

SB 5657 - S AMD 13
By Senator Keiser

WITHDRAWN 01/30/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** This chapter may be cited as the revised
4 uniform anatomical gift act.

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

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

8 (2) "Agent" means an individual:

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

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

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

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

18 (5) "Disinterested witness" means a witness other than the spouse
19 or state registered domestic partner, child, parent, sibling,
20 grandchild, grandparent, or guardian of the individual who makes,
21 amends, revokes, or refuses to make an anatomical gift. The term does
22 not include a person to which an anatomical gift could pass under
23 section 11 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (19) "Person" means an individual, corporation, business trust,
29 estate, trust, partnership, limited liability company, association,
30 joint venture, public corporation, government or governmental
31 subdivision, agency, or instrumentality, or any other legal or
32 commercial entity.

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

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

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

6 (23) "Reasonable costs" include: (a) Programming and software
7 installation and upgrades; (b) employee training that is specific to
8 the organ and tissue donor registry or the donation program created in
9 RCW 46.12.510; (c) literature that is specific to the organ and tissue
10 donor registry or the donation program created in RCW 46.12.510; and
11 (d) hardware upgrades or other issues important to the organ and tissue
12 donor registry or the donation program created in RCW 46.12.510 that
13 have been mutually agreed upon in advance by the department of
14 licensing and the Washington state organ procurement organizations.

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

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

21 (26) "Record" means information that is inscribed on a tangible
22 medium or that is stored in an electronic or other medium and is
23 retrievable in perceivable form.

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

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

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

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

32 (29) "State" means a state of the United States, the District of
33 Columbia, Puerto Rico, the United States Virgin Islands, or any
34 territory or insular possession subject to the jurisdiction of the
35 United States.

36 (30) "Technician" means an individual determined to be qualified to
37 remove or process parts by an appropriate organization that is

1 licensed, accredited, or regulated under federal or state law. The
2 term includes an enucleator.

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

6 (32) "Tissue bank" means a person that is licensed to conduct
7 business in this state, accredited, and regulated under federal or
8 state law to engage in the recovery, screening, testing, processing,
9 storage, or distribution of tissue.

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

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

17 NEW SECTION. **Sec. 3.** This chapter applies to an anatomical gift
18 or amendment to, revocation of, or refusal to make an anatomical gift,
19 whenever made.

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

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

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

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

31 (3) A parent of the donor, if the donor is an unemancipated minor;
32 provided, however, that an anatomical gift made pursuant to this
33 subsection shall cease to be valid once the donor becomes either an
34 emancipated minor or an adult; or

35 (4) The donor's guardian.

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

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

5 (b) In a will;

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

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

10 (2) A donor or other person authorized to make an anatomical gift
11 under section 4 of this act may make a gift by a donor card or other
12 record signed by the donor or other person making the gift or by
13 authorizing that a statement or symbol indicating that the donor has
14 made an anatomical gift be included on a donor registry. If the donor
15 or other person is physically unable to sign a record, the record may
16 be signed by another individual at the direction of the donor or other
17 person and must:

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

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

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

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

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

32 (a) A record signed by:

33 (i) The donor;

34 (ii) The other person; or

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

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

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

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

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

11 (3) Subject to section 8 of this act, a donor or other person
12 authorized to make an anatomical gift under section 4 of this act may
13 revoke an anatomical gift by the destruction or cancellation of the
14 document of gift, or the portion of the document of gift used to make
15 the gift, with the intent to revoke the gift. The donor or other
16 person shall notify the Washington organ procurement organization of
17 the destruction or cancellation of the document of gift for the purpose
18 of removing the individual's name from the organ and tissue donor
19 registry created in RCW 68.50.635 (as recodified by this act). If the
20 Washington state organ procurement organization that is notified does
21 not maintain a registry for Washington residents, it shall notify all
22 Washington state procurement organizations that do maintain such a
23 registry.

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

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

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

33 (a) A record signed by:

34 (i) The individual; or

35 (ii) Subject to subsection (2) of this section, another individual
36 acting at the direction of the individual if the individual is
37 physically unable to sign;

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

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

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

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

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

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

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

17 (b) By subsequently making an anatomical gift pursuant to section
18 5 of this act that is inconsistent with the refusal; or

19 (c) By destroying or canceling the record evidencing the refusal,
20 or the portion of the record used to make the refusal, with the intent
21 to revoke the refusal.

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

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

35 (2) A donor's revocation of an anatomical gift of the donor's body
36 or part under section 6 of this act is not a refusal and does not bar

1 another person specified in section 4 or 9 of this act from making an
2 anatomical gift of the donor's body or part under section 5 or 10 of
3 this act.

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

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

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

18 (6) In the absence of an express, contrary indication by the donor
19 or other person authorized to make an anatomical gift under section 4
20 of this act, an anatomical gift of a part for one or more of the
21 permitted purposes is not a limitation on the making of an anatomical
22 gift of the part for any of the other purposes by the donor or any
23 other person under section 5 or 10 of this act.

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

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

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

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

- 1 (b) The spouse, or domestic partner registered as required by state
2 law, of the decedent;
3 (c) Adult children of the decedent;
4 (d) Parents of the decedent;
5 (e) Adult siblings of the decedent;
6 (f) Adult grandchildren of the decedent;
7 (g) Grandparents of the decedent;
8 (h) The persons who were acting as the guardians of the person of
9 the decedent at the time of death; and
10 (i) Any other person having the authority under applicable law to
11 dispose of the decedent's body.

12 (2) If there is more than one member of a class listed in
13 subsection (1)(a), (c), (d), (e), (f), (g), or (h) of this section
14 entitled to make an anatomical gift, an anatomical gift may be made by
15 a member of the class unless that member or a person to which the gift
16 may pass under section 11 of this act knows of an objection by another
17 member of the class. If an objection is known, the gift may be made
18 only by a majority of the members of the class who are reasonably
19 available.

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

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

30 (2) Subject to subsection (3) of this section, an anatomical gift
31 by a person authorized under section 9 of this act may be amended or
32 revoked orally or in a record by any member of a prior class who is
33 reasonably available. If more than one member of the prior class is
34 reasonably available, the gift made by a person authorized under
35 section 9 of this act may be:

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

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

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

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

11 (a) For research or education: A hospital; an accredited medical
12 school, dental school, college, or university; or an organ procurement
13 organization;

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

17 (c) An eye bank or tissue bank.

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

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

27 (a) If the part is an eye and the gift is for the purpose of
28 transplantation or therapy, the gift passes to the appropriate eye
29 bank.

30 (b) If the part is tissue and the gift is for the purpose of
31 transplantation or therapy, the gift passes to the appropriate tissue
32 bank.

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

36 (d) If the part is an organ, an eye, or tissue and the gift is for

1 the purpose of research or education, the gift passes to the
2 appropriate procurement organization.

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

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

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

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

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

23 (b) If the part is tissue, the gift passes to the appropriate
24 tissue bank.

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

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

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

35 (10) A person may not accept an anatomical gift if the person knows
36 that the gift was not effectively made under section 5 or 10 of this
37 act or if the person knows that the decedent made a refusal under
38 section 7 of this act that was not revoked. For purposes of this

1 subsection (10), if a person knows that an anatomical gift was made on
2 a document of gift, the person is deemed to know of any amendment or
3 revocation of the gift or any refusal to make an anatomical gift on the
4 same document of gift.

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

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

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

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

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

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

34 (4) Unless prohibited by law other than this chapter, at any time
35 after a donor's death, the person to which a part passes under section

1 11 of this act may conduct any reasonable examination necessary to
2 ensure the medical suitability of the body or part for its intended
3 purpose.

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

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

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

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

31 (9) Neither the physician who attends the decedent at death nor the
32 physician who determines the time of the decedent's death may
33 participate in the procedures for removing or transplanting a part from
34 the decedent.

35 (10) A physician or technician may remove a donated part from the
36 body of a donor that the physician or technician is qualified to
37 remove.

1 NEW SECTION. **Sec. 14.** When English is not the first language of
2 the person or persons making, amending, revoking, or refusing
3 anatomical gifts as defined in this act, organ procurement
4 organizations are responsible for providing, at no cost, appropriate
5 interpreter services or translations to such persons for the purpose of
6 making such decisions.

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

10 NEW SECTION. **Sec. 16.** (1) Except as otherwise provided in
11 subsection (2) of this section, a person who, for valuable
12 consideration, knowingly purchases or sells a part for transplantation
13 or therapy if removal of a part from an individual is intended to occur
14 after the individual's death is guilty of a class C felony under RCW
15 9A.20.010.

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

19 NEW SECTION. **Sec. 17.** A person who, in order to obtain financial
20 gain, intentionally falsifies, forges, conceals, defaces, or
21 obliterates a document of gift, an amendment or revocation of a
22 document of gift, or a refusal is guilty of a class C felony under RCW
23 9A.20.010.

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

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

31 (3) In determining whether an anatomical gift has been made,
32 amended, or revoked under this chapter, a person may rely upon
33 representations of an individual listed in section 9(1) (b) through (g)

1 of this act relating to the individual's relationship to the donor or
2 prospective donor unless the person knows that the representation is
3 untrue.

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

- 6 (a) This chapter;
- 7 (b) The laws of the state or country where it was executed; or
- 8 (c) The laws of the state or country where the person making the
9 anatomical gift was domiciled, has a place of residence, or was a
10 national at the time the document of gift was executed.

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

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

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

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

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

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

26 (2) If a prospective donor has a declaration or advance health care
27 directive, and the terms of the declaration or directive and the
28 express or implied terms of a potential anatomical gift are in conflict
29 with regard to the administration of measures necessary to ensure the
30 medical suitability of a part for transplantation or therapy, the
31 prospective donor's attending physician and the prospective donor shall
32 confer to resolve the conflict. If the prospective donor is incapable
33 of resolving the conflict, an agent acting under the prospective
34 donor's declaration or directive, or, if none or the agent is not
35 reasonably available, another person authorized by law other than this
36 chapter to make health care decisions on behalf of the prospective

1 donor, shall act for the donor to resolve the conflict. The conflict
2 must be resolved as expeditiously as possible. Information relevant to
3 the resolution of the conflict may be obtained from the appropriate
4 procurement organization and any other person authorized to make an
5 anatomical gift for the prospective donor under section 9 of this act.
6 Before resolution of the conflict, measures necessary to ensure the
7 medical suitability of the part may not be withheld or withdrawn from
8 the prospective donor if withholding or withdrawing the measures is not
9 contraindicated by appropriate end-of-life care.

10 NEW SECTION. **Sec. 21.** (1)(a) A coroner or medical examiner shall
11 cooperate with procurement organizations, to the extent that such
12 cooperation does not prevent, hinder, or impede the timely
13 investigation of death, to facilitate the opportunity to recover
14 anatomical gifts for the purpose of transplantation or therapy.
15 However, a coroner or medical examiner may limit the number of
16 procurement organizations with which he or she cooperates.

17 (b) The coroner or medical examiner may release the initial
18 investigative information to the tissue or organ procurement
19 organization for the purpose of determining the suitability of the
20 potential donor by those organizations. The information released for
21 this purpose shall remain confidential. The coroner or medical
22 examiner is not liable for any release of confidential information by
23 the procurement organization.

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

30 (b) If the coroner or medical examiner or a designee releases a
31 part for donation under subsection (4) of this section, the procurement
32 organization, upon request, shall cause the physician or technician who
33 removes the part to provide the coroner or medical examiner with a
34 record describing the condition of the part, biopsies, residual tissue,
35 photographs, and any other information and observations requested by
36 the coroner or medical examiner that would assist in the investigation
37 of death.

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

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

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

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

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

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

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

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

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

11 (3) "Person" means a person specified in (~~RCW 68.50.550~~) section
12 9 of this act.

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

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

34 The department shall inquire of each applicant at the time the
35 completed application is presented whether the applicant is interested
36 in making a donation of one dollar or more and shall also specifically
37 inform the applicant of the option for organ and tissue donations as

1 required by RCW 46.20.113. The department shall also provide written
2 information to each applicant volunteering to become an organ and
3 tissue donor. The written information shall disclose that the
4 applicant's name shall be transmitted to the organ and tissue donor
5 registry created in RCW 68.50.635 (as recodified by this act), and that
6 the applicant shall notify a Washington state organ procurement
7 organization of any changes to the applicant's donor status.

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

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

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

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

- 21 (1) On each driver's license; or
- 22 (2) With each driver's license; or
- 23 (3) With each in-person driver's license application.

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

26 The department shall electronically transfer the information of all
27 persons who upon application for a driver's license or identicard
28 volunteer to donate organs or tissue to a registry created in RCW
29 68.50.635 (as recodified by this act), and any subsequent changes to
30 the applicant's donor status when the applicant renews a driver's
31 license or identicard or applies for a new driver's license or
32 identicard.

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

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

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

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

8 (2) RCW 68.50.520 (Anatomical gifts--Findings--Declaration) and
9 1993 c 228 s 1;

10 (3) RCW 68.50.530 (Anatomical gifts--Definitions) and 2003 c 94 s
11 2, 1996 c 178 s 15, & 1993 c 228 s 2;

12 (4) RCW 68.50.540 (Anatomical gifts--Authorized--Procedures--
13 Changes--Refusal) and 2003 c 94 s 4, 1995 c 132 s 1, & 1993 c 228 s 3;

14 (5) RCW 68.50.550 (Anatomical gifts--By person other than decedent)
15 and 2007 c 156 s 26 & 1993 c 228 s 4;

16 (6) RCW 68.50.560 (Anatomical gifts--Hospital procedure--Records--
17 Liability) and 1993 c 228 s 5;

18 (7) RCW 68.50.570 (Anatomical gifts--Donees) and 1993 c 228 s 6;

19 (8) RCW 68.50.580 (Anatomical gifts--Document of gift--Delivery)
20 and 1993 c 228 s 7;

21 (9) RCW 68.50.590 (Anatomical gifts--Rights of donee--Time of
22 death--Actions by technician, enucleator) and 1993 c 228 s 8;

23 (10) RCW 68.50.600 (Anatomical gifts--Hospitals--Procurement and
24 use coordination) and 1993 c 228 s 9;

25 (11) RCW 68.50.610 (Anatomical gifts--Illegal purchase or sale--
26 Penalty) and 2003 c 53 s 312 & 1993 c 228 s 10; and

27 (12) RCW 68.50.620 (Anatomical gifts--Examination for medical
28 acceptability--Jurisdiction of coroner, medical examiner--Liability
29 limited) and 1993 c 228 s 11."

WITHDRAWN 01/30/2008

1 On page 1, line 2 of the title, after "act;" strike the remainder
2 of the title and insert "amending RCW 1.50.010, 46.12.510, 46.20.113,
3 and 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."

--- END ---