

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1708

By: Coffee

4  
5  
6 AS INTRODUCED

7 An Act relating to public health and safety; creating  
8 the Oklahoma Uniform Anatomical Gift Act; providing  
9 short title; defining terms; providing for  
10 application; permitting anatomical gifts in certain  
11 circumstances; stating the manner by which certain  
12 persons may make an anatomical gift; clarifying  
13 validation of anatomical gifts in certain  
14 circumstances; providing for the amendment or  
15 revocation of an anatomical gift; stating  
16 requirements of certain records; permitting refusal  
17 to make an anatomical gift; prohibiting certain  
18 persons from making, amending or revoking an  
19 anatomical gift for another person in certain  
20 circumstances; permitting certain persons to make an  
21 anatomical gift for another person in certain  
22 circumstances; providing for certain objections;  
23 requiring certain notice of revocation; stating  
24 entities to which an anatomical gift may be made;  
providing for the passing of a gift in certain  
circumstances; requiring certain use of an anatomical  
gift in specified circumstances; prohibiting  
acceptance of an anatomical gift in certain  
circumstances; clarifying allocation of organs;  
requiring search of a person in certain  
circumstances; requiring certain document be sent to  
certain entity; prohibiting certain liability in  
specified circumstances; requiring examination and  
copying of certain document; directing certain  
access; permitting certain examinations in specified  
circumstances; requiring certain opportunity for  
revocation or amendment; permitting acceptance or  
rejection of an anatomical gift; prohibiting certain  
participation; directing certain agreement or  
affiliation; permitting certain fine or imprisonment  
in certain circumstances; authorizing certain charge;

1 stating validation of certain document; authorizing  
2 the Department of Public Safety to establish or  
3 contract for certain registry; requiring certain  
4 cooperation; stating requirements of certain  
5 registry; providing for privacy of certain  
6 information; providing for certain conflict;  
7 requiring certain compliance; providing for certain  
8 conflict; prohibiting certain removal; directing  
9 release of certain information in specified  
10 circumstances; permitting certain investigations;  
11 requiring certain agreement; permitting denial of  
12 recovery in certain circumstances; requiring certain  
13 reimbursement; directing uniform application and  
14 construction of act; stating relationship to certain  
15 federal laws; clarifying references; repealing 63  
16 O.S. 2001, Sections 2201, 2202, as amended by Section  
17 2, Chapter 395, O.S.L. 2004, 2203, as amended by  
18 Section 1, Chapter 176, O.S.L. 2003, 2204, 2205,  
19 2206, 2207, 2208, 2209 and 2217 (63 O.S. Supp. 2007,  
20 Sections 2202 and 2203), which relate to the Uniform  
21 Anatomical Gift Act; providing for codification; and  
22 providing an effective date.

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

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

This act shall be known and may be cited as the "Oklahoma  
Uniform Anatomical Gift Act".

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

As used in the Oklahoma Uniform Anatomical Gift Act:

- 1           1. "Adult" means an individual who is at least eighteen (18)  
2 years of age;
- 3           2. "Agent" means an individual:
- 4           a. authorized to make health care decisions on the  
5           principal's behalf by a power of attorney for health  
6           care, or
- 7           b. expressly authorized to make an anatomical gift on the  
8           principal's behalf by any other record signed by the  
9           principal;
- 10          3. "Anatomical gift" means a donation of all or part of a human  
11 body to take effect after the donor's death for the purpose of  
12 transplantation, therapy, research, or education;
- 13          4. "Decedent" means a deceased individual whose body or part is  
14 or may be the source of an anatomical gift and includes a stillborn  
15 infant and, subject to restrictions imposed by any other provisions  
16 of law, a fetus;
- 17          5. "Disinterested witness" means a witness other than the  
18 spouse, child, parent, sibling, grandchild, grandparent, or guardian  
19 of the individual who makes, amends, revokes, or refuses to make an  
20 anatomical gift, or another adult who exhibited special care and  
21 concern for the individual and does not include a person to whom an  
22 anatomical gift could pass under Section 11 of this act;

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1       6. "Document of gift" means a donor card or other record used  
2 to make an anatomical gift, including a statement or symbol on a  
3 driver license, identification card, or donor registry;

4       7. "Donor" means an individual whose body or part is the  
5 subject of an anatomical gift;

6       8. "Donor registry" means a database that contains records of  
7 anatomical gifts and amendments to or revocations of anatomical  
8 gifts;

9       9. "Driver license" means a license or permit issued by the  
10 Department of Public Safety to operate a vehicle, whether or not  
11 conditions are attached to the license or permit;

12       10. "Eye bank" means a person that is licensed, accredited, or  
13 regulated under federal or state law to engage in the recovery,  
14 screening, testing, processing, storage, or distribution of human  
15 eyes or portions of human eyes;

16       11. "Guardian" means a person appointed by a court to make  
17 decisions regarding the support, care, education, health, or welfare  
18 of an individual and does not include a guardian ad litem;

19       12. "Hospital" means a facility licensed as a hospital under  
20 the law of any state or a facility operated as a hospital by the  
21 United States, a state, or a subdivision of a state;

22       13. "Identification card" means an identification card issued  
23 by the Department of Public Safety;

24       14. "Know" means to have actual knowledge;

1 15. "Minor" means an individual who is under eighteen (18)  
2 years of age;

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

6 17. "Parent" means a parent whose parental rights have not been  
7 terminated;

8 18. "Part" means an organ, an eye, or tissue of a human being  
9 and does not include the whole body;

10 19. "Person" means an individual, corporation, business trust,  
11 estate, trust, partnership, limited liability company, association,  
12 joint venture, public corporation, government or governmental  
13 subdivision, agency, or instrumentality, or any other legal or  
14 commercial entity;

15 20. "Physician" means an individual authorized to practice  
16 medicine or osteopathy under the law of any state;

17 21. "Procurement organization" means an eye bank, organ  
18 procurement organization, or tissue bank;

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

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1       23. "Reasonably available" means able to be contacted by a  
2 procurement organization without undue effort and willing and able  
3 to act in a timely manner consistent with existing medical criteria  
4 necessary for the making of an anatomical gift;

5       24. "Recipient" means an individual into whose body a  
6 decedent's part has been or is intended to be transplanted;

7       25. "Record" means information that is inscribed on a tangible  
8 medium or that is stored in an electronic or other medium and is  
9 retrievable in perceivable form;

10       26. "Refusal" means a record created under Section 7 of this  
11 act that expressly states an intent to bar other persons from making  
12 an anatomical gift of an individual's body or part;

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

- 15           a. execute or adopt a tangible symbol, or
- 16           b. attach to or logically associate with the record an  
17           electronic symbol, sound, or process;

18       28 "State" means a state of the United States, the District of  
19 Columbia, Puerto Rico, the United States Virgin Islands, or any  
20 territory or insular possession subject to the jurisdiction of the  
21 United States;

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

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

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

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

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

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

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

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

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

- 3 a. emancipated, or
- 4 b. authorized under state law to apply for a driver  
5 license because the donor is at least sixteen (16)  
6 years of age;

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

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

12 4. The donor's guardian.

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

16 A. A donor may make an anatomical gift:

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

20 2. In a will;

21 3. During a terminal illness or injury of the donor, by any  
22 form of communication addressed to at least two adults, at least one  
23 of whom is a disinterested witness; or

24 4. As provided in subsection B of this section.

1 B. A donor or other person authorized to make an anatomical  
2 gift under Section 4 of this act may make a gift by a donor card or  
3 other record signed by the donor or other person making the gift or  
4 by authorizing that a statement or symbol indicating that the donor  
5 has made an anatomical gift be included on a donor registry. If the  
6 donor or other person is physically unable to sign a record, the  
7 record may be signed by another individual at the direction of the  
8 donor or other person and must:

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

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

14 C. Revocation, suspension, expiration, or cancellation of a  
15 driver license or identification card upon which an anatomical gift  
16 is indicated does not invalidate the gift.

17 D. An anatomical gift made by will takes effect upon the  
18 donor's death whether or not the will is probated. Invalidation of  
19 the will after the donor's death does not invalidate the gift.

20 SECTION 6. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 2200.6 of Title 63, unless there  
22 is created a duplication in numbering, reads as follows:

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

4       1. A record signed by:

5           a. the donor,

6           b. the other person, or

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

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

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

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

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

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

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

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

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

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

13 1. A record signed by:

14 a. the individual, or

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

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

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

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

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

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

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

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

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

12 3. By destroying or canceling the record evidencing the  
13 refusal, or the portion of the record used to make the refusal, with  
14 the intent to revoke the refusal.

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

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

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1       A. Except as otherwise provided in subsection G of this section  
2 and subject to subsection F of this section, in the absence of an  
3 express, contrary indication by the donor, a person other than the  
4 donor is barred from making, amending, or revoking an anatomical  
5 gift of a donor's body or part if the donor made an anatomical gift  
6 of the donor's body or part under Section 5 of this act or an  
7 amendment to an anatomical gift of the donor's body or part under  
8 Section 6 of this act.

9       B. A donor's revocation of an anatomical gift of the donor's  
10 body or part under Section 6 of this act is not a refusal and does  
11 not bar another person specified in Section 4 or 9 of this act from  
12 making an anatomical gift of the donor's body or part under Section  
13 5 or 10 of this act.

14       C. If a person other than the donor makes an unrevoked  
15 anatomical gift of the donor's body or part under Section 5 of this  
16 act or an amendment to an anatomical gift of the donor's body or  
17 part under Section 6 of this act, another person may not make,  
18 amend, or revoke the gift of the donor's body or part under Section  
19 10 of this act.

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

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

7 F. In the absence of an express, contrary indication by the  
8 donor or other person authorized to make an anatomical gift under  
9 Section 4 of this act, an anatomical gift of a part for one or more  
10 of the purposes set forth in Section 4 of this act is not a  
11 limitation on the making of an anatomical gift of the part for any  
12 of the other purposes by the donor or any other person under Section  
13 5 or 10 of this act.

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

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

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

23 A. Subject to subsections B and C of this section and unless  
24 barred by Section 7 or 8 of this act, an anatomical gift of a

1 decedent's body or part for purpose of transplantation, therapy,  
2 research, or education may be made by any member of the following  
3 classes of persons who is reasonably available, in the order of  
4 priority listed:

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

8 2. The spouse of the decedent;

9 3. Adult children of the decedent;

10 4. Parents of the decedent;

11 5. Adult siblings of the decedent;

12 6. Adult grandchildren of the decedent;

13 7. Grandparents of the decedent;

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

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

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

20 B. If there is more than one member of a class listed in  
21 paragraph 1, 3, 4, 5, 6, 7 or 9 of subsection A of this section  
22 entitled to make an anatomical gift, an anatomical gift may be made  
23 by a member of the class unless that member or a person to whom the  
24 gift may pass under Section 11 of this act knows of an objection by

1 another member of the class. If an objection is known, the gift may  
2 be made only by a majority of the members of the class who are  
3 reasonably available.

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

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

11 A. A person authorized to make an anatomical gift under Section  
12 9 of this act may make an anatomical gift by a document of gift  
13 signed by the person making the gift or by that person's oral  
14 communication that is electronically recorded or is  
15 contemporaneously reduced to a record and signed by the individual  
16 receiving the oral communication.

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

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

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

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

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

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

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

17           2. Subject to subsection B of this section, an individual  
18 designated by the person making the anatomical gift if the  
19 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  
22 subsection A of this section cannot be transplanted into the  
23 individual, the part passes in accordance with subsection G of this  
24

1 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  
4 all parts is made in a document of gift that does not name a person  
5 described in subsection A of this section but identifies the purpose  
6 for which an anatomical gift may be used, the following rules apply:

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

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

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

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

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

1 E. If an anatomical gift of one or more specific parts is made  
2 in a document of gift that does not name a person described in  
3 subsection A of this section and does not identify the purpose of  
4 the gift, the gift may be used only for transplantation or therapy,  
5 and the gift passes in accordance with subsection G of this section.

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

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

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

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

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

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

23 I. If an anatomical gift does not pass pursuant to subsections  
24 A through H of this section or the decedent's body or part is not

1 used for transplantation, therapy, research, or education, custody  
2 of the body or part passes to the person under obligation to dispose  
3 of the body or part.

4 J. A person may not accept an anatomical gift if the person  
5 knows that the gift was not effectively made under Section 5 or 10  
6 of this act or if the person knows that the decedent made a refusal  
7 under Section 7 of this act that was not revoked. For purposes of  
8 this subsection, if a person knows that an anatomical gift was made  
9 on a document of gift, the person is deemed to know of any amendment  
10 or revocation of the gift or any refusal to make an anatomical gift  
11 on the same document of gift.

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

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

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

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

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

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

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

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

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

18          B. Upon or after an individual's death, a person in possession  
19 of a document of gift or a refusal to make an anatomical gift with  
20 respect to the individual shall allow examination and copying of the  
21 document of gift or refusal by a person authorized to make or object  
22 to the making of an anatomical gift with respect to the individual  
23 or by a person to which the gift could pass under Section 11 of this  
24 act.

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

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

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

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

22 D. Unless prohibited by any other provisions of law, at any  
23 time after a donor's death, the person to whom a part passes under  
24 Section 11 of this act may conduct any reasonable examination

1 necessary to ensure the medical suitability of the body or part for  
2 its intended purpose.

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

7 F. Upon the death of a minor who was a donor or had signed a  
8 refusal, unless a procurement organization knows the minor is  
9 emancipated, the procurement organization shall conduct a reasonable  
10 search for the parents of the minor and provide the parents with an  
11 opportunity to revoke or amend the anatomical gift or revoke the  
12 refusal.

13 G. Upon referral by a hospital under subsection A of this  
14 section, a procurement organization shall make a reasonable search  
15 for any person listed in Section 9 of this act having priority to  
16 make an anatomical gift on behalf of a prospective donor. If a  
17 procurement organization receives information that an anatomical  
18 gift to any other person was made, amended, or revoked, it shall  
19 promptly advise the other person of all relevant information.

20 H. Subject to subsection I of Section 11 and Section 23 of this  
21 act, the rights of the person to which a part passes under Section  
22 11 of this act are superior to the rights of all others with respect  
23 to the part. The person may accept or reject an anatomical gift in  
24 whole or in part. Subject to the terms of the document of gift and

1 this act, a person that accepts an anatomical gift of an entire body  
2 may allow embalming, burial or cremation, and use of remains in a  
3 funeral service. If the gift is of a part, the person to which the  
4 part passes under Section 11 of this act, upon the death of the  
5 donor and before embalming, burial, or cremation, shall cause the  
6 part to be removed without unnecessary mutilation.

7 I. Neither the physician who attends the decedent at death nor  
8 the physician who determines the time of the decedent's death may  
9 participate in the procedures for removing or transplanting a part  
10 from the decedent.

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

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

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

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

23 A. Except as otherwise provided in subsection B of this  
24 section, a person that, for valuable consideration, knowingly

1 purchases or sells a part for transplantation or therapy if removal  
2 of a part from an individual is intended to occur after the  
3 individual's death commits a felony and upon conviction is subject  
4 to a fine of not more than Fifty Thousand Dollars (\$50,000.00) or  
5 imprisonment for not more than five (5) years, or both such fine and  
6 imprisonment.

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

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

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

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

23 A. A person who acts in accordance with this act or with the  
24 applicable anatomical gift law of another state or attempts in good

1 faith to do so, is not liable for the act in a civil action,  
2 criminal prosecution, or administrative proceeding.

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

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

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

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

- 16 1. This act;  
17 2. The laws of the state or country where it was executed; or  
18 3. The laws of the state or country where the person making the  
19 anatomical gift was domiciled, has a place of residence, or was a  
20 national at the time the document of gift was executed.

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

23

24

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

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

7 A. The Department of Public Safety may establish or contract  
8 for the establishment of a donor registry.

9 B. The Department of Public Safety shall cooperate with a  
10 person that administers any donor registry that this state  
11 establishes, contracts for, or recognizes for the purpose of  
12 transferring to the donor registry all relevant information  
13 regarding a donor's making, amendment to, or revocation of an  
14 anatomical gift.

15 C. A donor registry must:

16 1. Allow a donor or other person authorized under Section 4 of  
17 this act to include on the donor registry a statement or symbol that  
18 the donor has made, amended, or revoked an anatomical gift;

19 2. Be accessible to a procurement organization to allow it to  
20 obtain relevant information on the donor registry to determine, at  
21 or near death of the donor or a prospective donor, whether the donor  
22 or prospective donor has made, amended, or revoked an anatomical  
23 gift; and  
24

1           3. Be accessible for purposes of paragraphs 1 and 2 of this  
2 subsection seven (7) days a week, twenty-four (24) hours per day.

3           D. Personally identifiable information on a donor registry  
4 about a donor or prospective donor may not be used or disclosed  
5 without the express consent of the donor, prospective donor, or  
6 person that made the anatomical gift for any purpose other than to  
7 determine, at or near death of the donor or prospective donor,  
8 whether the donor or prospective donor has made, amended, or revoked  
9 an anatomical gift.

10          E. This section does not prohibit any person from creating or  
11 maintaining a donor registry that is not established by or under  
12 contract with the state. Any such registry must comply with  
13 subsections C and D of this section.

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

17          A. As used in this section:

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

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

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

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

24

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

4 A. A medical examiner shall cooperate with procurement  
5 organizations to maximize the opportunity to recover anatomical  
6 gifts for the purpose of transplantation, therapy, research, or  
7 education.

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

17 C. A part may not be removed from the body of a decedent under  
18 the jurisdiction of a medical examiner for transplantation, therapy,  
19 research, or education unless the part is the subject of an  
20 anatomical gift. The body of a decedent under the jurisdiction of  
21 the medical examiner may not be delivered to a person for research  
22 or education unless the body is the subject of an anatomical gift.  
23 This subsection does not preclude a medical examiner from performing  
24

1 the medicolegal investigation upon the body or parts of a decedent  
2 under the jurisdiction of the medical examiner.

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

6 A. Upon request of a procurement organization, a medical  
7 examiner shall release to the procurement organization the name,  
8 contact information, and available medical and social history of a  
9 decedent whose body is under the jurisdiction of the medical  
10 examiner. If the decedent's body or part is medically suitable for  
11 transplantation, therapy, research, or education, the medical  
12 examiner shall release portmortem examination results to the  
13 procurement organization. The procurement organization may make a  
14 subsequent disclosure of the postmortem examination results or other  
15 information received from the medical examiner only if relevant to  
16 transplantation, therapy, research or education.

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

23 C. A person who has any information requested by a medical  
24 examiner pursuant to subsection B of this section shall provide that

1 information as expeditiously as possible to allow the medical  
2 examiner to conduct the medicolegal investigation within a period  
3 compatible with the preservation of parts for the purpose of  
4 transplantation, therapy, research, or education.

5 D. If an anatomical gift has been or might be made of a part of  
6 a decedent whose body is under the jurisdiction of the medical  
7 examiner and a postmortem examination is not required, or the  
8 medical examiner determines that a postmortem examination is  
9 required but that the recovery of the part that is the subject of an  
10 anatomical gift will not interfere with the examination, the medical  
11 examiner and procurement organization shall cooperate in the timely  
12 removal of the part from the decedent for the purpose of  
13 transplantation, therapy, research, or education.

14 E. The medical examiner and procurement organizations shall  
15 enter into an agreement setting forth protocols and procedures to  
16 govern relations between the parties when an anatomical gift of a  
17 part from the decedent under the jurisdiction of the medical  
18 examiner has been or might be made, but the medical examiner  
19 believes that the recovery of the part could interfere with the  
20 postmortem investigation into the decedent's cause or manner of  
21 death. Decisions regarding the recovery of organs, tissue and eyes  
22 from such a decedent shall be made in accordance with the agreement.  
23 In the event that the medical examiner denies recovery of an  
24 anatomical gift, the procurement organization may request the Chief

1 Medical Examiner to reconsider the denial and to permit the recovery  
2 to proceed. The parties shall evaluate the effectiveness of the  
3 protocols and procedures at regular intervals but no less frequently  
4 than every two (2) years.

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

12 G. If a medical examiner or designee is required to be present  
13 at a removal procedure under subsection E of this section, upon  
14 request the procurement organization requesting the recovery of the  
15 part shall reimburse the medical examiner or designee for the  
16 additional costs incurred in complying with subsection E of this  
17 section.

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

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

24

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

4 This act modifies, limits, and supersedes the Electronic  
5 Signatures in Global and National Commerce Act, 15 U.S.C. Section  
6 7001 et seq., but does not modify, limit or supersede Section 101(a)  
7 of that act, 15 U.S.C. Section 7001, or authorize electronic  
8 delivery of any of the notices described in Section 103(b) of that  
9 act, 15 U.S.C. Section 7003(b).

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

13 Any references in the Oklahoma Statutes to the Uniform  
14 Anatomical Gift Act shall mean the Oklahoma Uniform Anatomical Gift  
15 Act.

16 SECTION 27. REPEALER 63 O.S. 2001, Sections 2201, 2202,  
17 as amended by Section 2, Chapter 395, O.S.L. 2004, 2203, as amended  
18 by Section 1, Chapter 176, O.S.L. 2003, 2204, 2205, 2206, 2207,  
19 2208, 2209 and 2217 (63 O.S. Supp. 2007, Sections 2202 and 2203),  
20 are hereby repealed.

21 SECTION 28. This act shall become effective November 1, 2008.

22

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