the  
13 resolution of the conflict may be obtained from the appropriate procurement organization  
14 and any other person authorized to make an anatomical gift for the prospective donor  
15 under Section 9 of this act. Before resolution of the conflict, measures necessary to  
16 ensure the medical suitability of the part may not be withheld or withdrawn from the  
17 prospective donor if withholding or withdrawing the measures is not contraindicated by  
18 appropriate end-of-life care.

19           SECTION 22.   NEW LAW   A new section of law to be codified in the Oklahoma  
20 Statutes as Section 2200.22 of Title 63, unless there is created a duplication in  
21 numbering, reads as follows:

1 A. A medical examiner shall cooperate with procurement organizations to  
2 maximize the opportunity to recover anatomical gifts for the purpose of transplantation,  
3 therapy, research, or education.

4 B. If a medical examiner receives notice from a procurement organization that an  
5 anatomical gift might be available or was made with respect to a decedent whose body is  
6 under the jurisdiction of the medical examiner and a postmortem examination is going to  
7 be performed, unless the medical examiner denies recovery in accordance with Section 23  
8 of this act, the medical examiner or designee shall conduct a postmortem examination of  
9 the body or the part in a manner and within a period compatible with its preservation for  
10 the purposes of the gift.

11 C. A part may not be removed from the body of a decedent under the jurisdiction of  
12 a medical examiner for transplantation, therapy, research, or education unless the part  
13 is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the  
14 medical examiner may not be delivered to a person for research or education unless the  
15 body is the subject of an anatomical gift. This subsection does not preclude a medical  
16 examiner from performing the medicolegal investigation upon the body or parts of a  
17 decedent under the jurisdiction of the medical examiner.

18 SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma  
19 Statutes as Section 2200.23 of Title 63, unless there is created a duplication in  
20 numbering, reads as follows:

21 A. Upon request of a procurement organization, a medical examiner shall release to  
22 the procurement organization the name, contact information, and available medical and

1 social history of a decedent whose body is under the jurisdiction of the medical examiner.  
2 If the decedent's body or part is medically suitable for transplantation, therapy, research,  
3 or education, the medical examiner shall release portmortem examination results to the  
4 procurement organization. The procurement organization may make a subsequent  
5 disclosure of the postmortem examination results or other information received from the  
6 medical examiner only if relevant to transplantation, therapy, research or education.

7 B. The medical examiner may conduct a medicolegal investigation by reviewing all  
8 medical records, laboratory test results, x-rays, other diagnostic results, and other  
9 information that any person possesses about a donor or prospective donor whose body is  
10 under the jurisdiction of the medical examiner that the medical examiner determines  
11 may be relevant to the investigation.

12 C. A person who has any information requested by a medical examiner pursuant to  
13 subsection B of this section shall provide that information as expeditiously as possible to  
14 allow the medical examiner to conduct the medicolegal investigation within a period  
15 compatible with the preservation of parts for the purpose of transplantation, therapy,  
16 research, or education.

17 D. If an anatomical gift has been or might be made of a part of a decedent whose  
18 body is under the jurisdiction of the medical examiner and a postmortem examination is  
19 not required, or the medical examiner determines that a postmortem examination is  
20 required but that the recovery of the part that is the subject of an anatomical gift will not  
21 interfere with the examination, the medical examiner and procurement organization

1 shall cooperate in the timely removal of the part from the decedent for the purpose of  
2 transplantation, therapy, research, or education.

3 E. The medical examiner and procurement organizations shall enter into an  
4 agreement setting forth protocols and procedures to govern relations between the parties  
5 when an anatomical gift of a part from the decedent under the jurisdiction of the medical  
6 examiner has been or might be made, but the medical examiner believes that the  
7 recovery of the part could interfere with the postmortem investigation into the decedent's  
8 cause or manner of death. Decisions regarding the recovery of organs, tissue and eyes  
9 from such a decedent shall be made in accordance with the agreement. In the event that  
10 the medical examiner denies recovery of an anatomical gift, the procurement  
11 organization may request the Chief Medical Examiner to reconsider the denial and to  
12 permit the recovery to proceed. The parties shall evaluate the effectiveness of the  
13 protocols and procedures at regular intervals but no less frequently than every two (2)  
14 years.

15 F. If the medical examiner or designee allows recovery of a part under subsection D  
16 or E of this section, the procurement organization, upon request, shall cause the  
17 physician or technician who removes the part to provide the medical examiner with a  
18 record describing the condition of the part, a biopsy, a photograph, and any other  
19 information and observations that would assist in the portmortem examination.

20 G. If a medical examiner or designee is required to be present at a removal  
21 procedure under subsection E of this section, upon request the procurement organization

1 requesting the recovery of the part shall reimburse the medical examiner or designee for  
2 the additional costs incurred in complying with subsection E of this section.

3 SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma  
4 Statutes as Section 2200.24 of Title 63, unless there is created a duplication in  
5 numbering, reads as follows:

6 In applying and construing this uniform act, consideration must be given to the  
7 need to promote uniformity of the law with respect to its subject matter among states  
8 that enact it.

9 SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma  
10 Statutes as Section 2200.25 of Title 63, unless there is created a duplication in  
11 numbering, reads as follows:

12 This act modifies, limits, and supersedes the Electronic Signatures in Global and  
13 National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit or  
14 supersede Section 101(a) of that act, 15 U.S.C. Section 7001, or authorize electronic  
15 delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section  
16 7003(b).

17 SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma  
18 Statutes as Section 2200.26 of Title 63, unless there is created a duplication in  
19 numbering, reads as follows:

20 Any references in the Oklahoma Statutes to the Uniform Anatomical Gift Act shall  
21 mean the Oklahoma Uniform Anatomical Gift Act.

1 SECTION 27. AMENDATORY 63 O.S. 2001, Section 2210, is amended to read  
2 as follows:

3 Section 2210. A. 1. With respect to a gift of ~~an eye~~ eyes as provided for in this  
4 chapter, ~~a licensed embalmer, as defined by the Funeral Services Licensing Act, Section~~  
5 ~~396 et seq. of Title 59 of the Oklahoma Statutes, or other persons~~ eye bank technicians  
6 who have successfully completed a course in eye ~~enucleation~~ recovery in the State of  
7 Oklahoma or elsewhere and have received a certificate of competence from the Eye Bank  
8 Association of America, may ~~enucleate~~ recover eyes for such gift after proper certification  
9 of death by a physician and compliance with the extent of such gift as required by the  
10 Oklahoma Uniform Anatomical Gift Act, ~~Section 2201 et seq. of this title.~~

11 2. No such properly certified ~~embalmer or other person~~ eye bank technician acting  
12 in accordance with the terms of this chapter shall have any liability, civil or criminal, for  
13 such eye ~~enucleation~~ recovery.

14 B. No eye bank shall operate in Oklahoma unless the eye bank:

15 1. Within one (1) year after beginning operation, is accredited by the Eye Bank  
16 Association of America or other nationally recognized accrediting association for eye  
17 banks;

18 2. Employs an eye bank technician certified by the Eye Bank Association of  
19 America or other nationally recognized accrediting or certifying association for eye  
20 banks;

21 3. Has as its medical director a board-certified ophthalmic surgeon licensed to  
22 practice in this state; and

1 4. Gives priority to the needs of patients being treated in Oklahoma.

2 C. Before developing a new eye bank, the person proposing to operate the eye bank  
3 shall apply to the State Commissioner of Health for a permit. The permit application  
4 shall be in such form as the Commissioner shall prescribe and shall include a  
5 demonstration of the eye bank's probable impact on existing eye banks serving the area  
6 where the new eye bank is to be located. The permit application shall be accompanied by  
7 a filing fee equal to one quarter of one percent (.25%) of the capital cost of the proposed  
8 eye bank, with a minimum fee of Five Hundred Dollars (\$500.00).

9 D. Upon receipt of a completed permit application, the Commissioner shall cause  
10 public notice to be published in a newspaper of general circulation in the area where the  
11 eye bank is to be located and in a newspaper of general circulation in the area where the  
12 application is available for inspection. Any person may submit written comments  
13 regarding the proposed eye bank to the Commissioner.

14 E. The Commissioner shall issue or deny the permit within seventy-five (75) days  
15 after publication of the notice. A permit shall expire thirty-six (36) months from the date  
16 of issue. If construction is not completed on or before the permit's expiration date, the  
17 permit shall be null and void.

18 F. Any issuance or denial of a permit may be appealed under Article II of the  
19 Administrative Procedures Act, Section 308a of Title 75 of the Oklahoma Statutes.

20 G. Each eye bank operating in this state shall report annually to the Commissioner  
21 on a form prescribed by the Commissioner. The form shall include information on the  
22 following:

- 1           1. The accreditation status of the eye bank;
- 2           2. The certification status of the eye bank technician;
- 3           3. The identity and qualifications of the medical director;
- 4           4. The numbers and geographic origins of donor corneas and whole eyes; and
- 5           5. The numbers and geographic destinations of corneas and other parts of eyes.

6           SECTION 28.    REPEALER    63 O.S. 2001, Sections 2201, 2202, as amended by  
7 Section 2, Chapter 395, O.S.L. 2004, 2203, as amended by Section 1, Chapter 176, O.S.L.  
8 2003, 2204, 2205, 2206, 2207, 2208, 2209, 2210.1, 2212, 2213, 2214, as amended by  
9 Section 2, Chapter 176, O.S.L. 2003, 2215, 2216, 2217, 2218 and Section 3, Chapter 176,  
10 O.S.L. 2003, as amended by Section 5, Chapter 395, O.S.L. 2004 (63 O.S. Supp. 2007,  
11 Sections 2202, 2203, 2214 and 2220.10), are hereby repealed.

12           SECTION 29. This act shall become effective November 1, 2008.

13           COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 04-08-08 - DO  
14           PASS, As Amended and Coauthored.