

**As Reported by the Senate Health, Human Services and Aging  
Committee**

**124th General Assembly  
Regular Session  
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**Sub. S. B. No. 158**

**SENATORS Wachtmann, Hagan, Blessing, Armbruster, Prentiss**

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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

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other than a will. The anatomical gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, shall be signed by the donor in the 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 of the witnesses who signs~~ the statement also shall be signed by 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

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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

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Signature of Donor 95

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Date of Birth of Donor 97

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Date Signed 99

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Witness 101

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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

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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 ..... 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  
state 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~~

~~Upon my death, I make an anatomical gift of organs, tissues, and 157  
eyes for any purpose authorized by law." 158~~

~~The statement may be included on an application for a 159  
driver's license, commercial driver's license, motorcycle 160  
operator's license or endorsement, or state identification card. 161  
The donor shall sign the statement or the application containing 162  
the statement. If the donor is under eighteen years of age, a 163  
parent or guardian of the donor also must sign the statement or 164  
the application containing the statement. 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~~

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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

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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
<b>Section 2.</b> That existing sections 2108.04, 2108.08, 2108.10,	228



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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