(124th General Assembly)
(Substitute Senate Bill Number 158)

AN ACT

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

Be it enacted by the General Assembly of the State of Ohio:

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

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

(B)(1) An individual may also make an anatomical gift under division (A) of section 2108.02 of the Revised Code by a document 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.

(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.

(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 renewed upon renewal of each license, endorsement, or identification card. ~~If the statement is ambiguous as to whether a general or specific anatomical gift is intended by the donor, the statement shall be construed as evidencing the specific anatomical gift only.~~

(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.

(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:

(1) By a document signed by the person;

(2) By telegram;

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

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

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

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

"ANATOMICAL GIFT OF

.....

(Print or type name of living donor)

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

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

.....

Signature of Donor

.....

Date of Birth of Donor

.....

Date Signed

.....

Witness

.....

Witness

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

(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:

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

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

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.

1. I survive the decedent as:
   1. [ ] spouse;
   2. [ ] adult son or daughter;
   3. [ ] parent;
   4. [ ] adult brother or sister;
   5. [ ] grandparent;
   6. [ ] guardian of the person;
   7. [ ] person authorized to dispose of the body

2. I hereby give the following body parts:

[ ] heart	[ ] liver	[ ] skin	[ ] middle ear
[ ] kidneys	[ ] lung	[ ] heart valves	[ ] other .....

[ ] pancreas [ ] eyes [ ] bone/ligament
for: [ ] any purpose authorized by law
[ ] transplantation
[ ] therapy
[ ] medical research and education

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

Date ..... City and State .....

....
Witness Signature of Survivor

....
Witness Address of Survivor"

(C) The statement of gift provided for in division (C) of section 2108.04 of the Revised Code shall ~~conform substantially to~~ state the following ~~form~~:

"~~I hereby make an anatomical gift, to be effective upon my death, of:~~
~~(A) [ ] Any needed body parts~~
~~or~~
~~(B) [ ] The following body part(s):~~
~~(list)~~
~~.....~~
~~Date .....~~
~~Signature of donor .....~~
~~Witness .....~~
~~Witness .....~~"

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

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

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

Sec. 2108.15. (A) There is hereby created in the state treasury the

second chance trust fund. The fund shall consist of voluntary contributions deposited as provided in sections 4506.081, 4507.231, and 4507.501 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

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

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

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

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

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

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

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

(7) Cooperation with the state medical board, state medical, osteopathic, and opthalmological associations, and colleges of medicine and osteopathic medicine in this state to more effectively educate physicians about the donation of anatomical gifts and to encourage them to assist their patients in making declarations of anatomical gifts;

(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;

(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;

(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;

(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;

(12) Reimbursement of members of the second chance fund advisory committee for actual and necessary expenses incurred in the performance of official duties.

(C) The director shall make the materials developed under division (B)(5) of this section available to other state agencies.

(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.

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.

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Speaker _____ of the House of Representatives.

_____

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

_____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

_____

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

_____

Secretary of State.

File No. _____ Effective Date _____