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5 On page 6, after line 13, insert the following:

6 "NEW SECTION. Sec. 3. Unless the context requires otherwise,  
7 the definitions in this section apply throughout sections 3 through 16  
8 of this act.

9 (1) "Anatomical gift" means a donation of all or part of a human  
10 body to take effect upon or after death.

11 (2) "Decedent" means a deceased individual.

12 (3) "Document of gift" means a card, a statement attached to or  
13 imprinted on a motor vehicle operator's or chauffeur's license, a will,  
14 or other writing used to make an anatomical gift.

15 (4) "Donor" means an individual who makes an anatomical gift of all  
16 or part of the individual's body.

17 (5) "Enucleator" means an individual who is qualified to remove or  
18 process eyes or parts of eyes.

19 (6) "Hospital" means a facility licensed, accredited, or approved  
20 as a hospital under the law of any state or a facility operated as a  
21 hospital by the United States government, a state, or a subdivision of  
22 a state.

23 (7) "Part" means an organ, tissue, eye, bone, artery, blood, fluid,  
24 or other portion of a human body.

25 (8) "Person" means an individual, corporation, business trust,  
26 estate, trust, partnership, joint venture, association, government,  
27 governmental subdivision or agency, or any other legal or commercial  
28 entity.

1 (9) "Physician" or "surgeon" means an individual licensed or  
2 otherwise authorized to practice medicine and surgery or osteopathy and  
3 surgery under the laws of any state.

4 (10) "Procurement organization" means a person licensed,  
5 accredited, or approved under the laws of any state for procurement,  
6 distribution, or storage of human bodies or parts.

7 (11) "State" means a state, territory, or possession of the United  
8 States, the District of Columbia, or the Commonwealth of Puerto Rico.

9 (12) "Technician" means an individual who is qualified to remove or  
10 process a part."

11 "NEW SECTION. Sec. 4. (1) An individual who is at least  
12 eighteen years of age may (a) make an anatomical gift for any of the  
13 purposes stated in section 7(1) of this act, (b) limit an anatomical  
14 gift to one or more of those purposes, or (c) refuse to make an  
15 anatomical gift.

16 (2) An anatomical gift may be made by a document of gift signed by  
17 the donor. If the donor cannot sign, the document of gift must be  
18 signed by another individual and by two witnesses, all of whom have  
19 signed at the direction and in the presence of the donor and of each  
20 other and state that it has been so signed.

21 (3) If a document of gift is attached to or imprinted on a donor's  
22 motor vehicle operator's or chauffeur's license, the document of gift  
23 must comply with subsection (2) of this section. Revocation,  
24 suspension, expiration, or cancellation of the license does not  
25 invalidate the anatomical gift.

26 (4) A document of gift may designate a particular physician or  
27 surgeon to carry out the appropriate procedures. In the absence of a  
28 designation or if the designee is not available, the donee or other  
29 person authorized to accept the anatomical gift may employ or authorize

1 any physician, surgeon, technician, or enucleator to carry out the  
2 appropriate procedures.

3 (5) An anatomical gift by will takes effect upon death of the  
4 testator, whether or not the will is probated. If, after death, the  
5 will is declared invalid for testamentary purposes, the validity of the  
6 anatomical gift is unaffected.

7 (6) A donor may amend or revoke an anatomical gift, not made by  
8 will, by:

9 (a) A signed statement;

10 (b) An oral statement made in the presence of two individuals;

11 (c) Any form of communication during a terminal illness or injury;

12 or

13 (d) The delivery of a signed statement to a specified donee to whom  
14 a document of gift had been delivered.

15 (7) The donor of an anatomical gift made by will may amend or  
16 revoke the gift in the manner provided for amendment or revocation of  
17 wills, or as provided in subsection (6) of this section.

18 (8) An anatomical gift that is not revoked by the donor before  
19 death is irrevocable and does not require the consent or concurrence of  
20 any person after the donor's death.

21 (9) An individual may refuse to make an anatomical gift of the  
22 individual's body or part by (a) a writing signed in the same manner as  
23 a document of gift, (b) a statement attached to or imprinted on a  
24 donor's motor vehicle operator's or chauffeur's license, or (c) any  
25 other writing used to identify the individual as refusing to make an  
26 anatomical gift. During a terminal illness or injury, the refusal may  
27 be an oral statement or other form of communication.

28 (10) In the absence of contrary indications by the donor, an  
29 anatomical gift of a part is neither a refusal to give other parts nor  
30 a limitation on an anatomical gift under section 5 of this act.

1 (11) In the absence of contrary indications by the donor, a  
2 revocation or amendment of an anatomical gift is not a refusal to make  
3 another anatomical gift. If the donor intends a revocation to be a  
4 refusal to make an anatomical gift, the donor shall make the refusal  
5 pursuant to subsection (9) of this section."

6 "NEW SECTION. Sec. 5. (1) Any member of the following classes  
7 of persons, in the order of priority listed, absent contrary  
8 instructions by the decedent, may make an anatomical gift of all or a  
9 part of the decedent's body for an authorized purpose, unless the  
10 decedent, at the time of death, had made an unrevoked refusal to make  
11 that anatomical gift:

12 (a) The appointed guardian of the person of the decedent at the  
13 time of death;

14 (b) The individual, if any, to whom the decedent had given a  
15 durable power of attorney that encompassed the authority to make health  
16 care decisions;

17 (c) The spouse of the decedent;

18 (d) A son or daughter of the decedent who is at least eighteen  
19 years of age;

20 (e) Either parent of the decedent;

21 (f) A brother or sister of the decedent who is at least eighteen  
22 years of age;

23 (g) A grandparent of the decedent.

24 (2) An anatomical gift may not be made by a person listed in  
25 subsection (1) of this section if:

26 (a) A person in a prior class is available at the time of death to  
27 make an anatomical gift;

28 (b) The person proposing to make an anatomical gift knows of a  
29 refusal or contrary indications by the decedent; or

1 (c) The person proposing to make an anatomical gift knows of an  
2 objection to making an anatomical gift by a member of the person's  
3 class or a prior class.

4 (3) An anatomical gift by a person authorized under subsection (1)  
5 of this section must be made by (a) a document of gift signed by the  
6 person or (b) the person's telegraphic, recorded telephonic, or other  
7 recorded message, or other form of communication from the person that  
8 is contemporaneously reduced to writing and signed by the recipient of  
9 the communication.

10 (4) An anatomical gift by a person authorized under subsection (1)  
11 of this section may be revoked by any member of the same or a prior  
12 class if, before procedures have begun for the removal of a part from  
13 the body of the decedent, the physician, surgeon, technician, or  
14 enucleator removing the part knows of the revocation.

15 (5) A failure to make an anatomical gift under subsection (1) of  
16 this section is not an objection to the making of an anatomical gift."

17 "NEW SECTION. Sec. 6. (1) On or before admission to a  
18 hospital, or as soon as possible thereafter, a person designated by the  
19 hospital shall ask each patient who is at least eighteen years of age:  
20 "Are you an organ or tissue donor?" If the answer is affirmative the  
21 person shall request a copy of the document of gift. If the answer is  
22 negative or there is no answer, the person designated shall discuss  
23 with the patient the option to make or refuse to make an anatomical  
24 gift. The answer to the question, an available copy of any document of  
25 gift or refusal to make an anatomical gift, and any other relevant  
26 information shall be placed in the patient's medical record.

27 (2) If, at or near the time of death of a patient, there is no  
28 medical record that the patient has made or refused to make an  
29 anatomical gift, a person designated shall discuss the option to make

1 or refuse to make an anatomical gift and request the making of an  
2 anatomical gift pursuant to section 3(1) of this act. The request  
3 shall be made with reasonable discretion and sensitivity to the  
4 circumstances of the family. A request is not required if the gift is  
5 not suitable, based upon accepted medical standards, for a purpose  
6 specified in section 7 of this act. An entry shall be made in the  
7 medical record of the patient, stating the name and affiliation of the  
8 individual making the request, and of the name, response, and  
9 relationship to the patient of the person to whom the request was made.  
10 The secretary of the department of health shall identify accepted  
11 medical standards referred to in this subsection.

12 (3) The following persons shall make a reasonable search of the  
13 individual and his or her personal effects for a document of gift or  
14 other information identifying the bearer as a donor or as an individual  
15 who has refused to make an anatomical gift:

16 (a) A law enforcement officer, fire fighter, paramedic, or other  
17 emergency rescuer finding an individual who the searcher believes is  
18 near death, or dead and not under the jurisdiction of the coroner or  
19 medical examiner;

20 (b) A hospital, upon the admission of an individual at or near the  
21 time of death, if there is not immediately available any other source  
22 of that information; and

23 (c) A coroner or medical examiner upon assumption of jurisdiction  
24 over a decedent's body.

25 (4) If a document of gift or evidence of refusal to make an  
26 anatomical gift is located by the search required by subsection (3)(a)  
27 of this section, and the individual or body to whom it relates is taken  
28 to a hospital, the hospital shall be notified of the contents and the  
29 document or other evidence shall be sent to the hospital.

1 (5) If, at or near the time of death of a patient, a hospital knows  
2 that an anatomical gift has been made pursuant to section 3(1) of this  
3 act, or that a patient or an individual identified as in transit to the  
4 hospital is a donor, the hospital shall notify the donee if one is  
5 named and known to the hospital; if not, it shall notify an appropriate  
6 procurement organization. The hospital shall cooperate in the  
7 implementation of the anatomical gift or release and removal of a part.

8 (6) A person who fails to discharge the duties imposed by this  
9 section is not subject to criminal or civil liability but is subject to  
10 appropriate administrative sanctions.

11 (7) Hospitals shall develop policies and procedures implementing  
12 this section except for subsection (3)(a) of this section."

13 "NEW SECTION. Sec. 7. (1) The following persons may become  
14 donees of anatomical gifts for the purposes stated:

15 (a) A hospital, physician, surgeon, or procurement organization for  
16 transplantation, therapy, medical or dental education, research, or  
17 advancement of medical or dental science;

18 (b) An accredited medical or dental school, college, or university  
19 for education, research, or advancement of medical or dental science;  
20 or

21 (c) A designated individual for transplantation or therapy needed  
22 by that individual.

23 (2) An anatomical gift may be made to a designated donee or without  
24 designating a donee. If a donee is not designated or if the donee is  
25 not available or rejects the anatomical gift, the anatomical gift may  
26 be accepted by any hospital.

27 (3) If the donee knows of the decedent's refusal or contrary  
28 indications to make an anatomical gift or that an anatomical gift by a  
29 member of a class having priority to act is opposed by a member of the

1 same class or a prior class under section 5(1) of this act, the donee  
2 may not accept the anatomical gift."

3 "NEW SECTION. Sec. 8. (1) Delivery of a document of gift  
4 during the donor's lifetime is not required for the validity of an  
5 anatomical gift.

6 (2) If an anatomical gift is made to a designated donee, the  
7 document of gift, or a copy, may be delivered to the donee to expedite  
8 the appropriate procedures after death. The document of gift, or a  
9 copy, may be deposited in any hospital, procurement organization, or  
10 registry office that accepts it for safekeeping or for facilitation of  
11 procedures after death. On request of an interested person, upon or  
12 after the donor's death, the person in possession shall allow the  
13 interested person to examine or copy the document of gift."

14 "NEW SECTION. Sec. 9. (1) Rights of a donee created by an  
15 anatomical gift are superior to rights of others except with respect to  
16 coroners and medical examiners under section 12(2) of this act. A  
17 donee may accept or reject an anatomical gift. If a donee accepts an  
18 anatomical gift of an entire body, the donee, subject to the terms of  
19 the gift, may allow embalming and use of the body in funeral services.  
20 If the gift is of a part of a body, the donee, upon the death of the  
21 donor and before embalming, shall cause the part to be removed without  
22 unnecessary mutilation. After removal of the part, custody of the  
23 remainder of the body vests in the person under obligation to dispose  
24 of the body.

25 (2) The time of death must be determined by a physician or surgeon  
26 who attends the donor at death or, if none, the physician or surgeon  
27 who certifies the death. Neither the physician or surgeon who attends  
28 the donor at death nor the physician or surgeon who determines the time



1 of death may participate in the procedures for removing or  
2 transplanting a part unless the document of gift designates a  
3 particular physician or surgeon pursuant to section 4(4) of this act.

4 (3) If there has been an anatomical gift, a technician may remove  
5 any donated parts and an enucleator may remove any donated eyes or  
6 parts of eyes, after determination of death by a physician or surgeon."

7 "NEW SECTION. Sec. 10. Each hospital in this state, after  
8 consultation with other hospitals and procurement organizations, shall  
9 establish agreements or affiliations for coordination of procurement  
10 and use of human bodies and parts."

11 "NEW SECTION. Sec. 11. (1) A person may not knowingly, for  
12 valuable consideration, purchase or sell a part for transplantation or  
13 therapy, if removal of the part is intended to occur after the death of  
14 the decedent.

15 (2) Valuable consideration does not include reasonable payment for  
16 the removal, processing, disposal, preservation, quality control,  
17 storage, transportation, or implantation of a part.

18 (3) A person who violates this section is guilty of a felony and  
19 upon conviction is subject to a fine not exceeding fifty thousand  
20 dollars or imprisonment not exceeding five years, or both."

21 "NEW SECTION. Sec. 12. (1) An anatomical gift authorizes any  
22 reasonable examination necessary to assure medical acceptability of the  
23 gift for the purposes intended.

24 (2) The provisions of sections 3 through 16 of this act are subject  
25 to the laws of this state governing coroner and medical examiner  
26 jurisdiction.

1 (3) A hospital, physician, surgeon, coroner, medical examiner,  
2 local public health officer, enucleator, technician, or other person,  
3 who acts in accordance with sections 3 through 16 of this act or with  
4 the applicable anatomical gift law of another state or a foreign  
5 country or attempts in good faith to do so, is not liable for that act  
6 in a civil action or criminal proceeding.

7 (4) An individual who makes an anatomical gift pursuant to section  
8 4 or 5 of this act and the individual's estate are not liable for any  
9 injury or damage that may result from the making or the use of the  
10 anatomical gift."

11 "NEW SECTION. **Sec. 13.** Sections 3 through 16 of this act apply  
12 to a document of gift, revocation, or refusal to make an anatomical  
13 gift signed by the donor or a person authorized to make or object to  
14 making an anatomical gift before, on, or after the effective date of  
15 this section."

16 "NEW SECTION. **Sec. 14.** This act shall be applied and construed  
17 to effectuate its general purpose to make uniform the law with respect  
18 to the subject of this act among states enacting it."

19 "NEW SECTION. **Sec. 15.** If any provision of this act or its  
20 application to any person or circumstance is held invalid, the  
21 remainder of the act or the application of the provision to other  
22 persons or circumstances is not affected."

23 "NEW SECTION. **Sec. 16.** Sections 3 through 16 of this act may be  
24 cited as the "Uniform Anatomical Gift Act."

1        "NEW SECTION. Sec. 17.        Sections 3 through 16 of this act are  
2 each added to chapter 68.50 RCW."

3        "**Sec. 18.**    RCW 46.20.113 and 1987 c 331 s 81 are each amended to  
4 read as follows:

5        The department of licensing shall provide a statement whereby the  
6 licensee may certify (~~((in the presence of two witnesses))~~) his or her  
7 willingness to make an anatomical gift under (~~((RCW 68.50.370))~~) section  
8 4 of this act, as now or hereafter amended.    The department shall  
9 provide the statement in at least one of the following ways:

- 10        (1) On each driver's license; or  
11        (2) With each driver's license; or  
12        (3) With each in-person driver's license application."

13        "**Sec. 19.**    RCW 68.50.106 and 1987 c 331 s 59 are each amended to  
14 read as follows:

15        In any case in which an autopsy or post mortem is performed, the  
16 coroner or medical examiner, upon his or her own authority or upon the  
17 request of the prosecuting attorney or other law enforcement agency  
18 having jurisdiction, may make or cause to be made an analysis of the  
19 stomach contents, blood, or organs, or tissues of a deceased person and  
20 secure professional opinions thereon and retain or dispose of any  
21 specimens or organs of the deceased which in his or her discretion are  
22 desirable or needful for anatomic, bacteriological, chemical, or  
23 toxicological examination or upon lawful request are needed or desired  
24 for evidence to be presented in court.    (~~((When the autopsy or post~~  
25 ~~mortem requires examination in the region of the pituitary gland, that~~  
26 ~~gland may be removed and utilized for any desirable or needful purpose:~~  
27 ~~PROVIDED, That a reasonable effort to obtain consent as required under~~

1 ~~RCW 68.50.350 shall be made if that organ is to be so utilized.))~~  
2 Costs shall be borne by the county."

3       **"Sec. 20.** RCW 68.50.500 and 1987 c 331 s 71 are each amended to  
4 read as follows:

5       Each hospital shall develop procedures for identifying potential  
6 organ and tissue donors. The procedures shall require that any  
7 deceased individual's next of kin or other individual, as set forth in  
8 ~~((RCW 68.50.350))~~ section 5 of this act, at or near the time of  
9 notification of death be asked whether the deceased was an organ donor.  
10 If not, the family shall be informed of the option to donate organs and  
11 tissues pursuant to the uniform anatomical gift act. With the approval  
12 of the designated next of kin or other individual, as set forth in  
13 ~~((RCW 68.50.350))~~ section 5 of this act, the hospital shall then notify  
14 an established eye bank, tissue bank, or organ procurement agency  
15 including those organ procurement agencies associated with a national  
16 organ procurement transportation network or other eligible donee, as  
17 specified in ~~((RCW 68.50.360))~~ section 7 of this act, and cooperate in  
18 the procurement of the anatomical gift or gifts. The procedures shall  
19 encourage reasonable discretion and sensitivity to the family  
20 circumstances in all discussions regarding donations of tissue or  
21 organs. The procedures may take into account the deceased individual's  
22 religious beliefs or obvious nonsuitability for organ and tissue  
23 donation. Laws pertaining to the jurisdiction of the coroner shall be  
24 complied with in all cases of reportable deaths pursuant to RCW  
25 68.50.010."

26       **"Sec. 21.** RCW 68.50.280 and 1989 1st ex.s. c 9 s 224 are each  
27 amended to read as follows:

1 In any case where a patient is in need of corneal tissue for a  
2 transplantation, (~~the county coroner, or county medical examiner or~~  
3 ~~designee, may provide~~) corneal tissue(~~(, from decedents under his or~~  
4 ~~her jurisdiction, upon the request of an eye bank approved and~~  
5 ~~authorized to make such requests~~) may be provided by eye banks  
6 licensed by the secretary of the department of health, (~~subject to the~~  
7 ~~following conditions~~:

8 (1) ~~Ready identification of the decedent is impossible, or~~

9 (2) ~~A reasonable effort to obtain such consent as is required under~~  
10 ~~RCW 68.50.350 is made, within the time period during which corneal~~  
11 ~~tissue is a viable transplant, and no objection by the next of kin is~~  
12 ~~known, and~~

13 (3) ~~Removal of the cornea for transplantation will not interfere~~  
14 ~~with the subsequent course of an investigation or autopsy or alter the~~  
15 ~~post mortem facial appearance of the decedent~~) under rules adopted by  
16 the department."

17 "NEW SECTION. Sec. 22. The following acts or parts of acts are  
18 each repealed:

19 (1) RCW 68.50.340 and 1981 c 44 s 1 & 1969 c 80 s 2;

20 (2) RCW 68.50.350 and 1987 c 331 s 66 & 1969 c 80 s 3;

21 (3) RCW 68.50.360 and 1982 c 9 s 1, 1979 c 37 s 1, & 1969 c 80 s 4;

22 (4) RCW 68.50.370 and 1987 c 331 s 67, 1975 c 54 s 2, & 1969 c 80  
23 s 5;

24 (5) RCW 68.50.380 and 1969 c 80 s 6;

25 (6) RCW 68.50.390 and 1969 c 80 s 7;

26 (7) RCW 68.50.400 and 1987 c 331 s 68 & 1969 c 80 s 8;

27 (8) RCW 68.50.410 and 1987 c 331 s 69 & 1969 c 80 s 9; and

28 (9) RCW 68.50.420 and 1987 c 331 s 70 & 1969 c 80 s 11."

1 **ESB 6121** - H AMD  
2 By Representative Appelwick

3  
4 On page 1, line 1 of the title, after "records;" strike the  
5 remainder of the title and insert "amending RCW 71.05.390, 71.05.400,  
6 46.20.113, 68.50.106, 68.50.500, and 68.50.280; adding new sections to  
7 chapter 68.50 RCW; repealing RCW 68.50.340, 68.50.350, 68.50.360,  
8 68.50.370, 68.50.380, 68.50.390, 68.50.400, 68.50.410, and 68.50.420;  
9 and prescribing penalties."