

As Reported by the House Health and Family Services Committee

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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. <input type="checkbox"/> spouse;	119
2. <input type="checkbox"/> adult son or daughter;	120
3. <input type="checkbox"/> parent;	121
4. <input type="checkbox"/> adult brother or sister;	122
5. <input type="checkbox"/> grandparent;	123
6. <input type="checkbox"/> guardian of the person;	124
7. <input type="checkbox"/> person authorized to dispose of the body	125
2. I hereby give the following body parts:	126
<input type="checkbox"/> heart <input type="checkbox"/> liver <input type="checkbox"/> skin <input type="checkbox"/> middle ear	127
<input type="checkbox"/> kidneys <input type="checkbox"/> lung <input type="checkbox"/> heart valves <input type="checkbox"/> other	128
<input type="checkbox"/> pancreas <input type="checkbox"/> eyes <input type="checkbox"/> bone/ligament	129
for:	
<input type="checkbox"/> any purpose authorized by law	130
<input type="checkbox"/> transplantation	131
<input type="checkbox"/> therapy	132
<input type="checkbox"/> 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	
City and State	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
<u>Sec. 2108.101. Any anatomical gift designation made prior to</u>		166
<u>the effective date of this section by a person eighteen years old</u>		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,
and 2108.15 of the Revised Code are hereby repealed.

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