
ENGROSSED SUBSTITUTE HOUSE BILL 1637

State of Washington

60th Legislature

2007 Regular Session

By House Committee on Health Care & Wellness (originally sponsored by Representatives Hinkle, Cody, B. Sullivan, Moeller, Campbell, Williams, Green, Lovick, Upthegrove, Seaquist, Goodman, Simpson, Morrell, Linville, Ormsby and Rolfes)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to creating the revised uniform anatomical gift
2 act; amending RCW 68.50.500, 1.50.010, 46.12.510, 46.20.113, and
3 46.20.1131; adding a new chapter to Title 68 RCW; recodifying RCW
4 68.50.500, 68.50.635, and 68.50.640; repealing RCW 68.50.510,
5 68.50.520, 68.50.530, 68.50.540, 68.50.550, 68.50.560, 68.50.570,
6 68.50.580, 68.50.590, 68.50.600, 68.50.610, and 68.50.620; and
7 prescribing penalties.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** This chapter may be cited as the revised
10 uniform anatomical gift act.

11 NEW SECTION. **Sec. 2.** The definitions in this section apply
12 throughout this chapter unless the context clearly requires otherwise.

13 (1) "Adult" means an individual who is at least eighteen years old.

14 (2) "Agent" means an individual:

15 (a) Authorized to make health care decisions on the principal's
16 behalf by a power of attorney for health care; or

17 (b) Expressly authorized to make an anatomical gift on the
18 principal's behalf by any other record signed by the principal.

1 (3) "Anatomical gift" means a donation of all or part of a human
2 body to take effect after the donor's death for the purpose of
3 transplantation, therapy, research, or education.

4 (4) "Decedent" means a deceased individual whose body or part is or
5 may be the source of an anatomical gift.

6 (5) "Disinterested witness" means a witness other than the spouse
7 or domestic partner registered as required by state law, child, parent,
8 sibling, grandchild, grandparent, or guardian of the individual who
9 makes, amends, revokes, or refuses to make an anatomical gift, or
10 another adult who exhibited special care and concern for the
11 individual. The term does not include a person to which an anatomical
12 gift could pass under section 11 of this act.

13 (6) "Document of gift" means a donor card or other record used to
14 make an anatomical gift. The term includes a statement or symbol on a
15 driver's license, identification card, or donor registry.

16 (7) "Donor" means an individual whose body or part is the subject
17 of an anatomical gift.

18 (8) "Donor registry" means a database that contains records of
19 anatomical gifts and amendments to or revocations of anatomical gifts.

20 (9) "Driver's license" means a license or permit issued by the
21 department of licensing to operate a vehicle, whether or not conditions
22 are attached to the license or permit.

23 (10) "Eye bank" means a person that is licensed, accredited, or
24 regulated under federal or state law to engage in the recovery,
25 screening, testing, processing, storage, or distribution of human eyes
26 or portions of human eyes.

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

30 (12) "Hospital" means a facility licensed as a hospital under the
31 law of any state or a facility operated as a hospital by the United
32 States, a state, or a subdivision of a state.

33 (13) "Identification card" means an identification card issued by
34 the department of licensing.

35 (14) "Know" means to have actual knowledge.

36 (15) "Minor" means an individual who is less than eighteen years
37 old.

1 (16) "Organ procurement organization" means a person designated by
2 the secretary of the United States department of health and human
3 services as an organ procurement organization.

4 (17) "Parent" means a parent whose parental rights have not been
5 terminated.

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

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

13 (20) "Physician" means an individual licensed or otherwise
14 authorized to practice medicine and surgery or osteopathic medicine and
15 surgery under the law of any state.

16 (21) "Procurement organization" means an eye bank, organ
17 procurement organization, or tissue bank.

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

23 (23) "Reasonable costs" include: (a) Programming and software
24 installation and upgrades; (b) employee training that is specific to
25 the organ and tissue donor registry or the donation program created in
26 RCW 46.12.510; (c) literature that is specific to the organ and tissue
27 donor registry or the donation program created in RCW 46.12.510; and
28 (d) hardware upgrades or other issues important to the organ and tissue
29 donor registry or the donation program created in RCW 46.12.510 that
30 have been mutually agreed upon in advance by the department of
31 licensing and the Washington state organ procurement organizations.

32 (24) "Reasonably available" means able to be contacted by a
33 procurement organization without undue effort and willing and able to
34 act in a timely manner consistent with existing medical criteria
35 necessary for the making of an anatomical gift.

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

1 (26) "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 (27) "Refusal" means a record created under section 7 of this act
5 that expressly states an intent to bar other persons from making an
6 anatomical gift of an individual's body or part.

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

9 (a) To execute or adopt a tangible symbol; or

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

12 (29) "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 (30) "Technician" means an individual determined to be qualified to
17 remove or process parts by an appropriate organization that is
18 licensed, accredited, or regulated under federal or state law. The
19 term includes an enucleator.

20 (31) "Tissue" means a portion of the human body other than an organ
21 or an eye. The term does not include blood unless the blood is donated
22 for the purpose of research or education.

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

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

29 (34) "Washington state organ procurement organization" means an
30 organ procurement organization that has been designated by the United
31 States department of health and human services to coordinate organ
32 procurement activities for any portion of Washington state.

33 NEW SECTION. **Sec. 3.** This chapter applies to an anatomical gift
34 or amendment to, revocation of, or refusal to make an anatomical gift,
35 whenever made.

1 NEW SECTION. **Sec. 4.** Subject to section 8 of this act, an
2 anatomical gift of a donor's body or part may be made during the life
3 of the donor in the manner provided in section 5 of this act by:

4 (1) The donor, if the donor is an adult or if the donor is a minor
5 and is:

6 (a) Emancipated; or

7 (b) Authorized under state law to apply for a driver's license
8 because the donor is at least fifteen and one-half years old;

9 (2) An agent of the donor, unless the power of attorney for health
10 care or other record prohibits the agent from making an anatomical
11 gift;

12 (3) A parent of the donor, if the donor is an unemancipated minor;
13 or

14 (4) The donor's guardian.

15 NEW SECTION. **Sec. 5.** (1) A donor may make an anatomical gift:

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

19 (b) In a will;

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

23 (d) As provided in subsection (2) of this section.

24 (2) A donor or other person authorized to make an anatomical gift
25 under section 4 of this act may make a gift by a donor card or other
26 record signed by the donor or other person making the gift or by
27 authorizing that a statement or symbol indicating that the donor has
28 made an anatomical gift be included on a donor registry. If the donor
29 or other person is physically unable to sign a record, the record may
30 be signed by another individual at the direction of the donor or other
31 person and must:

32 (a) Be witnessed by at least two adults, at least one of whom is a
33 disinterested witness, who have signed at the request of the donor or
34 the other person; and

35 (b) State that it has been signed and witnessed as provided in (a)
36 of this subsection.

1 (3) Revocation, suspension, expiration, or cancellation of a
2 driver's license or identification card through which an anatomical
3 gift has been made does not invalidate the gift.

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

7 NEW SECTION. **Sec. 6.** (1) Subject to section 8 of this act, a
8 donor or other person authorized to make an anatomical gift under
9 section 4 of this act may amend or revoke an anatomical gift by:

10 (a) A record signed by:

11 (i) The donor;

12 (ii) The other person; or

13 (iii) Subject to subsection (2) of this section, another individual
14 acting at the direction of the donor or the other person if the donor
15 or other person is physically unable to sign; or

16 (b) A later-executed document of gift that amends or revokes a
17 previous anatomical gift or portion of an anatomical gift, either
18 expressly or by inconsistency.

19 (2) A record signed pursuant to subsection (1)(a)(iii) of this
20 section must:

21 (a) Be witnessed by at least two adults, at least one of whom is a
22 disinterested witness, who have signed at the request of the donor or
23 the other person; and

24 (b) State that it has been signed and witnessed as provided in (a)
25 of this subsection.

26 (3) Subject to section 8 of this act, a donor or other person
27 authorized to make an anatomical gift under section 4 of this act may
28 revoke an anatomical gift by the destruction or cancellation of the
29 document of gift, or the portion of the document of gift used to make
30 the gift, with the intent to revoke the gift. The donor or other
31 person shall notify the Washington organ procurement organization of
32 the destruction or cancellation of the document of gift for the purpose
33 of removing the individual's name from the organ and tissue donor
34 registry created in RCW 68.50.635 (as recodified by this act). If the
35 Washington state organ procurement organization that is notified does
36 not maintain a registry for Washington residents, it shall notify all

1 Washington state procurement organizations that do maintain such a
2 registry.

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

7 (5) A donor who makes an anatomical gift in a will may amend or
8 revoke the gift in the manner provided for amendment or revocation of
9 wills or as provided in subsection (1) of this section.

10 NEW SECTION. **Sec. 7.** (1) An individual may refuse to make an
11 anatomical gift of the individual's body or part by:

- 12 (a) A record signed by:
13 (i) The individual; or
14 (ii) Subject to subsection (2) of this section, another individual
15 acting at the direction of the individual if the individual is
16 physically unable to sign;

17 (b) The individual's will, whether or not the will is admitted to
18 probate or invalidated after the individual's death; or

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

22 (2) A record signed pursuant to subsection (1)(a)(ii) of this
23 section must:

24 (a) Be witnessed by at least two adults, at least one of whom is a
25 disinterested witness, who have signed at the request of the
26 individual; and

27 (b) State that it has been signed and witnessed as provided in (a)
28 of this subsection.

29 (3) An individual who has made a refusal may amend or revoke the
30 refusal:

31 (a) In the manner provided in subsection (1) of this section for
32 making a refusal;

33 (b) By subsequently making an anatomical gift pursuant to section
34 5 of this act that is inconsistent with the refusal; or

35 (c) By destroying or canceling the record evidencing the refusal,
36 or the portion of the record used to make the refusal, with the intent
37 to revoke the refusal.

1 (4) Except as otherwise provided in section 8(8) of this act, in
2 the absence of an express, contrary indication by the individual set
3 forth in the refusal, an individual's unrevoked refusal to make an
4 anatomical gift of the individual's body or part bars all other persons
5 from making an anatomical gift of the individual's body or part.

6 NEW SECTION. **Sec. 8.** (1) Except as otherwise provided in
7 subsection (7) of this section and subject to subsection (6) of this
8 section, in the absence of an express, contrary indication by the
9 donor, a person other than the donor is barred from making, amending,
10 or revoking an anatomical gift of a donor's body or part if the donor
11 made an anatomical gift of the donor's body or part under section 5 of
12 this act or an amendment to an anatomical gift of the donor's body or
13 part under section 6 of this act.

14 (2) A donor's revocation of an anatomical gift of the donor's body
15 or part under section 6 of this act is not a refusal and does not bar
16 another person specified in section 4 or 9 of this act from making an
17 anatomical gift of the donor's body or part under section 5 or 10 of
18 this act.

19 (3) If a person other than the donor makes an unrevoked anatomical
20 gift of the donor's body or part under section 5 of this act or an
21 amendment to an anatomical gift of the donor's body or part under
22 section 6 of this act, another person may not make, amend, or revoke
23 the gift of the donor's body or part under section 10 of this act.

24 (4) A revocation of an anatomical gift of a donor's body or part
25 under section 6 of this act by a person other than the donor does not
26 bar another person from making an anatomical gift of the body or part
27 under section 5 or 10 of this act.

28 (5) In the absence of an express, contrary indication by the donor
29 or other person authorized to make an anatomical gift under section 4
30 of this act, an anatomical gift of a part is neither a refusal to give
31 another part nor a limitation on the making of an anatomical gift of
32 another part at a later time by the donor or another person.

33 (6) In the absence of an express, contrary indication by the donor
34 or other person authorized to make an anatomical gift under section 4
35 of this act, an anatomical gift of a part for one or more of the
36 permitted purposes is not a limitation on the making of an anatomical

1 gift of the part for any of the other purposes by the donor or any
2 other person under section 5 or 10 of this act.

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

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

9 NEW SECTION. **Sec. 9.** (1) Subject to subsections (2) and (3) of
10 this section and unless barred by section 7 or 8 of this act, an
11 anatomical gift of a decedent's body or part may be made by any member
12 of the following classes of persons who is reasonably available, in the
13 order of priority listed:

14 (a) An agent of the decedent at the time of death who could have
15 made an anatomical gift under section 4(2) of this act immediately
16 before the decedent's death;

17 (b) The spouse, or domestic partner registered as required by state
18 law, of the decedent;

19 (c) Adult children of the decedent;

20 (d) Parents of the decedent;

21 (e) Adult siblings of the decedent;

22 (f) Adult grandchildren of the decedent;

23 (g) Grandparents of the decedent;

24 (h) The persons who were acting as the guardians of the person of
25 the decedent at the time of death; and

26 (i) Any other person having the authority under applicable law to
27 dispose of the decedent's body.

28 (2) If there is more than one member of a class listed in
29 subsection (1)(a), (c), (d), (e), (f), (g), or (h) of this section
30 entitled to make an anatomical gift, an anatomical gift may be made by
31 a member of the class unless that member or a person to which the gift
32 may pass under section 11 of this act knows of an objection by another
33 member of the class. If an objection is known, the gift may be made
34 only by a majority of the members of the class who are reasonably
35 available.

36 (3) A person may not make an anatomical gift if, at the time of the

1 decedent's death, a person in a prior class under subsection (1) of
2 this section is reasonably available to make or to object to the making
3 of an anatomical gift.

4 NEW SECTION. **Sec. 10.** (1) A person authorized to make an
5 anatomical gift under section 9 of this act may make an anatomical gift
6 by a document of gift signed by the person making the gift or by that
7 person's oral communication that is electronically recorded or is
8 contemporaneously reduced to a record and signed by the individual
9 receiving the oral communication.

10 (2) Subject to subsection (3) of this section, an anatomical gift
11 by a person authorized under section 9 of this act may be amended or
12 revoked orally or in a record by any member of a prior class who is
13 reasonably available. If more than one member of the prior class is
14 reasonably available, the gift made by a person authorized under
15 section 9 of this act may be:

16 (a) Amended only if a majority of the reasonably available members
17 agree to the amending of the gift; or

18 (b) Revoked only if a majority of the reasonably available members
19 agree to the revoking of the gift or if they are equally divided as to
20 whether to revoke the gift.

21 (3) A revocation under subsection (2) of this section is effective
22 only if, before an incision has been made to remove a part from the
23 donor's body or before invasive procedures have begun to prepare the
24 recipient, the procurement organization, transplant hospital, or
25 physician or technician knows of the revocation.

26 NEW SECTION. **Sec. 11.** (1) An anatomical gift may be made to the
27 following persons named in the document of gift:

28 (a) For research or education: A hospital; an accredited medical
29 school, dental school, college, or university; or an organ procurement
30 organization;

31 (b) Subject to subsection (2) of this section, an individual
32 designated by the person making the anatomical gift if the individual
33 is the recipient of the part;

34 (c) An eye bank or tissue bank.

35 (2) If an anatomical gift to an individual under subsection (1)(b)
36 of this section cannot be transplanted into the individual, the part

1 passes in accordance with subsection (7) of this section in the absence
2 of an express, contrary indication by the person making the anatomical
3 gift.

4 (3) If an anatomical gift of one or more specific parts or of all
5 parts is made in a document of gift that does not name a person
6 described in subsection (1) of this section but identifies the purpose
7 for which an anatomical gift may be used, the following rules apply:

8 (a) If the part is an eye and the gift is for the purpose of
9 transplantation or therapy, the gift passes to the appropriate eye
10 bank.

11 (b) If the part is tissue and the gift is for the purpose of
12 transplantation or therapy, the gift passes to the appropriate tissue
13 bank.

14 (c) If the part is an organ and the gift is for the purpose of
15 transplantation or therapy, the gift passes to the appropriate organ
16 procurement organization as custodian of the organ.

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

20 (4) For the purpose of subsection (3) of this section, if there is
21 more than one purpose of an anatomical gift set forth in the document
22 of gift but the purposes are not set forth in any priority, the gift
23 must be used for transplantation or therapy, if suitable. If the gift
24 cannot be used for transplantation or therapy, the gift may be used for
25 research or education.

26 (5) If an anatomical gift of one or more specific parts is made in
27 a document of gift that does not name a person described in subsection
28 (1) of this section and does not identify the purpose of the gift, the
29 gift may be used only for transplantation or therapy, and the gift
30 passes in accordance with subsection (7) of this section.

31 (6) If a document of gift specifies only a general intent to make
32 an anatomical gift by words such as "donor," "organ donor," or "body
33 donor," or by a symbol or statement of similar import, the gift may be
34 used only for transplantation or therapy, and the gift passes in
35 accordance with subsection (7) of this section.

36 (7) For purposes of subsections (2), (5), and (6) of this section
37 the following rules apply:

1 (a) If the part is an eye, the gift passes to the appropriate eye
2 bank.

3 (b) If the part is tissue, the gift passes to the appropriate
4 tissue bank.

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

7 (8) An anatomical gift of an organ for transplantation or therapy,
8 other than an anatomical gift under subsection (1)(b) of this section,
9 passes to the organ procurement organization as custodian of the organ.

10 (9) If an anatomical gift does not pass pursuant to subsections (1)
11 through (8) of this section or the decedent's body or part is not used
12 for transplantation, therapy, research, or education, custody of the
13 body or part passes to the person under obligation to dispose of the
14 body or part.

15 (10) A person may not accept an anatomical gift if the person knows
16 that the gift was not effectively made under section 5 or 10 of this
17 act or if the person knows that the decedent made a refusal under
18 section 7 of this act that was not revoked. For purposes of this
19 subsection (10), if a person knows that an anatomical gift was made on
20 a document of gift, the person is deemed to know of any amendment or
21 revocation of the gift or any refusal to make an anatomical gift on the
22 same document of gift.

23 (11) Except as otherwise provided in subsection (1)(b) of this
24 section, nothing in this chapter affects the allocation of organs for
25 transplantation or therapy.

26 NEW SECTION. **Sec. 12.** (1) The following persons shall make a
27 reasonable search of an individual who the person reasonably believes
28 is dead or near death for a document of gift or other information
29 identifying the individual as a donor or as an individual who made a
30 refusal:

31 (a) A law enforcement officer, firefighter, paramedic, or other
32 emergency personnel finding the individual; and

33 (b) If no other source of the information is immediately available,
34 a hospital, as soon as practical after the individual's arrival at the
35 hospital.

36 (2) If a document of gift or a refusal to make an anatomical gift
37 is located by the search required by subsection (1)(a) of this section

1 and the individual or deceased individual to whom it relates is taken
2 to a hospital, the person responsible for conducting the search shall
3 send the document of gift or refusal to the hospital.

4 NEW SECTION. **Sec. 13.** (1) A document of gift need not be
5 delivered during the donor's lifetime to be effective.

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

12 NEW SECTION. **Sec. 14.** (1) When a hospital refers an individual at
13 or near death to a procurement organization, the organization shall
14 make a reasonable search of the records of the department of licensing
15 and any donor registry that it knows exists for the geographical area
16 in which the individual resides to ascertain whether the individual has
17 made an anatomical gift.

18 (2) A procurement organization must be allowed reasonable access to
19 information in the records of the department of licensing to ascertain
20 whether an individual at or near death is a donor.

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

30 (4) Unless prohibited by law other than this chapter, at any time
31 after a donor's death, the person to which a part passes under section
32 11 of this act may conduct any reasonable examination necessary to
33 ensure the medical suitability of the body or part for its intended
34 purpose.

35 (5) Unless prohibited by law other than this chapter, an

1 examination under subsection (3) or (4) of this section may include an
2 examination of all medical records of the donor or prospective donor.

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

9 (7) Upon referral by a hospital under subsection (1) of this
10 section, a procurement organization shall make a reasonable search for
11 any person listed in section 9 of this act having priority to make an
12 anatomical gift on behalf of a prospective donor. If a procurement
13 organization receives information that an anatomical gift to any other
14 person was made, amended, or revoked, it shall promptly advise the
15 other person of all relevant information.

16 (8) Subject to sections 11(9) and 21 of this act, the rights of the
17 person to which a part passes under section 11 of this act are superior
18 to the rights of all others with respect to the part. The person may
19 accept or reject an anatomical gift in whole or in part. Subject to
20 the terms of the document of gift and this chapter, a person that
21 accepts an anatomical gift of an entire body may allow embalming,
22 burial, or cremation, and use of remains in a funeral service. If the
23 gift is of a part, the person to which the part passes under section 11
24 of this act, upon the death of the donor and before embalming, burial,
25 or cremation, shall cause the part to be removed without unnecessary
26 mutilation.

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

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

34 NEW SECTION. **Sec. 15.** Each hospital in this state shall enter
35 into agreements or affiliations with procurement organizations for
36 coordination of procurement and use of anatomical gifts.

1 NEW SECTION. **Sec. 16.** (1) Except as otherwise provided in
2 subsection (2) of this section, a person who, for valuable
3 consideration, knowingly purchases or sells a part for transplantation
4 or therapy if removal of a part from an individual is intended to occur
5 after the individual's death is guilty of a class C felony under RCW
6 9A.20.010.

7 (2) 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 NEW SECTION. **Sec. 17.** A person who, in order to obtain financial
11 gain, intentionally falsifies, forges, conceals, defaces, or
12 obliterates a document of gift, an amendment or revocation of a
13 document of gift, or a refusal is guilty of a class C felony under RCW
14 9A.20.010.

15 NEW SECTION. **Sec. 18.** (1) A person who acts in accordance with
16 this chapter or with the applicable anatomical gift law of another
17 state, or attempts in good faith to do so, is not liable for the act in
18 a civil action, criminal prosecution, or administrative proceeding.

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

22 (3) In determining whether an anatomical gift has been made,
23 amended, or revoked under this chapter, a person may rely upon
24 representations of an individual listed in section 9(1) (b) through (g)
25 of this act relating to the individual's relationship to the donor or
26 prospective donor unless the person knows that the representation is
27 untrue.

28 NEW SECTION. **Sec. 19.** (1) A document of gift is valid if executed
29 in accordance with:

30 (a) This chapter;

31 (b) The laws of the state or country where it was executed; or

32 (c) The laws of the state or country where the person making the
33 anatomical gift was domiciled, has a place of residence, or was a
34 national at the time the document of gift was executed.

1 (2) If a document of gift is valid under this section, the law of
2 this state governs the interpretation of the document of gift.

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

6 NEW SECTION. **Sec. 20.** (1) The definitions in this subsection
7 apply throughout this section unless the context clearly requires
8 otherwise.

9 (a) "Advance health care directive" means a power of attorney for
10 health care or a "directive" as defined in RCW 70.122.020.

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

14 (2) If a prospective donor has a declaration or advance health care
15 directive, measures necessary to ensure the medical suitability of an
16 organ for transplantation or therapy may not be withheld or withdrawn
17 from the prospective donor, unless the declaration or advance health
18 care directive expressly provides to the contrary.

19 NEW SECTION. **Sec. 21.** This chapter is subject to the laws of this
20 state governing the jurisdiction of the coroner or medical examiner.

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

24 NEW SECTION. **Sec. 23.** This chapter modifies, limits, and
25 supersedes the federal electronic signatures in global and national
26 commerce act (15 U.S.C. Sec. 7001 et seq.) with respect to electronic
27 signatures and anatomical gifts, but does not modify, limit, or
28 supersede section 101(a) of that act (15 U.S.C. Sec. 7001), or
29 authorize electronic delivery of any of the notices described in
30 section 103(b) of that act (15 U.S.C. Sec. 7003(b)).

31 NEW SECTION. **Sec. 24.** Sections 1 through 23 of this act
32 constitute a new chapter in Title 68 RCW.

1 **Sec. 25.** RCW 68.50.500 and 1993 c 228 s 20 are each amended to
2 read as follows:

3 (1) Each hospital shall develop procedures for identifying
4 potential anatomical parts donors. The procedures shall require that
5 any deceased individual's next of kin or other individual, as set forth
6 in ((RCW 68.50.550)) section 9 of this act, and the medical record does
7 not specify the deceased as a donor, at or near the time of
8 notification of death be asked whether the deceased was a part donor.
9 If not, the family shall be informed of the option to donate parts
10 pursuant to the uniform anatomical gift act. With the approval of the
11 designated next of kin or other individual, as set forth in ((RCW
12 68.50.550)) section 9 of this act, the hospital shall then notify an
13 established procurement organization including those organ procurement
14 agencies associated with a national organ procurement transportation
15 network or other eligible donee, as specified in ((RCW 68.50.570))
16 section 11 of this act, and cooperate in the procurement of the
17 anatomical gift or gifts. The procedures shall encourage reasonable
18 discretion and sensitivity to the family circumstances in all
19 discussions regarding donations of parts. The procedures may take into
20 account the deceased individual's religious beliefs or obvious
21 nonsuitability for an anatomical parts donation. Laws pertaining to
22 the jurisdiction of the coroner shall be complied with in all cases of
23 reportable deaths pursuant to RCW 68.50.010.

24 (2) No act or omission of a hospital in developing or implementing
25 the provisions of subsection (1) of this section, when performed in
26 good faith, shall be a basis for the imposition of any liability upon
27 the hospital. This section does not apply to any act or omission of
28 the hospital that constitutes gross negligence or willful and wanton
29 misconduct.

30 **Sec. 26.** RCW 1.50.010 and 1998 c 59 s 2 are each amended to read
31 as follows:

32 Unless the context clearly requires otherwise, the definitions in
33 this section apply throughout this chapter.

34 (1) "Organ donor" means an individual who makes an anatomical gift
35 as specified in ((RCW 68.50.530(1))) chapter 68.-- RCW (sections 1
36 through 23 of this act).

1 (2) "Organ procurement organization" (~~means any accredited or~~
2 ~~certified organ or eye bank~~) has the same meaning as defined in
3 section 2 of this act.

4 (3) "Person" means a person specified in (~~RCW 68.50.550~~) section
5 9 of this act.

6 **Sec. 27.** RCW 46.12.510 and 2003 c 94 s 6 are each amended to read
7 as follows:

8 An applicant for a new or renewed registration for a vehicle
9 required to be registered under this chapter or chapter 46.16 RCW may
10 make a donation of one dollar or more to the organ and tissue donation
11 awareness account to promote the donation of organs and tissues under
12 the provisions of the uniform anatomical gift act, (~~RCW 68.50.520~~
13 ~~through 68.50.630~~) chapter 68.-- RCW (sections 1 through 23 of this
14 act). The department shall collect the donations and credit the
15 donations to the organ and tissue donation awareness account, created
16 in RCW 68.50.640 (as recodified by this act). At least quarterly, the
17 department shall transmit donations made to the organ and tissue
18 donation awareness account to the foundation established for organ and
19 tissue donation awareness purposes by the Washington state organ
20 procurement organizations. All Washington state organ procurement
21 organizations will have proportional access to these funds to conduct
22 public education in their service areas. The donation of one or more
23 dollars is voluntary and may be refused by the applicant. The
24 department shall make available informational booklets or other
25 informational sources on the importance of organ and tissue donations
26 to applicants.

27 The department shall inquire of each applicant at the time the
28 completed application is presented whether the applicant is interested
29 in making a donation of one dollar or more and shall also specifically
30 inform the applicant of the option for organ and tissue donations as
31 required by RCW 46.20.113. The department shall also provide written
32 information to each applicant volunteering to become an organ and
33 tissue donor. The written information shall disclose that the
34 applicant's name shall be transmitted to the organ and tissue donor
35 registry created in RCW 68.50.635 (as recodified by this act), and that
36 the applicant shall notify a Washington state organ procurement
37 organization of any changes to the applicant's donor status.

1 All reasonable costs associated with the creation of the donation
2 program created under this section must be paid proportionally or by
3 other agreement by a Washington state organ procurement organization.

4 For the purposes of this section, "reasonable costs" and
5 "Washington state organ procurement organization" have the same meaning
6 as defined in (~~RCW 68.50.530~~) section 2 of this act.

7 **Sec. 28.** RCW 46.20.113 and 1993 c 228 s 18 are each amended to
8 read as follows:

9 The department of licensing shall provide a statement whereby the
10 licensee may certify his or her willingness to make an anatomical gift
11 under (~~RCW 68.50.540~~) section 4 of this act, as now or hereafter
12 amended. The department shall provide the statement in at least one of
13 the following ways:

- 14 (1) On each driver's license; or
- 15 (2) With each driver's license; or
- 16 (3) With each in-person driver's license application.

17 **Sec. 29.** RCW 46.20.1131 and 2003 c 94 s 5 are each amended to read
18 as follows:

19 The department shall electronically transfer the information of all
20 persons who upon application for a driver's license or identicard
21 volunteer to donate organs or tissue to a registry created in RCW
22 68.50.635 (as recodified by this act), and any subsequent changes to
23 the applicant's donor status when the applicant renews a driver's
24 license or identicard or applies for a new driver's license or
25 identicard.

26 NEW SECTION. **Sec. 30.** RCW 68.50.500, 68.50.635, and 68.50.640
27 are recodified and added to the new chapter created in section 24 of
28 this act.

29 NEW SECTION. **Sec. 31.** The following acts or parts of acts are
30 each repealed:

31 (1) RCW 68.50.510 (Good faith compliance with RCW 68.50.500--
32 Hospital liability) and 1987 c 331 s 72 & 1986 c 129 s 2;

33 (2) RCW 68.50.520 (Anatomical gifts--Findings--Declaration) and
34 1993 c 228 s 1;

1 (3) RCW 68.50.530 (Anatomical gifts--Definitions) and 2003 c 94 s
2 2, 1996 c 178 s 15, & 1993 c 228 s 2;
3 (4) RCW 68.50.540 (Anatomical gifts--Authorized--Procedures--
4 Changes--Refusal) and 2003 c 94 s 4, 1995 c 132 s 1, & 1993 c 228 s 3;
5 (5) RCW 68.50.550 (Anatomical gifts--By person other than decedent)
6 and 1993 c 228 s 4;
7 (6) RCW 68.50.560 (Anatomical gifts--Hospital procedure--Records--
8 Liability) and 1993 c 228 s 5;
9 (7) RCW 68.50.570 (Anatomical gifts--Donees) and 1993 c 228 s 6;
10 (8) RCW 68.50.580 (Anatomical gifts--Document of gift--Delivery)
11 and 1993 c 228 s 7;
12 (9) RCW 68.50.590 (Anatomical gifts--Rights of donee--Time of
13 death--Actions by technician, enucleator) and 1993 c 228 s 8;
14 (10) RCW 68.50.600 (Anatomical gifts--Hospitals--Procurement and
15 use coordination) and 1993 c 228 s 9;
16 (11) RCW 68.50.610 (Anatomical gifts--Illegal purchase or sale--
17 Penalty) and 2003 c 53 s 312 & 1993 c 228 s 10; and
18 (12) RCW 68.50.620 (Anatomical gifts--Examination for medical
19 acceptability--Jurisdiction of coroner, medical examiner--Liability
20 limited) and 1993 c 228 s 11.

--- END ---