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SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1637

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State of Washington

60th Legislature

2008 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 1.50.010, 46.12.510, 46.20.113, and 46.20.1131;  
3 adding a new chapter to Title 68 RCW; recodifying RCW 68.50.500,  
4 68.50.635, and 68.50.640; repealing RCW 68.50.510, 68.50.520,  
5 68.50.530, 68.50.540, 68.50.550, 68.50.560, 68.50.570, 68.50.580,  
6 68.50.590, 68.50.600, 68.50.610, and 68.50.620; and prescribing  
7 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 state registered domestic partner, child, parent, sibling,  
8 grandchild, grandparent, or guardian of the individual who makes,  
9 amends, revokes, or refuses to make an anatomical gift. The term does  
10 not include a person to which an anatomical gift could pass under  
11 section 11 of this act.

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

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

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

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

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

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

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

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

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

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

37 (16) "Organ procurement organization" means a person designated by

1 the secretary of the United States department of health and human  
2 services as an organ procurement organization.

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

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

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

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

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

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

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

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

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

37 (26) "Record" means information that is inscribed on a tangible

1 medium or that is stored in an electronic or other medium and is  
2 retrievable in perceivable form.

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

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

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

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

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

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

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

22 (32) "Tissue bank" means a person that is licensed to conduct  
23 business in this state, accredited, and regulated under federal or  
24 state law to engage in the recovery, screening, testing, processing,  
25 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 provided, however, that an anatomical gift made pursuant to this  
14 subsection shall cease to be valid once the donor becomes either an  
15 emancipated minor or an adult; or

16            (4) The donor's guardian.

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

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

21            (b) In a will;

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

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

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

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

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

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

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

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

12 (a) A record signed by:

13 (i) The donor;

14 (ii) The other person; or

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

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

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

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

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

28 (3) Subject to section 8 of this act, a donor or other person  
29 authorized to make an anatomical gift under section 4 of this act may  
30 revoke an anatomical gift by the destruction or cancellation of the  
31 document of gift, or the portion of the document of gift used to make  
32 the gift, with the intent to revoke the gift. The donor or other  
33 person shall notify the Washington organ procurement organization of  
34 the destruction or cancellation of the document of gift for the purpose  
35 of removing the individual's name from the organ and tissue donor  
36 registry created in RCW 68.50.635 (as recodified by this act). If the  
37 Washington state organ procurement organization that is notified does

1 not maintain a registry for Washington residents, it shall notify all  
2 Washington state procurement organizations that do maintain such a  
3 registry.

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

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

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

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

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

20 (c) 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 (2) A record signed pursuant to subsection (1)(a)(ii) of this  
24 section must:

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

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

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

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

34 (b) By subsequently making an anatomical gift pursuant to section  
35 5 of this act that is inconsistent with the refusal; or

36 (c) By destroying or canceling the record evidencing the refusal,

1 or the portion of the record used to make the refusal, with the intent  
2 to revoke the refusal.

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

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

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

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

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

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

35 (6) In the absence of an express, contrary indication by the donor  
36 or other person authorized to make an anatomical gift under section 4  
37 of this act, an anatomical gift of a part for one or more of the



1 permitted purposes is not a limitation on the making of an anatomical  
2 gift of the part for any of the other purposes by the donor or any  
3 other person under section 5 or 10 of this act.

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

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

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

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

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

20 (c) Adult children of the decedent;

21 (d) Parents of the decedent;

22 (e) Adult siblings of the decedent;

23 (f) Adult grandchildren of the decedent;

24 (g) Grandparents of the decedent;

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

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

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

1 (3) A person may not make an anatomical gift if, at the time of the  
2 decedent's death, a person in a prior class under subsection (1) of  
3 this section is reasonably available to make or to object to the making  
4 of an anatomical gift.

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

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

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

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

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

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

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

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

35 (c) An eye bank or tissue bank.

1 (2) If an anatomical gift to an individual under subsection (1)(b)  
2 of this section cannot be transplanted into the individual, the part  
3 passes in accordance with subsection (7) of this section in the absence  
4 of an express, contrary indication by the person making the anatomical  
5 gift.

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

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

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

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

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

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

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

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

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

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

5 (b) If the part is tissue, the gift passes to the appropriate  
6 tissue bank.

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

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

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

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

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

28 NEW SECTION. **Sec. 12.** (1) A document of gift need not be  
29 delivered during the donor's lifetime to be effective.

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

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

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

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

19       (4) Unless prohibited by law other than this chapter, at any time  
20 after a donor's death, the person to which a part passes under section  
21 11 of this act may conduct any reasonable examination necessary to  
22 ensure the medical suitability of the body or part for its intended  
23 purpose.

24       (5) Unless prohibited by law other than this chapter, an  
25 examination under subsection (3) or (4) of this section may include an  
26 examination of all medical records of the donor or prospective donor.

27       (6) Upon the death of a minor who was a donor or had signed a  
28 refusal, unless a procurement organization knows the minor is  
29 emancipated, the procurement organization shall conduct a reasonable  
30 search for the parents of the minor and provide the parents with an  
31 opportunity to revoke or amend the anatomical gift or revoke the  
32 refusal.

33       (7) Upon referral by a hospital under subsection (1) of this  
34 section, a procurement organization shall make a reasonable search for  
35 any person listed in section 9 of this act having priority to make an  
36 anatomical gift on behalf of a prospective donor. If a procurement  
37 organization receives information that an anatomical gift to any other

1 person was made, amended, or revoked, it shall promptly advise the  
2 other person of all relevant information.

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

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

18 (10) A physician or technician may remove a donated part from the  
19 body of a donor that the physician or technician is qualified to  
20 remove.

21 NEW SECTION. **Sec. 14.** When English is not the first language of  
22 the person or persons making, amending, revoking, or refusing  
23 anatomical gifts as defined in this act, organ procurement  
24 organizations are responsible for providing, at no cost, appropriate  
25 interpreter services or translations to such persons for the purpose of  
26 making such decisions.

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

30 NEW SECTION. **Sec. 16.** (1) Except as otherwise provided in  
31 subsection (2) of this section, a person who, for valuable  
32 consideration, knowingly purchases or sells a part for transplantation  
33 or therapy if removal of a part from an individual is intended to occur  
34 after the individual's death is guilty of a class C felony under RCW  
35 9A.20.010.

1 (2) A person may charge a reasonable amount for the removal,  
2 processing, preservation, quality control, storage, transportation,  
3 implantation, or disposal of a part.

4 NEW SECTION. **Sec. 17.** A person who, in order to obtain financial  
5 gain, intentionally falsifies, forges, conceals, defaces, or  
6 obliterates a document of gift, an amendment or revocation of a  
7 document of gift, or a refusal is guilty of a class C felony under RCW  
8 9A.20.010.

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

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

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

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

24 (a) This chapter;

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

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

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

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

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

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

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

9        (c) "Health care decision" means any decision made regarding the  
10 health care of the prospective donor.

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

31        NEW SECTION.    **Sec. 21.** (1)(a) A coroner or medical examiner shall  
32 cooperate with procurement organizations, to the extent that such  
33 cooperation does not prevent, hinder, or impede the timely  
34 investigation of death, to facilitate the opportunity to recover  
35 anatomical gifts for the purpose of transplantation or therapy.  
36 However, a coroner or medical examiner may limit the number of  
37 procurement organizations with which he or she cooperates.



1 (b) The coroner or medical examiner may release the initial  
2 investigative information to the tissue or organ procurement  
3 organization for the purpose of determining the suitability of the  
4 potential donor by those organizations. The information released for  
5 this purpose shall remain confidential. The coroner or medical  
6 examiner is not liable for any release of confidential information by  
7 the procurement organization.

8 (2)(a) Procurement organizations shall cooperate with the coroner  
9 or medical examiner to ensure the preservation of and timely transfer  
10 to the coroner or medical examiner any physical or biological evidence  
11 from a prospective donor that the procurement organization may have  
12 contact with or access to that is required by the coroner or medical  
13 examiner for the investigation of death.

14 (b) If the coroner or medical examiner or a designee releases a  
15 part for donation under subsection (4) of this section, the procurement  
16 organization, upon request, shall cause the physician or technician who  
17 removes the part to provide the coroner or medical examiner with a  
18 record describing the condition of the part, biopsies, residual tissue,  
19 photographs, and any other information and observations requested by  
20 the coroner or medical examiner that would assist in the investigation  
21 of death.

22 (3) A part may not be removed from the body of a decedent under the  
23 jurisdiction of a coroner or medical examiner for transplantation,  
24 therapy, research, or education unless the part is the subject of an  
25 anatomical gift, and has been released by the coroner or medical  
26 examiner. The body of a decedent under the jurisdiction of the coroner  
27 or medical examiner may not be delivered to a person for research or  
28 education unless the body is the subject of an anatomical gift. This  
29 subsection does not preclude a coroner or medical examiner from  
30 performing the medicolegal investigation upon the body or relevant  
31 parts of a decedent under the jurisdiction of the coroner or medical  
32 examiner.

33 (4) If an anatomical gift of a part from the decedent under the  
34 jurisdiction of the coroner or medical examiner has been or might be  
35 made, but the coroner or medical examiner initially believes that the  
36 recovery of the part could interfere with the postmortem investigation  
37 into the decedent's cause or manner of death, the collection of  
38 evidence, or the description, documentation, or interpretation of

1 injuries on the body, the coroner or medical examiner may consult with  
2 the procurement organization or physician or technician designated by  
3 the procurement organization about the proposed recovery. After  
4 consultation, the coroner or medical examiner may release the part for  
5 recovery.

6 NEW SECTION. **Sec. 22.** This chapter is subject to the laws of this  
7 state governing the jurisdiction of the coroner or medical examiner.

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

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

18 **Sec. 25.** RCW 1.50.010 and 1998 c 59 s 2 are each amended to read  
19 as follows:

20 Unless the context clearly requires otherwise, the definitions in  
21 this section apply throughout this chapter.

22 (1) "Organ donor" means an individual who makes an anatomical gift  
23 as specified in ((~~RCW 68.50.530(1)~~)) chapter 68.-- RCW (sections 1  
24 through 24 of this act).

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

28 (3) "Person" means a person specified in ((~~RCW 68.50.550~~)) section  
29 9 of this act.

30 **Sec. 26.** RCW 46.12.510 and 2003 c 94 s 6 are each amended to read  
31 as follows:

32 An applicant for a new or renewed registration for a vehicle  
33 required to be registered under this chapter or chapter 46.16 RCW may

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

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

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

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

35 **Sec. 27.** RCW 46.20.113 and 1993 c 228 s 18 are each amended to  
36 read as follows:

37 The department of licensing shall provide a statement whereby the

1 licensee may certify his or her willingness to make an anatomical gift  
2 under ((RCW 68.50.540)) section 4 of this act, as now or hereafter  
3 amended. The department shall provide the statement in at least one of  
4 the following ways:

- 5 (1) On each driver's license; or
- 6 (2) With each driver's license; or
- 7 (3) With each in-person driver's license application.

8 **Sec. 28.** RCW 46.20.1131 and 2003 c 94 s 5 are each amended to read  
9 as follows:

10 The department shall electronically transfer the information of all  
11 persons who upon application for a driver's license or identicard  
12 volunteer to donate organs or tissue to a registry created in RCW  
13 68.50.635 (as recodified by this act), and any subsequent changes to  
14 the applicant's donor status when the applicant renews a driver's  
15 license or identicard or applies for a new driver's license or  
16 identicard.

17 NEW SECTION. **Sec. 29.** Sections 1 through 24 of this act  
18 constitute a new chapter in Title 68 RCW.

19 NEW SECTION. **Sec. 30.** RCW 68.50.500, 68.50.635, and 68.50.640 are  
20 each recodified as sections in the new chapter created in section 29 of  
21 this act.

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

- 24 (1) RCW 68.50.510 (Good faith compliance with RCW 68.50.500--  
25 Hospital liability) and 1987 c 331 s 72 & 1986 c 129 s 2;
- 26 (2) RCW 68.50.520 (Anatomical gifts--Findings--Declaration) and  
27 1993 c 228 s 1;
- 28 (3) RCW 68.50.530 (Anatomical gifts--Definitions) and 2003 c 94 s  
29 2, 1996 c 178 s 15, & 1993 c 228 s 2;
- 30 (4) RCW 68.50.540 (Anatomical gifts--Authorized--Procedures--  
31 Changes--Refusal) and 2003 c 94 s 4, 1995 c 132 s 1, & 1993 c 228 s 3;
- 32 (5) RCW 68.50.550 (Anatomical gifts--By person other than decedent)  
33 and 2007 c 156 s 26 & 1993 c 228 s 4;

- 1           (6) RCW 68.50.560 (Anatomical gifts--Hospital procedure--Records--  
2 Liability) and 1993 c 228 s 5;
- 3           (7) RCW 68.50.570 (Anatomical gifts--Donees) and 1993 c 228 s 6;
- 4           (8) RCW 68.50.580 (Anatomical gifts--Document of gift--Delivery)  
5 and 1993 c 228 s 7;
- 6           (9) RCW 68.50.590 (Anatomical gifts--Rights of donee--Time of  
7 death--Actions by technician, enucleator) and 1993 c 228 s 8;
- 8           (10) RCW 68.50.600 (Anatomical gifts--Hospitals--Procurement and  
9 use coordination) and 1993 c 228 s 9;
- 10          (11) RCW 68.50.610 (Anatomical gifts--Illegal purchase or sale--  
11 Penalty) and 2003 c 53 s 312 & 1993 c 228 s 10; and
- 12          (12) RCW 68.50.620 (Anatomical gifts--Examination for medical  
13 acceptability--Jurisdiction of coroner, medical examiner--Liability  
14 limited) and 1993 c 228 s 11.

--- END ---