

CERTIFICATION OF ENROLLMENT
SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1637

60th Legislature
2008 Regular Session

Passed by the House March 10, 2008
Yeas 95 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 7, 2008
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1637** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1637

AS AMENDED BY THE SENATE

Passed Legislature - 2008 Regular Session

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 68.50.635 and
4 68.50.640; repealing RCW 68.50.500, 68.50.510, 68.50.520, 68.50.530,
5 68.50.540, 68.50.550, 68.50.560, 68.50.570, 68.50.580, 68.50.590,
6 68.50.600, 68.50.610, and 68.50.620; and prescribing penalties.

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

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

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

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

13 (2) "Agent" means an individual:

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

16 (b) Expressly authorized to make an anatomical gift on the
17 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 68.50.635 and 68.50.640 are each
20 recodified as sections in the new chapter created in section 29 of this
21 act.

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23 each repealed:

- 24 (1) RCW 68.50.500 (Identification of potential donors--Hospital
25 procedures) and 1993 c 228 s 20, 1987 c 331 s 71, & 1986 c 129 s 1;
- 26 (2) RCW 68.50.510 (Good faith compliance with RCW 68.50.500--
27 Hospital liability) and 1987 c 331 s 72 & 1986 c 129 s 2;
- 28 (3) RCW 68.50.520 (Anatomical gifts--Findings--Declaration) and
29 1993 c 228 s 1;
- 30 (4) RCW 68.50.530 (Anatomical gifts--Definitions) and 2003 c 94 s
31 2, 1996 c 178 s 15, & 1993 c 228 s 2;
- 32 (5) RCW 68.50.540 (Anatomical gifts--Authorized--Procedures--
33 Changes--Refusal) and 2003 c 94 s 4, 1995 c 132 s 1, & 1993 c 228 s 3;

1 (6) RCW 68.50.550 (Anatomical gifts--By person other than decedent)
2 and 2007 c 156 s 26 & 1993 c 228 s 4;
3 (7) RCW 68.50.560 (Anatomical gifts--Hospital procedure--Records--
4 Liability) and 1993 c 228 s 5;
5 (8) RCW 68.50.570 (Anatomical gifts--Donees) and 1993 c 228 s 6;
6 (9) RCW 68.50.580 (Anatomical gifts--Document of gift--Delivery)
7 and 1993 c 228 s 7;
8 (10) RCW 68.50.590 (Anatomical gifts--Rights of donee--Time of
9 death--Actions by technician, enucleator) and 1993 c 228 s 8;
10 (11) RCW 68.50.600 (Anatomical gifts--Hospitals--Procurement and
11 use coordination) and 1993 c 228 s 9;
12 (12) RCW 68.50.610 (Anatomical gifts--Illegal purchase or sale--
13 Penalty) and 2003 c 53 s 312 & 1993 c 228 s 10; and
14 (13) RCW 68.50.620 (Anatomical gifts--Examination for medical
15 acceptability--Jurisdiction of coroner, medical examiner--Liability
16 limited) and 1993 c 228 s 11.

--- END ---