

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

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Sub. H. B. No. 392

**Representatives Wagner, Williams, McGregor, Latta, Hoops, Price, Seitz,
Aslanides, G. Smith, Hollister, Kearns, Harwood, Perry, Raga, Walcher,
Distel, DeGeeter, Collier, Schmidt, C. Evans, Faber, Ujvagi, Gilb, Reidelbach,
Barrett, Allen, Willamowski, Beatty, Book, Brown, Carano, Chandler, Cirelli,
Core, Daniels, Domenick, D. Evans, Flowers, Gibbs, Hagan, Hartnett, Hughes,
Key, Mason, Miller, Niehaus, Otterman, Raussen, Redfern, Schlichter,
Schneider, Sferra, Skindell, Slaby, D. Stewart, J. Stewart, Sykes, Taylor,
Webster, Wilson, Woodard**

A B I L L

To amend sections 2108.04, 2108.10, 2108.17, 2108.18, 1
and 2133.07 and to enact section 2133.16 of the 2
Revised Code to permit a declarant of a 3
declaration or living will to make an anatomical 4
gift in the declaration and to make changes to the 5
membership of the Second Chance Trust Fund 6
Advisory Committee. 7

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

Section 1. That sections 2108.04, 2108.10, 2108.17, 2108.18, 8
and 2133.07 be amended and section 2133.16 of the Revised Code be 9
enacted to read as follows: 10

Sec. 2108.04. (A) An individual eighteen years of age or 11
older may make an anatomical gift by will under division (A) of 12

section 2108.02 of the Revised Code. The anatomical gift becomes 13
effective upon the death of the testator without waiting for 14
probate. If the will is not probated or if it is declared invalid 15
for testamentary purposes, the anatomical gift, to the extent that 16
it has been acted upon in good faith, is nevertheless valid and 17
effective. 18

(B)(1) An individual may also make an anatomical gift under 19
division (A) of section 2108.02 of the Revised Code by a document 20
other than a will. The anatomical gift becomes effective upon the 21
death of the donor. The document, which may be a card designed to 22
be carried on the person, shall be signed by the donor in the 23
presence of two witnesses who shall sign the document in the 24
donor's presence. If the donor cannot sign, the document may be 25
signed for the donor at the donor's direction and in the presence 26
of two witnesses, having no affiliation with the donee, who shall 27
sign the document in the donor's presence. Delivery of the 28
document of gift during the donor's lifetime is not necessary to 29
make the anatomical gift valid. 30

(2) If a person less than eighteen years of age wishes to 31
make an anatomical gift under division (B)(1) of this section, one 32
of the witnesses who signs the document shall be a parent or 33
guardian of that person. 34

(3) An individual who is a declarant may make an anatomical 35
gift under division (A) of section 2108.02 of the Revised Code by 36
specifying in the declaration the intent of the declarant to make 37
an anatomical gift as provided in section 2133.16 of the Revised 38
Code. A declaration that specifies the intent of a declarant to 39
make an anatomical gift and satisfies the requirements of section 40
2133.02 of the Revised Code is considered as having satisfied the 41
requirements of division (B)(1) of this section. The declaration 42
is subject to sections 2108.01 to 2108.12 of the Revised Code to 43

the extent that the declaration specifies the intent of the
declarant to make an anatomical gift.

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As used in division (B)(3) of this section, "declarant" and
"declaration" have the same meanings as in section 2133.01 of the
Revised Code.

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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; except that when the holder of the license or
card is less than eighteen years of age, 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
renewed upon renewal of each license, endorsement, or
identification card.

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

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

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(1) By a document signed by the person;

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Witness	105
.....	106
Witness	107
This is a legal document under the Uniform Anatomical Gift Act or similar laws."	108 109
<u>The statement of an anatomical gift provided for in division (B)(3) of section 2108.04 of the Revised Code and section 2133.16 of the Revised Code shall conform substantially to the form provided in division (B) of section 2133.07 of the Revised Code.</u>	110 111 112 113
(B) The document of gift provided for in division (E) of section 2108.04 of the Revised Code shall conform substantially to the following form:	114 115 116
"ANATOMICAL GIFT BY A RELATIVE	117
OR THE GUARDIAN OF	118
THE PERSON OF A DECEDENT	119
I hereby make this anatomical gift from the body of	120
..... (name) who died on	121
(date) in (city and state)	122
The marks in the appropriate squares and the words filled into the blanks below indicate my relationship to the decedent and my desires respecting the anatomical gift.	123 124 125
1. I survive the decedent as:	126
1. [] spouse;	127
2. [] adult son or daughter;	128
3. [] parent;	129
4. [] adult brother or sister;	130
5. [] grandparent;	131
6. [] guardian of the person;	132
7. [] person authorized to dispose of the body	133
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2. I hereby give the following body parts:	135

[] heart	[] liver	[] skin	[] middle ear	136
[] kidneys	[] lung	[] heart valves	[] other	137
[] pancreas	[] eyes	[] bone/ligament		138
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for:	[] any purpose authorized by law			140
	[] transplantation			141
	[] therapy			142
	[] medical research and education			143
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3. After the donated organs, tissues, or eyes are removed, the				145
remains of the body shall be disposed of in the following manner:				146
.....; at the expense of the following person:				147
.....				148
Date	City and State			149
.....			150
Witness	Signature of Survivor			151
.....			152
Witness	Address of Survivor"			153
(C) The statement of gift provided for in division (C) of				154
section 2108.04 of the Revised Code shall state the following:				155
"Upon my death, I make an anatomical gift of organs, tissues, and				156
eyes for any purpose authorized by law."				157
The statement may be included on an application for a				158
driver's license, commercial driver's license, motorcycle				159
operator's license or endorsement, or state identification card.				160
The donor shall sign the statement or the application containing				161
the statement. If the donor is under eighteen years of age, a				162
parent or guardian of the donor also must sign the statement or				163
the application containing the statement.				164
Sec. 2108.17. (A) There is hereby created within the				165

department of health the second chance trust fund advisory 166
committee, consisting of ~~eleven~~ thirteen members. The members 167
shall include the following: 168

(1) The chairs of the standing committees of the house of 169
representatives and senate with primary responsibilities for 170
health legislation; 171

(2) One representative of each of the following appointed by 172
the director of health: 173

(a) An Ohio organ procurement organization that is a member 174
of the Organ Procurement and Transplantation Network; 175

(b) An Ohio tissue bank that is an accredited member of the 176
American association of tissue banks ~~and is not affiliated with an~~ 177
~~organ procurement organization;~~ 178

(c) An Ohio eye bank that is certified by the eye bank 179
association of America ~~and is not affiliated with an organ~~ 180
~~procurement organization;~~ 181

(d) The Ohio solid organ transplantation consortium; 182

(e) ~~The~~ A hospital to which both of the following apply: 183

(i) It is a member of the Ohio hospital association. 184

(ii) It has a transplant program or a facility that has been 185
verified as a level I or level II trauma center by the American 186
college of surgeons. 187

(f) The department of health. 188

(3) Except as provided in division ~~(D)~~(C) of this section, 189
three members of the public appointed by the director who are not 190
affiliated with recovery agencies; 191

(4) Two members appointed by the director who are either 192
affiliated with recovery agencies or members of the public. 193

~~(B) No two members appointed under divisions (A)(2)(a), (b), and (c) of this section shall be from the same organ procurement and distribution service area designated by the United States secretary of health and human services.~~

~~(C)~~ Of the members first appointed under division (A)(2) of this section, the representatives of the organ procurement organization, tissue procurement organization, and eye bank shall serve terms of three years; the representatives of the department of health and Ohio solid organ transplantation consortium shall serve terms of two years; and the member representing the Ohio hospital association shall serve a term of one year. Thereafter, all members shall serve terms of three years.

~~(D)~~(C) The members initially appointed under division (A)(3) of this section shall be representatives of the following:

(1) An organ procurement organization in Ohio designated by the United States secretary of health and human services that is not represented by the appointment under division (A)(2)(a) of this section;

(2) An Ohio tissue bank that is an accredited member of the American association of tissue banks, not affiliated with an organ procurement organization, and not represented by the appointment under division (A)(2)(b) of this section;

(3) An Ohio eye bank that is certified by the eye bank association of America, not affiliated with an organ procurement organization, and not represented by the appointment under division (A)(2)(c) of this section.

The three members shall serve until the proposed rules under section 2108.18 of the Revised Code are formulated. After the initial appointments, the director shall appoint three members of the public who are not affiliated with recovery agencies to serve terms of three years.

~~(E)~~ (D) Members appointed under division (A)(2), (3), or (4) of this section shall be geographically and demographically representative of the state. No more than a total of three members appointed under divisions (A)(2), (3), and (4) of this section shall be affiliated with the same recovery agency or group of recovery agencies. Recovery agencies that recover only one type of organ, tissue, or part, as well as recovery agencies that recover more than one type of organ, tissue, or part, shall be represented.

No individual appointed under division (A)(2) ~~or~~, (3), or (4) of this section shall serve more than two consecutive terms, regardless of whether the terms were full or partial terms. Each member shall serve from the date of appointment until the member's successor is appointed. All vacancies on the committee shall be filled for the balance of the unexpired term in the same manner as the original appointment.

~~(F)~~(E) The committee shall annually elect a chairperson from among its members and shall establish procedures for the governance of its operations. The committee shall meet at least semiannually. It shall submit an annual report of its activities and recommendations to the director of health.

~~(G)~~(F) Committee members shall serve without compensation, but shall be reimbursed from the second chance trust fund for all actual and necessary expenses incurred in the performance of official duties.

~~(H)~~(G) The committee shall do all of the following:

(1) Make recommendations to the director of health for projects for funding from the second chance trust fund;

(2) Consult with the registrar of motor vehicles in formulating proposed rules under division (C)(1) of section 2108.18 of the Revised Code;

(3) As requested, consult with the registrar or director on 256
other matters related to organ donation; 257

(4) Approve brochures, written materials, and electronic 258
media regarding anatomical gifts and anatomical gift procedures 259
for use in driver training schools pursuant to section 4508.021 of 260
the Revised Code. 261

~~(I)~~(H) The committee is not subject to section 101.84 of the 262
Revised Code. 263

Sec. 2108.18. (A)(1) The bureau of motor vehicles shall 264
develop and maintain a donor registry that identifies each 265
individual who has agreed to make an anatomical gift by a 266
designation on a driver's or commercial driver's license or 267
motorcycle operator's license or endorsement as provided in 268
division (C) of section 2108.04 of the Revised Code. The registry 269
shall be fully operational not later than July 1, 2002. 270

(2) Any person who provides to the bureau the form set forth 271
in division (C)(2) of section 2133.07 of the Revised Code 272
requesting to be included in the donor registry shall be included. 273

(B) The bureau shall maintain the registry in a manner that 274
provides to organ procurement organizations, tissue banks, and eye 275
banks immediate access to the information in the registry 276
twenty-four hours a day and seven days a week. 277

(C)(1) The registrar of motor vehicles, in consultation with 278
the director of health and the second chance trust fund advisory 279
committee created under section 2108.17 of the Revised Code, shall 280
formulate proposed rules that specify all of the following: 281

(a) The information to be included in the registry; 282

(b) A process, in addition to that provided for in section 283
2108.06 of the Revised Code, for an individual to revoke the 284
individual's intent to make an anatomical gift and for updating 285

information in the registry;	286
(c) How the registry will be made available to organ procurement organizations, tissue banks, and eye banks;	287
(d) Limitations on the use of and access to the registry;	288
(e) How information on organ, tissue, and eye donation will be developed and disseminated to the public by the bureau and the department of health;	289
(f) Anything else the registrar considers appropriate.	290
(2) In formulating the proposed rules under this division, the registrar may consult with any person or entity that expresses an interest in the matters to be dealt with in the rules.	291
(3) Following formulation of the proposed rules, but not later than January 1, 2002, the registrar shall adopt rules in accordance with Chapter 119. of the Revised Code.	292
(D) The costs of developing and initially implementing the registry shall be paid from the second chance trust fund created in section 2108.15 of the Revised Code.	293
Sec. 2133.07. (A) A printed form of a declaration may be sold or otherwise distributed in this state for use by adults who are not advised by an attorney. By use of a printed form of that nature, a declarant may authorize the use or continuation, or the withholding or withdrawal, of life-sustaining treatment should the declarant be in a terminal condition, a permanently unconscious state, or either a terminal condition or a permanently unconscious state, may authorize the withholding or withdrawal of nutrition or hydration should the declarant be in a permanently unconscious state as described in division (A)(3)(a) of section 2133.02 of the Revised Code, and may designate one or more persons who are to be notified by the declarant's attending physician at any time that life-sustaining treatment would be withheld or withdrawn pursuant	294
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to the declaration. The printed form shall not be used as an 316
instrument for granting any other type of authority or for making 317
any other type of designation, except that the printed form may be 318
used as a DNR identification if the declarant specifies on the 319
form that the declarant wishes to use it as a DNR identification 320
and except as provided in division (B) of this section. 321

(B) A printed form of a declaration under division (A) of 322
this section shall include, before the signature of the declarant 323
or another individual at the direction of the declarant, 324
statements that conform substantially to the following form: 325

"ANATOMICAL GIFT (optional) 326

Upon my death, the following are my directions regarding 327
donation of all or part of my body: 328

In the hope that I may help others upon my death, I hereby 329
give the following body parts: 330

..... 331
..... 332

for any purpose authorized by law: transplantation, therapy, 333
research, or education. 334

If I do not indicate a desire to donate all or part of my 335
body by filling in the lines above, no presumption is created 336
about my desire to make or refuse to make an anatomical gift." 337

(C)(1) A printed form of a declaration under division (A) of 338
this section shall include, as a separate page or as a portion of 339
a page that can be detached from the declaration, a donor registry 340
enrollment form that permits the donor to be included in the donor 341
registry created under section 2108.18 of the Revised Code. 342

(2) The donor registry enrollment form shall conform 343
substantially to the following form: 344

"DONOR REGISTRY ENROLLMENT FORM (optional) 345

To register for the Donor Registry, please complete this form 346
and send it to the Ohio Bureau of Motor Vehicles. This form must 347
be signed by two witnesses. If the donor is under age eighteen, 348
one witness must be the donor's parent or legal guardian. 349

... Please include me in the donor registry. 350

... Please remove me from the donor registry. 351

Full Name (please print) 352

Mailing address 353

..... 354

..... 355

Phone Date of Birth 356

Driver License or ID Card No. 357

Social Security No. 358

... On my death, I make an anatomical gift of my organs, tissues, 359
and eyes for any purpose authorized by law. 360

OR 361

... On my death, I make an anatomical gift of the following 362
specified organs, tissues, or eyes for any purposes indicated 363
below. 364

..... 365

..... 366

..... 367

Purposes: 368

... Any purpose authorized by law 369

... Transplantation 370

... Therapy 371

... Research 372

... Education 373

... Advancement of medical science 374

... <u>Advancement of dental science</u>	375
.....	376
<u>Signature of donor registrant</u> <u>Date</u>	377
.....	378
<u>Witness signature</u>	379
.....	380
<u>Witness signature"</u>	381
<u>(D) As used in this section:</u>	382
<u>(1) "Anatomical gift" has the same meaning as in section</u>	383
<u>2108.01 of the Revised Code.</u>	384
<u>(2) "DNR identification" has the same meaning as in section</u>	385
<u>2133.21 of the Revised Code.</u>	386
<u>Sec. 2133.16. (A) As used in this section:</u>	387
<u>(1) "Anatomical gift" and "donor" have the same meanings as</u>	388
<u>in section 2108.01 of the Revised Code.</u>	389
<u>(2) "Declarant" and "declaration" have the same meanings as</u>	390
<u>in section 2133.01 of the Revised Code.</u>	391
<u>(B) A declarant may make an anatomical gift of all or part of</u>	392
<u>the declarant's body by specifying the intent of the declarant to</u>	393
<u>make the anatomical gift in a space provided in the declaration.</u>	394
<u>All of the following apply to a declaration that specifies the</u>	395
<u>intent of the declarant to make an anatomical gift:</u>	396
<u>(1) The declaration serves as a document other than a will in</u>	397
<u>which a declarant makes an anatomical gift as provided in</u>	398
<u>divisions (B)(1) and (3) of section 2108.04 of the Revised Code.</u>	399
<u>(2) The declaration is considered as having satisfied the</u>	400
<u>requirements specified in divisions (B)(1) and (3) of section</u>	401
<u>2108.04 of the Revised Code to make an anatomical gift by a</u>	402
<u>document other than a will.</u>	403

(3) The declaration is subject to sections 2108.01 to 2108.12 404
of the Revised Code to the extent that the declaration specifies 405
the intent of the declarant to make an anatomical gift. 406

(C) A declarant who makes an anatomical gift in the manner 407
described in division (B) of this section may amend the anatomical 408
gift under the circumstances and by any of the means provided in 409
division (A) of section 2108.06 of the Revised Code. 410

(D) A declarant who makes an anatomical gift in the manner 411
described in division (B) of this section may revoke the 412
anatomical gift under the circumstances and by any of the means 413
provided in division (A) of section 2108.06 of the Revised Code or 414
by cancellation of the declarant's intent to make the anatomical 415
gift as specified in the declaration. 416

(E) A declarant may refuse to make an anatomical gift of all 417
or part of the declarant's body by specifying the intent of the 418
declarant to refuse to make the anatomical gift in a space 419
provided in the declaration. 420

(F) Nothing in this section requires a declarant to make, 421
amend, or refuse to make an anatomical gift in a space provided in 422
a declaration or otherwise limits a declarant from making, 423
amending, or refusing to make an anatomical gift. The failure of a 424
declarant to indicate in the space provided in the declaration the 425
intent of the declarant to make an anatomical gift or to refuse to 426
make an anatomical gift does not create a presumption of the 427
intent of the declarant in regard to the matter of making or 428
refusing to make an anatomical gift. 429

Section 2. That existing sections 2108.04, 2108.10, 2108.17, 430
2108.18, and 2133.07 of the Revised Code are hereby repealed. 431

Section 3. Section 2133.07 of the Revised Code, as amended by 432
this act, shall take effect 90 days after the effective date of 433

this act. 434

Section 4. The amendments made by this act to section 2133.07 435
of the Revised Code do not affect an otherwise valid declaration 436
governing the use, continuation, withholding, or withdrawal of 437
life-sustaining treatment that was executed before the effective 438
date of section 2133.07 of the Revised Code as amended by this 439
act. 440