

As Passed by the House

124th General Assembly

Regular Session

2001-2002

Sub. S. B. No. 158

SENATORS Wachtmann, Hagan, Blessing, Armbruster, Prentiss,

Randy Gardner, Harris, Shoemaker, Spada, White

REPRESENTATIVES Jolivette, Kearns, Aslanides, Barnes, Roman,

McGregor, Sullivan, Seitz, Schneider, Williams, Cirelli, D. Miller, R. Miller,

Patton, S. Smith, Beatty, Schmidt, Coates, Hagan, Buehrer, Otterman,

Carano, Distel, Redfern, Sferra, Oakar, Latell, Fedor, Flowers, G. Smith,

Salerno, Schaffer, Gilb, Lendrum, Young, Evans, Hoops, Perry

A B I L L

To amend sections 2108.04, 2108.08, 2108.10, and 1
2108.15 and to enact section 2108.101 of the 2
Revised Code regarding organ donor designations 3
made by persons over age 18 and use of funds for 4
organ donor awareness programs in schools and to 5
declare an emergency. 6

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

Section 1. That sections 2108.04, 2108.08, 2108.10, and 7
2108.15 be amended and section 2108.101 of the Revised Code be 8
enacted to read as follows: 9

Sec. 2108.04. (A) An individual eighteen years of age or 10
older may make an anatomical gift by will under division (A) of 11
section 2108.02 of the Revised Code. The anatomical gift becomes 12
effective upon the death of the testator without waiting for 13
probate. If the will is not probated or if it is declared invalid 14

for testamentary purposes, the anatomical gift, to the extent that 15
it has been acted upon in good faith, is nevertheless valid and 16
effective. 17

(B)(1) An individual may also make an anatomical gift under 18
division (A) of section 2108.02 of the Revised Code by a document 19
other than a will. The anatomical gift becomes effective upon the 20
death of the donor. The document, which may be a card designed to 21
be carried on the person, shall be signed by the donor in the 22
presence of two witnesses who shall sign the document in the 23
donor's presence. If the donor cannot sign, the document may be 24
signed for the donor at the donor's direction and in the presence 25
of two witnesses, having no affiliation with the donee, who shall 26
sign the document in the donor's presence. Delivery of the 27
document of gift during the donor's lifetime is not necessary to 28
make the anatomical gift valid. 29

(2) If a person less than eighteen years of age wishes to 30
make an anatomical gift under division (B)(1) of this section, one 31
of the witnesses who signs the document shall be a parent or 32
guardian of that person. 33

(C) An anatomical gift under division (A) of section 2108.02 34
of the Revised Code may also be made by a designation, to be 35
provided for on all Ohio driver's or commercial driver's licenses 36
and motorcycle operator's licenses or endorsements, and on all 37
identification cards. The anatomical gift becomes effective upon 38
the death of the donor. The holder of the driver's or commercial 39
driver's license or endorsement, or the holder of the 40
identification card must sign a statement at the time of 41
application or renewal of the license, endorsement, or 42
identification card ~~in the presence of two witnesses, who must~~ 43
~~sign the statement in the presence of the donor;~~ except that when 44
the holder of the license or card is less than eighteen years of 45
age, ~~one of the witnesses who signs~~ the statement also shall be 46

signed by a parent or guardian of the holder. Delivery of the 47
license or identification card during the donor's lifetime is not 48
necessary to make the anatomical gift valid. Revocation, 49
suspension, or expiration of the license or endorsement will not 50
invalidate the anatomical gift. The anatomical gift must be 51
renewed upon renewal of each license, endorsement, or 52
identification card. ~~If the statement is ambiguous as to whether a 53
general or specific anatomical gift is intended by the donor, the 54
statement shall be construed as evidencing the specific anatomical 55
gift only.~~ 56

(D) Except as provided in section 2108.07 of the Revised 57
Code, the donee or other person authorized to accept the 58
anatomical gift may employ or authorize any surgeon or physician 59
to carry out the appropriate procedures. 60

(E) Any anatomical gift by a person specified in division (B) 61
of section 2108.02 of the Revised Code shall be made in one of the 62
following ways: 63

(1) By a document signed by the person; 64

(2) By telegram; 65

(3) By a telephone call in which two persons receive the 66
message and one of them prepares written documentation of the 67
message, or by a telephone call that is recorded mechanically or 68
electronically. 69

(F) A valid declaration of an anatomical gift made under 70
division (A), (B), or (C) of this section prevails over any 71
contrary desires of the donor's family regarding the donor's 72
corpse, but nothing in this section shall be construed as 73
requiring a donee to accept an anatomical gift. 74

Sec. 2108.08. A person who in good faith acts, or attempts to 75
act, in accordance with sections 2108.01 to 2108.12, 2108.15, 76

2108.17, and 2108.18 of the Revised Code, or the anatomical gift 77
laws of another state, is not liable for damages in any civil 78
action or subject to prosecution in any criminal proceeding for 79
his act. 80

Sec. 2108.10. (A) The document of gift provided for in 81
division (B) of section 2108.04 of the Revised Code shall conform 82
substantially to the following form: 83

"ANATOMICAL GIFT OF 84

..... 85

(Print or type name of living donor) 86

In the hope that I may help others upon my death, I hereby 87
give the following body 88
parts: for any 89
purpose authorized by law: transplantation, therapy, research, or 90
education. 91

Signed by the donor and the following two witnesses in the 92
presence of each other: 93

..... 94

Signature of Donor 95

..... 96

Date of Birth of Donor 97

..... 98

Date Signed 99

..... 100

Witness 101

..... 102

Witness 103

This is a legal document under the Uniform Anatomical Gift Act or 104
similar laws." 105

(B) The document of gift provided for in division (E) of 106
section 2108.04 of the Revised Code shall conform substantially to 107
the following form: 108

"ANATOMICAL GIFT BY A RELATIVE 109
OR THE GUARDIAN OF 110
THE PERSON OF A DECEDENT 111

I hereby make this anatomical gift from the body of 112
..... (name) who died on 113
(date) in (city and state) 114

The marks in the appropriate squares and the words filled 115
into the blanks below indicate my relationship to the decedent and 116
my desires respecting the anatomical gift. 117

1. I survive the decedent as: 118
- 1. spouse; 119
 - 2. adult son or daughter; 120
 - 3. parent; 121
 - 4. adult brother or sister; 122
 - 5. grandparent; 123
 - 6. guardian of the person; 124
 - 7. person authorized to dispose of the body 125

2. I hereby give the following body parts: 126
- heart liver skin middle ear 127
 kidneys lung heart valves other 128
 pancreas eyes bone/ligament 129
- for: any purpose authorized by law 130
 transplantation 131
 therapy 132
 medical research and education 133

3. After the donated organs, tissues, or eyes are removed, the 134
remains of the body shall be disposed of in the following manner: 135
.....; at the expense of the following person: 136

.....	137	
Date	138	
.....	139	
Witness	Signature of Survivor	140
.....	141
Witness	Address of Survivor"	142
(C) The statement of gift provided for in division (C) of	143	
section 2108.04 of the Revised Code shall conform substantially to	144	
<u>state</u> the following form:	145	
"I hereby make an anatomical gift, to be effective upon my	146	
death, of:	147	
(A) [] Any needed body parts	148	
or	149	
(B) [] The following body part(s):	150	
(list)	151	
.....	152	
Date	153	
Signature of donor	154	
Witness	155	
Witness	156	
<u>Upon my death, I make an anatomical gift of organs, tissues, and</u>	157	
<u>eyes for any purpose authorized by law."</u>	158	
<u>The statement may be included on an application for a</u>	159	
<u>driver's license, commercial driver's license, motorcycle</u>	160	
<u>operator's license or endorsement, or state identification card.</u>	161	
<u>The donor shall sign the statement or the application containing</u>	162	
<u>the statement. If the donor is under eighteen years of age, a</u>	163	
<u>parent or guardian of the donor also must sign the statement or</u>	164	
<u>the application containing the statement.</u>	165	

Sec. 2108.101. Any anatomical gift designation made prior to 166
the effective date of this section by a person eighteen years old 167
or older that includes that person's signature is valid regardless 168
of whether it has been witnessed. 169

Sec. 2108.15. (A) There is hereby created in the state 170
treasury the second chance trust fund. The fund shall consist of 171
voluntary contributions deposited as provided in sections 172
4506.081, 4507.231, and 4507.501 of the Revised Code. All 173
investment earnings of the fund shall be credited to the fund. 174

(B) The director of health shall use the money in the fund 175
only for the following purposes: 176

(1) Development and implementation of a campaign that 177
explains and promotes the second chance trust fund; 178

(2) Development and implementation of local and statewide 179
public education programs about organ, tissue, and eye donation, 180
including the informational material required to be provided under 181
sections 4506.081, 4507.231, and 4507.501 of the Revised Code; 182

(3) Development and implementation of local and statewide 183
donor awareness programs in ~~secondary~~ schools; 184

(4) Development and implementation of local and statewide 185
programs to recognize donor families; 186

(5) Development and distribution of materials promoting 187
organ, tissue, and eye donation; 188

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

2133.01 of the Revised Code, wills, and any other appropriate	195
means;	196
(7) Cooperation with the state medical board, state medical,	197
osteopathic, and ophthalmological associations, and colleges of	198
medicine and osteopathic medicine in this state to more	199
effectively educate physicians about the donation of anatomical	200
gifts and to encourage them to assist their patients in making	201
declarations of anatomical gifts;	202
(8) Development and initial implementation of the donor	203
registry established pursuant to section 2108.18 of the Revised	204
Code, except that the total amount expended shall not exceed one	205
hundred fifty thousand dollars;	206
(9) Development of statewide hospital training programs to	207
encourage and facilitate compliance with section 2108.021 of the	208
Revised Code concerning circumstances under which an anatomical	209
gift is required to be requested;	210
(10) Reimbursement of the bureau of motor vehicles for the	211
administrative costs incurred in the performance of duties under	212
sections 4506.081, 4507.231, and 4507.501 of the Revised Code;	213
(11) Reimbursement of the department of health for	214
administrative costs incurred in the performance of duties under	215
this section and section 2108.17 of the Revised Code;	216
(12) Reimbursement of members of the second chance fund	217
advisory committee for actual and necessary expenses incurred in	218
the performance of official duties.	219
(C) The director shall make the materials developed under	220
division (B)(5) of this section available to other state agencies.	221
(D) The director shall consider recommendations made by the	222
second chance trust fund advisory committee pursuant to section	223
2108.17 of the Revised Code. The director shall determine the	224

appropriateness of and approve or disapprove projects recommended 225
by the advisory committee for funding and approve or disapprove 226
the disbursement of money from the second chance trust fund. 227

Section 2. That existing sections 2108.04, 2108.08, 2108.10, 228
and 2108.15 of the Revised Code are hereby repealed. 229

Section 3. This act is hereby declared to be an emergency 230
measure necessary for the immediate preservation of the public 231
peace, health, and safety. The reason for such necessity is to 232
preserve the intent of persons who believe they have fully 233
expressed the intent to make an anatomical gift, but have not 234
obtained the necessary witnesses' signatures. Therefore, this act 235
goes into immediate effect. 236