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**SUBSTITUTE HOUSE BILL 1637**

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**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), 21, and 22 of this act, the rights  
17 of the person to which a part passes under section 11 of this act are  
18 superior to the rights of all others with respect to the part. The  
19 person may accept or reject an anatomical gift in whole or in part.  
20 Subject to the terms of the document of gift and this chapter, a person  
21 that 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.** (1) A coroner or medical examiner shall  
20 cooperate with procurement organizations, to the extent that such  
21 cooperation does not prevent, hinder, or impede the timely  
22 investigation of death, to facilitate the opportunity to recover  
23 anatomical gifts for the purpose of transplantation or therapy.  
24 However, a coroner or medical examiner may limit the number of  
25 procurement organizations with which he or she cooperates.

26 (2)(a) Procurement organizations shall cooperate with the coroner  
27 or medical examiner to ensure the preservation, and timely transfer to  
28 the coroner or medical examiner, of any physical or biological evidence  
29 from a prospective donor which the procurement organization may have  
30 contact with or access to that is required by the coroner or medical  
31 examiner for the investigation of death.

32 (b) If the coroner or medical examiner or a designee allows  
33 recovery of a part under subsection (4) of this section, the  
34 procurement organization, upon request, shall cause the physician or  
35 technician who removes the part to provide the coroner or medical  
36 examiner with a record describing the condition of the part, biopsies,



1 residual tissue, photographs, and any other information and  
2 observations requested by the coroner or medical examiner that would  
3 assist in the investigation of death.

4 (3) A part may not be removed from the body of a decedent under the  
5 jurisdiction of a coroner or medical examiner for transplantation,  
6 therapy, research, or education unless the part is the subject of an  
7 anatomical gift. The body of a decedent under the jurisdiction of the  
8 coroner or medical examiner may not be delivered to a person for  
9 research or education unless the body is the subject of an anatomical  
10 gift. This subsection (3) does not preclude a coroner or medical  
11 examiner from performing the medicolegal investigation upon the body or  
12 parts of a decedent under the jurisdiction of the coroner or medical  
13 examiner.

14 (4) If an anatomical gift of a part from the decedent under the  
15 jurisdiction of the coroner or medical examiner has been or might be  
16 made, but the coroner or medical examiner initially believes that the  
17 recovery of the part could interfere with the postmortem investigation  
18 into the decedent's cause or manner of death, the collection of  
19 evidence, or the description, documentation, or interpretation of  
20 injuries on the body, the coroner or medical examiner may consult with  
21 the procurement organization or physician or technician designated by  
22 the procurement organization about the proposed recovery. After  
23 consultation, the coroner or medical examiner may allow the recovery.

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

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

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

1        NEW SECTION.    **Sec. 25.** Sections 1 through 24 of this act  
2 constitute a new chapter in Title 68 RCW.

3        **Sec. 26.** RCW 68.50.500 and 1993 c 228 s 20 are each amended to  
4 read as follows:

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

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

32        **Sec. 27.** RCW 1.50.010 and 1998 c 59 s 2 are each amended to read  
33 as follows:

34        Unless the context clearly requires otherwise, the definitions in  
35 this section apply throughout this chapter.

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

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

7 (3) "Person" means a person specified in (~~RCW 68.50.550~~) section  
8 9 of this act.

9 **Sec. 28.** RCW 46.12.510 and 2003 c 94 s 6 are each amended to read  
10 as follows:

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

30 The department shall inquire of each applicant at the time the  
31 completed application is presented whether the applicant is interested  
32 in making a donation of one dollar or more and shall also specifically  
33 inform the applicant of the option for organ and tissue donations as  
34 required by RCW 46.20.113. The department shall also provide written  
35 information to each applicant volunteering to become an organ and  
36 tissue donor. The written information shall disclose that the  
37 applicant's name shall be transmitted to the organ and tissue donor

1 registry created in RCW 68.50.635 (as recodified by this act), and that  
2 the applicant shall notify a Washington state organ procurement  
3 organization of any changes to the applicant's donor status.

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

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

10 **Sec. 29.** RCW 46.20.113 and 1993 c 228 s 18 are each amended to  
11 read as follows:

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

- 17 (1) On each driver's license; or
- 18 (2) With each driver's license; or
- 19 (3) With each in-person driver's license application.

20 **Sec. 30.** RCW 46.20.1131 and 2003 c 94 s 5 are each amended to read  
21 as follows:

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

29 NEW SECTION. **Sec. 31.** RCW 68.50.500, 68.50.635, and 68.50.640  
30 are recodified and added to the new chapter created in section 25 of  
31 this act.

32 NEW SECTION. **Sec. 32.** The following acts or parts of acts are  
33 each repealed:

1 (1) RCW 68.50.510 (Good faith compliance with RCW 68.50.500--  
2 Hospital liability) and 1987 c 331 s 72 & 1986 c 129 s 2;  
3 (2) RCW 68.50.520 (Anatomical gifts--Findings--Declaration) and  
4 1993 c 228 s 1;  
5 (3) RCW 68.50.530 (Anatomical gifts--Definitions) and 2003 c 94 s  
6 2, 1996 c 178 s 15, & 1993 c 228 s 2;  
7 (4) RCW 68.50.540 (Anatomical gifts--Authorized--Procedures--  
8 Changes--Refusal) and 2003 c 94 s 4, 1995 c 132 s 1, & 1993 c 228 s 3;  
9 (5) RCW 68.50.550 (Anatomical gifts--By person other than decedent)  
10 and 1993 c 228 s 4;  
11 (6) RCW 68.50.560 (Anatomical gifts--Hospital procedure--Records--  
12 Liability) and 1993 c 228 s 5;  
13 (7) RCW 68.50.570 (Anatomical gifts--Donees) and 1993 c 228 s 6;  
14 (8) RCW 68.50.580 (Anatomical gifts--Document of gift--Delivery)  
15 and 1993 c 228 s 7;  
16 (9) RCW 68.50.590 (Anatomical gifts--Rights of donee--Time of  
17 death--Actions by technician, enucleator) and 1993 c 228 s 8;  
18 (10) RCW 68.50.600 (Anatomical gifts--Hospitals--Procurement and  
19 use coordination) and 1993 c 228 s 9;  
20 (11) RCW 68.50.610 (Anatomical gifts--Illegal purchase or sale--  
21 Penalty) and 2003 c 53 s 312 & 1993 c 228 s 10; and  
22 (12) RCW 68.50.620 (Anatomical gifts--Examination for medical  
23 acceptability--Jurisdiction of coroner, medical examiner--Liability  
24 limited) and 1993 c 228 s 11.

--- END ---