

**As Introduced**

**124th General Assembly  
Regular Session  
2001-2002**

**S. B. No. 158**

**SENATOR Wachtmann**

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**A B I L L**

To amend sections 2108.04, 2108.08, 2108.10, and 1  
2108.15 of the Revised Code regarding organ donor 2  
designations made by persons over age 18 and use of 3  
funds for organ donor awareness programs in 4  
schools. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2108.04, 2108.08, 2108.10, and 6  
2108.15 of the Revised Code be amended to read as follows: 7

**Sec. 2108.04.** (A) An individual eighteen years of age or 8  
older may make an anatomical gift by will under division (A) of 9  
section 2108.02 of the Revised Code. The anatomical gift becomes 10  
effective upon the death of the testator without waiting for 11  
probate. If the will is not probated or if it is declared invalid 12  
for testamentary purposes, the anatomical gift, to the extent that 13  
it has been acted upon in good faith, is nevertheless valid and 14  
effective. 15

(B)(1) An individual may also make an anatomical gift under 16  
division (A) of section 2108.02 of the Revised Code by a document 17  
other than a will. The anatomical gift becomes effective upon the 18  
death of the donor. The document, which may be a card designed to 19  
be carried on the person, shall be signed by the donor in the 20

presence of two witnesses who shall sign the document in the  
donor's presence. If the donor cannot sign, the document may be  
signed for the donor at the donor's direction and in the presence  
of two witnesses, having no affiliation with the donee, who shall  
sign the document in the donor's presence. Delivery of the  
document of gift during the donor's lifetime is not necessary to  
make the anatomical gift valid.

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(2) If a person less than eighteen years of age wishes to  
make an anatomical gift under division (B)(1) of this section, one  
of the witnesses who signs the document shall be a parent or  
guardian of that person.

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(C) An anatomical gift under division (A) of section 2108.02  
of the Revised Code may also be made by a designation, to be  
provided for on all Ohio driver's or commercial driver's licenses  
and motorcycle operator's licenses or endorsements, and on all  
identification cards. The anatomical gift becomes effective upon  
the death of the donor. The holder of the driver's or commercial  
driver's license or endorsement, or the holder of the  
identification card must sign a statement at the time of  
application or renewal of the license, endorsement, or  
identification card ~~in the presence of two witnesses, who must  
sign the statement in the presence of the donor;~~ except that when  
the holder of the license or card is less than eighteen years of  
age, one the statement must be signed in the presence of two  
witnesses, who must sign the statement in the donor's presence.

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One of the witnesses ~~who signs~~ shall be a parent or guardian of  
the holder. Delivery of the license or identification card during  
the donor's lifetime is not necessary to make the anatomical gift  
valid. Revocation, suspension, or expiration of the license or  
endorsement will not invalidate the anatomical gift. The  
anatomical gift must be renewed upon renewal of each license,  
endorsement, or identification card. If the statement is ambiguous

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as to whether a general or specific anatomical gift is intended by 53  
the donor, the statement shall be construed as evidencing the 54  
specific anatomical gift only. 55

(D) Except as provided in section 2108.07 of the Revised 56  
Code, the donee or other person authorized to accept the 57  
anatomical gift may employ or authorize any surgeon or physician 58  
to carry out the appropriate procedures. 59

(E) Any anatomical gift by a person specified in division (B) 60  
of section 2108.02 of the Revised Code shall be made in one of the 61  
following ways: 62

(1) By a document signed by the person; 63

(2) By telegram; 64

(3) By a telephone call in which two persons receive the 65  
message and one of them prepares written documentation of the 66  
message, or by a telephone call that is recorded mechanically or 67  
electronically. 68

(F) A valid declaration of an anatomical gift made under 69  
division (A), (B), or (C) of this section prevails over any 70  
contrary desires of the donor's family regarding the donor's 71  
corpse, but nothing in this section shall be construed as 72  
requiring a donee to accept an anatomical gift. 73

**Sec. 2108.08.** A person who in good faith acts, or attempts to 74  
act, in accordance with sections 2108.01 to 2108.12, 2108.15, 75  
2108.17, and 2108.18 of the Revised Code, or the anatomical gift 76  
laws of another state, is not liable for damages in any civil 77  
action or subject to prosecution in any criminal proceeding for 78  
his act. 79

**Sec. 2108.10.** (A) The document of gift provided for in 80  
division (B) of section 2108.04 of the Revised Code shall conform 81

substantially to the following form:	82
"ANATOMICAL GIFT OF	83
.....	84
(Print or type name of living donor)	85
In the hope that I may help others upon my death, I hereby	86
give ..... the following body	87
parts: ..... for any	88
purpose authorized by law: transplantation, therapy, research, or	89
education.	90
Signed by the donor and the following two witnesses in the	91
presence of each other:	92
.....	93
Signature of Donor	94
.....	95
Date of Birth of Donor	96
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Date Signed	98
.....	99
Witness	100
.....	101
Witness	102
This is a legal document under the Uniform Anatomical Gift Act or	103
similar laws."	104
(B) The document of gift provided for in division (E) of	105
section 2108.04 of the Revised Code shall conform substantially to	106
the following form:	107
"ANATOMICAL GIFT BY A RELATIVE	108
OR THE GUARDIAN OF	109
THE PERSON OF A DECEDENT	110
I hereby make this anatomical gift from the body of	111

..... (name) who died on .....	112	
(date) in ..... (city and state)	113	
The marks in the appropriate squares and the words filled	114	
into the blanks below indicate my relationship to the decedent and	115	
my desires respecting the anatomical gift.	116	
1. I survive the decedent as:	117	
1. <input type="checkbox"/> spouse;	118	
2. <input type="checkbox"/> adult son or daughter;	119	
3. <input type="checkbox"/> parent;	120	
4. <input type="checkbox"/> adult brother or sister;	121	
5. <input type="checkbox"/> grandparent;	122	
6. <input type="checkbox"/> guardian of the person;	123	
7. <input type="checkbox"/> person authorized to dispose of the body	124	
2. I hereby give the following body parts:	125	
<input type="checkbox"/> heart <input type="checkbox"/> liver <input type="checkbox"/> skin <input type="checkbox"/> middle ear	126	
<input type="checkbox"/> kidneys <input type="checkbox"/> lung <input type="checkbox"/> heart valves <input type="checkbox"/> other .....	127	
<input type="checkbox"/> pancreas <input type="checkbox"/> eyes <input type="checkbox"/> bone/ligament	128	
for: <input type="checkbox"/> any purpose authorized by law	129	
<input type="checkbox"/> transplantation	130	
<input type="checkbox"/> therapy	131	
<input type="checkbox"/> medical research and education	132	
3. After the donated organs, tissues, or eyes are removed, the	133	
remains of the body shall be disposed of in the following manner:	134	
.....; at the expense of the following person:	135	
.....	136	
Date .....	City and State .....	137
.....	.....	138
Witness	Signature of Survivor	139
.....	.....	140
Witness	Address of Survivor"	141
(C) The statement of gift provided for in division (C) of	142	

section 2108.04 of the Revised Code for persons under eighteen 143  
years of age shall conform substantially to the following form: 144

"I hereby make an anatomical gift, to be effective upon my 145  
death, of: 146

(A)  Any needed body parts 147

or 148

(B)  The following body part(s): 149

(list) 150

..... 151

Date ..... 152

Signature of donor ..... 153

Witness ..... 154

Witness ..... "

(D) The statement of gift provided for in division (C) of 156  
section 2108.04 of the Revised Code for persons who are eighteen 157  
years of age or older shall conform substantially to the following 158  
form: 159

"I hereby make an anatomical gift, to be effective on my 160  
death, of: 161

(A)  Any needed body parts 162

or 163

(B)  The following body part(s): 164

(list) 165

..... 166

Date..... 167

Signature of donor..... " 168

**Sec. 2108.15.** (A) There is hereby created in the state 169  
treasury the second chance trust fund. The fund shall consist of 170  
voluntary contributions deposited as provided in sections 171  
4506.081, 4507.231, and 4507.501 of the Revised Code. All 172  
investment earnings of the fund shall be credited to the fund. 173

(B) The director of health shall use the money in the fund 174  
only for the following purposes: 175

(1) Development and implementation of a campaign that 176  
explains and promotes the second chance trust fund; 177

(2) Development and implementation of local and statewide 178  
public education programs about organ, tissue, and eye donation, 179  
including the informational material required to be provided under 180  
sections 4506.081, 4507.231, and 4507.501 of the Revised Code; 181

(3) Development and implementation of local and statewide 182  
donor awareness programs in ~~secondary~~ schools; 183

(4) Development and implementation of local and statewide 184  
programs to recognize donor families; 185

(5) Development and distribution of materials promoting 186  
organ, tissue, and eye donation; 187

(6) Cooperation with the Ohio Supreme Court, Ohio State Bar 188  
Association, and law schools of this state to more effectively 189  
educate attorneys about the donation of anatomical gifts and to 190  
encourage them to assist their clients in donating anatomical 191  
gifts through anatomical gift declarations, durable powers of 192  
attorney for health care, declarations as defined in section 193  
2133.01 of the Revised Code, wills, and any other appropriate 194  
means; 195

(7) Cooperation with the state medical board, state medical, 196  
osteopathic, and ophthalmological associations, and colleges of 197  
medicine and osteopathic medicine in this state to more 198

effectively educate physicians about the donation of anatomical gifts and to encourage them to assist their patients in making declarations of anatomical gifts;	199 200 201
(8) Development and initial implementation of the donor registry established pursuant to section 2108.18 of the Revised Code, except that the total amount expended shall not exceed one hundred fifty thousand dollars;	202 203 204 205
(9) Development of statewide hospital training programs to encourage and facilitate compliance with section 2108.021 of the Revised Code concerning circumstances under which an anatomical gift is required to be requested;	206 207 208 209
(10) Reimbursement of the bureau of motor vehicles for the administrative costs incurred in the performance of duties under sections 4506.081, 4507.231, and 4507.501 of the Revised Code;	210 211 212
(11) Reimbursement of the department of health for administrative costs incurred in the performance of duties under this section and section 2108.17 of the Revised Code;	213 214 215
(12) Reimbursement of members of the second chance fund advisory committee for actual and necessary expenses incurred in the performance of official duties.	216 217 218
(C) The director shall make the materials developed under division (B)(5) of this section available to other state agencies.	219 220
(D) The director shall consider recommendations made by the second chance trust fund advisory committee pursuant to section 2108.17 of the Revised Code. The director shall determine the appropriateness of and approve or disapprove projects recommended by the advisory committee for funding and approve or disapprove the disbursement of money from the second chance trust fund.	221 222 223 224 225 226
<b>Section 2.</b> That existing sections 2108.04, 2108.08, 2108.10, and 2108.15 of the Revised Code are hereby repealed.	227 228