

1 ENGROSSED SENATE
2 BILL NO. 622

By: Coffee and Johnson
(Constance) of the Senate

3 and

4 Cox of the House

5
6
7 [public health and safety - Oklahoma Uniform
8 Anatomical Gift Act - repealer - codification -
9 effective date]
10

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

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

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

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

20 As used in the Oklahoma Uniform Anatomical Gift Act:

21 1. "Adult" means an individual who is at least eighteen (18)
22 years of age;

23 2. "Agent" means an individual:
24

1 a. authorized to make health care decisions on the
2 principal's behalf by a power of attorney for health
3 care, or

4 b. expressly authorized to make an anatomical gift on the
5 principal's behalf by any other record signed by the
6 principal;

7 3. "Anatomical gift" means a donation of all or part of a human
8 body to take effect after the donor's death for the purpose of
9 transplantation, therapy, research, or education;

10 4. "Decedent" means a deceased individual whose body or part is
11 or may be the source of an anatomical gift and includes a stillborn
12 infant and, subject to restrictions imposed by any other provisions
13 of law, a fetus;

14 5. "Disinterested witness" means a witness other than the
15 spouse, child, parent, sibling, grandchild, grandparent, or guardian
16 of the individual who makes, amends, revokes, or refuses to make an
17 anatomical gift, or another adult who exhibited special care and
18 concern for the individual and does not include a person to whom an
19 anatomical gift could pass under Section 10 of this act;

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

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

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

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

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

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

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

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

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

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

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

1 17. "Parent" means a parent whose parental rights have not been
2 terminated;

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

5 19. "Person" means an individual, corporation, business trust,
6 estate, trust, partnership, limited liability company, association,
7 joint venture, public corporation, government or governmental
8 subdivision, agency, or instrumentality, or any other legal or
9 commercial entity;

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

12 21. "Procurement organization" means an eye bank, organ
13 procurement organization, or tissue bank;

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

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

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

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

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

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

9 a. execute or adopt a tangible symbol, or

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

12 28. "State" means a state of the United States, the District of
13 Columbia, Puerto Rico, the United States Virgin Islands, or any
14 territory or insular possession subject to the jurisdiction of the
15 United States;

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

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

23 31. "Tissue bank" means a person that is licensed, accredited,
24 or regulated under federal or state law to engage in the recovery,

1 screening, testing, processing, storage, or distribution of tissue;
2 and

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

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

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

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2200.4A of Title 63, unless
13 there is created a duplication in numbering, reads as follows:

14 A. A donor may make an anatomical gift:

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

18 2. In a will;

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

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

23 B. A donor or other person authorized to make an anatomical
24 gift under Section 4 of this act may make a gift by a donor card or

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

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

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

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

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

18 E. The making of an anatomical gift shall not of itself be
19 construed to authorize or direct the denial of health care when the
20 withholding or withdrawal of such health care will result in or
21 hasten death of the donor.

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

1 A. Subject to Section 7 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 7 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 6. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2200.6A of Title 63, unless
10 there 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 4 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 7 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 7. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2200.7A of Title 63, unless
23 there is created a duplication in numbering, reads as follows:
24

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 4 of this act or an
7 amendment to an anatomical gift of the donor's body or part under
8 Section 5 of this act.

9 B. A donor's revocation of an anatomical gift of the donor's
10 body or part under Section 5 of this act is not a refusal and does
11 not bar another person specified in Section 4 or 8 of this act from
12 making an anatomical gift of the donor's body or part under Section
13 4 or 9 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 4 of this
16 act or an amendment to an anatomical gift of the donor's body or
17 part under Section 5 of this act, another person may not make,
18 amend, or revoke the gift of the donor's body or part under Section
19 9 of this act.

20 D. A revocation of an anatomical gift of a donor's body or part
21 under Section 5 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 4 or 9 of this act.

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 4 or 9 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 8. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2200.8A of Title 63, unless
22 there 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 6 or 7 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 10 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 9. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 2200.9A 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 8 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 8 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 8 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 10. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 2200.10A 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 4 or 9 of
6 this act or if the person knows that the decedent made a refusal
7 under Section 6 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 11. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2200.11A 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
24

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 12. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2200.12A 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 10 of this
24 act.

1 SECTION 13. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 2200.13A 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 10 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 8 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 10 and Section 22 of this
21 act, the rights of the person to which a part passes under Section
22 10 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 10 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 14. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2200.14A 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 15. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2200.15A 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 16. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2200.16A 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 17. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2200.17A 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 8 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 18. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 2200.18A 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 19. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2200.19A of Title 63, unless
6 there is created a duplication in numbering, reads as follows:

7 A. 1. There is hereby established within the State Department
8 of Health, an organ, eye and tissue donor registry for the State of
9 Oklahoma to be known as the "Life Share Donor Registry". The
10 Department is authorized to contract with the designated organ
11 procurement organization who shall act on behalf of the Department
12 by carrying out the functions of the Department in the
13 administration of the Registry, in compliance with 18 U.S.C. Section
14 2721. The contract between the Department and the designated organ
15 procurement organization shall be subject to the concurrence and
16 approval of the Department of Public Safety.

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

23 3. The registry and all information therein shall be
24 confidential and shall be subject to access only by the designated

1 organ procurement organization and by eye banks and tissue banks
2 licensed by the State of Oklahoma seven (7) days a week, twenty-four
3 (24) hours per day; however, the personal information and highly
4 restricted personal information shall only be available to the
5 designated organ, tissue, and eye procurement organizations solely
6 for the purpose of identifying a potential donor and only when
7 acting on behalf of the State Department of Health as prescribed in
8 paragraph 1 of this subsection. The placement of any personal
9 information and highly restricted personal information on the
10 Registry that, at the time of placement, was confidential under the
11 Open Records Act or the Driver's Privacy Protection Act (DPPA), 18
12 U.S.C. Sections 2721 through 2725, shall remain confidential.

13 4. The purpose of the registry shall include, but not be
14 limited to:

- 15 a. providing a means of recovering an anatomical gift for
16 transplantation or research, and
- 17 b. collecting data to develop and evaluate the
18 effectiveness of educational initiatives promoting
19 organ, eye and tissue donation.

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

- 22 1. The information placed in the registry may include personal
23 information and highly restricted personal information, as defined
24 in 18 U.S.C. Section 2721, and access to such information shall

1 conform to the Driver's Privacy Protection Act (DPPA), 18 U.S.C.
2 Sections 2721 through 2725;

3 2. Authorization for the designated organ procurement
4 organization or an eye or tissue bank, licensed by the State of
5 Oklahoma, to analyze registry data under research protocols directed
6 toward determination and identification of the means to promote and
7 increase organ, eye and tissue donation within this state;

8 3. A process for updating information in the registry including
9 a method whereby an individual may revoke his or her intent to be an
10 organ, eye, or tissue donor;

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

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

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

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

21 8. A process for a donor who has registered online to sign a
22 confirmation card that will be returned to the designated organ
23 procurement organization and made part of the registry record; and
24

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

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

19 1. Establishing a statewide organ, eye, and tissue donor
20 registry that is accessible to designated organ procurement
21 organizations and to eye banks and tissue banks, licensed by the
22 State of Oklahoma, for the recovery, preservation, transportation,
23 and placement of organs, eyes, and tissue; and
24

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

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

A. As used in this section:

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

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

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

B. If a prospective donor has a declaration or advance health care directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective

1 donor is incapable of resolving the conflict, an agent acting under
2 the prospective donor's declaration or directive, or, if none or the
3 agent is not reasonably available, another person authorized by law
4 other than this act to make health-care decisions on behalf of the
5 prospective donor, shall act for the donor to resolve the conflict.
6 The conflict must be resolved as expeditiously as possible.
7 Information relevant to the resolution of the conflict may be
8 obtained from the appropriate procurement organization and any other
9 person authorized to make an anatomical gift for the prospective
10 donor under Section 8 of this act. Before resolution of the
11 conflict, measures necessary to ensure the medical suitability of
12 the part may not be withheld or withdrawn from the prospective donor
13 if withholding or withdrawing the measures is not contraindicated by
14 appropriate end-of-life care.

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

18 A. A medical examiner shall cooperate with procurement
19 organizations to maximize the opportunity to recover anatomical
20 gifts for the purpose of transplantation, therapy, research, or
21 education.

22 B. If a medical examiner receives notice from a procurement
23 organization that an anatomical gift might be available or was made
24 with respect to a decedent whose body is under the jurisdiction of

1 the medical examiner and a postmortem examination is going to be
2 performed, unless the medical examiner denies recovery in accordance
3 with Section 22 of this act, the medical examiner or designee shall
4 conduct a postmortem examination of the body or the part in a manner
5 and within a period compatible with its preservation for the
6 purposes of the gift.

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

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

19 A. Upon request of a procurement organization, a medical
20 examiner shall release to the procurement organization the name,
21 contact information, and available medical and social history of a
22 decedent whose body is under the jurisdiction of the medical
23 examiner. If the decedent's body or part is medically suitable for
24 transplantation, therapy, research, or education, the medical

1 examiner shall release postmortem examination results to the
2 procurement organization. The procurement organization may make a
3 subsequent disclosure of the postmortem examination results or other
4 information received from the medical examiner only if relevant to
5 transplantation, therapy, research or education.

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

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

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

1 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
4 enter into an agreement setting forth protocols and procedures to
5 govern relations between the parties when an anatomical gift of a
6 part from the decedent under the jurisdiction of the medical
7 examiner has been or might be made, but the medical examiner
8 believes that the recovery of the part could interfere with the
9 postmortem investigation into the decedent's cause or manner of
10 death. Decisions regarding the recovery of organs, tissue and eyes
11 from such a decedent shall be made in accordance with the agreement.
12 In the event that the medical examiner denies recovery of an
13 anatomical gift, the procurement organization may request the Chief
14 Medical Examiner to reconsider the denial and to permit the recovery
15 to proceed. The parties shall evaluate the effectiveness of the
16 protocols and procedures at regular intervals but no less frequently
17 than every two (2) years.

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

1 G. If a medical examiner or designee is required to be present
2 at a removal procedure under subsection E of this section, upon
3 request the procurement organization requesting the recovery of the
4 part shall reimburse the medical examiner or designee for the
5 additional costs incurred in complying with subsection E of this
6 section.

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

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

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

16 This act modifies, limits, and supersedes the Electronic
17 Signatures in Global and National Commerce Act, 15 U.S.C. Section
18 7001 et seq., but does not modify, limit or supersede Section 101(a)
19 of that act, 15 U.S.C. Section 7001, or authorize electronic
20 delivery of any of the notices described in Section 103(b) of that
21 act, 15 U.S.C. Section 7003(b).

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

1 Any references in the Oklahoma Statutes to the Uniform
2 Anatomical Gift Act shall mean the Oklahoma Uniform Anatomical Gift
3 Act.

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

7 Neither the Office of the Chief Medical Examiner nor any
8 employee of the Office of the Chief Medical Examiner of this state
9 shall receive compensation of any kind from any organ, eye or tissue
10 recovery organization except as provided in subsection G of Section
11 22 of this act.

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

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

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

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

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

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

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

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

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

1 D. Upon receipt of a completed permit application, the
2 Commissioner shall cause public notice to be published in a
3 newspaper of general circulation in the area where the eye bank is
4 to be located and in a newspaper of general circulation in the area
5 where the application is available for inspection. Any person may
6 submit written comments regarding the proposed eye bank to the
7 Commissioner.

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

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

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

- 19 1. The accreditation status of the eye bank;
- 20 2. The certification status of the eye bank technician;
- 21 3. The identity and qualifications of the medical director;
- 22 4. The numbers and geographic origins of donor corneas and
23 whole eyes; and
24

5. The numbers and geographic destinations of corneas and other parts of eyes.

SECTION 28. REPEALER Section 314, Chapter 382, O.S.L.
2008, is hereby repealed.

SECTION 29. REPEALER 63 O.S. 2001, Sections 2201, 2202, as amended by Section 2, Chapter 395, O.S.L. 2004, 2203, as amended by Section 1, Chapter 176, O.S.L. 2003, 2204, 2205, 2206, 2207, 2208, 2209, 2210.1, 2212, 2213, 2214, as amended by Section 2, Chapter 176, O.S.L. 2003, 2215, 2216, 2217, 2218 and Section 3, Chapter 176, O.S.L. 2003, as amended by Section 5, Chapter 395, O.S.L. 2004 (63 O.S. Supp. 2008, Sections 2202, 2203, 2214 and 2220.10), are hereby repealed.

SECTION 30. This act shall become effective November 1, 2009.

Passed the Senate the 24th day of February, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2009.

Presiding Officer of the House
of Representatives