

# **ORGAN AND TISSUE DONATION UNDER OKLAHOMA LAW**

*Second Edition – 12/15/03*



Produced by:

**OKLAHOMA BAR ASSOCIATION - YOUNG LAWYERS DIVISION**

## **GIFT OF LIFE PROJECT**

FOR MORE INFORMATION OR BOOKLETS, PLEASE CONTACT:

**GIFT OF LIFE TEAM**

**Post Office Box 18147**

**Oklahoma City, OK 73154**

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# ORGAN AND TISSUE DONATION UNDER OKLAHOMA LAW

*Second Edition – 12/15/03*

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**PRODUCED IN HONOR AND  
MEMORY OF JOCELYN GIVENS**



## **Advisory**

This booklet provides valuable information regarding organ and tissue donation in Oklahoma. However, the information contained herein should not be considered legal advice.

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## **PART I**

### **INTRODUCTION**

In 1996, the Young Lawyers Division of the Oklahoma Bar Association initiated the **Gift of Life Project** to educate the legal community and general public about organ donation and the laws that govern it. The **Gift of Life Project** was created to reduce the chronic shortage of organ donors that exists in Oklahoma and throughout the United States. Currently, there are more than 80,000 people waiting for transplants in the United States, including more than 600 in Oklahoma. Thousands of Americans (including more than forty Oklahomans) die every year because the number of people on transplant waiting lists keeps growing while the number of donors remains the same or declines.

Since the **Gift of Life Project** was created, many young lawyers and other volunteers have distributed over 100,000 donor cards, 50,000 brochures and 5,000 booklets in Oklahoma and throughout the United States. Each handout explains the urgent need for more donors and the simple steps anyone who wants to become a donor should take. Each handout also contains donor cards that should be carried by individuals who want to share their **Gift of Life**. Three donor cards are provided on the back cover of this publication for anyone to use and/or distribute to their friends and family members.

In Oklahoma, organ donation is governed by a version of the Uniform Anatomical Gift Act (attached hereto as Appendix "A"). These statutes provide legal authority for any person of sound mind to donate his/her body (or any portion thereof) for any of the purposes discussed in the Act. The statutes also explain the manner through which individuals can become donors.

Oklahoma law no longer requires consent from a family member before donation can occur. Nevertheless, anyone who wants to share their **Gift of Life** should carry a donor card **and** check the

appropriate box on their driver's license to memorialize their decision. They should also register with the new statewide LifeShare Donor Registry when it becomes available on or before July 1, 2004. Unfortunately, taking all of these steps may not ensure that donation occurs. Donation can be prevented by family members who are simply unaware of a potential donor's wish or when documentation of a potential donor's wish cannot be located. To avoid this tragedy, potential donors must discuss their desire to donate with all of their family members as soon as they decide to be a donor.

The vital importance of recruiting more donors was recognized in a new law passed by the Oklahoma legislature on May 25, 2000. Senate Bill 1528 (attached as Appendix "B") took effect on November 1, 2000, and established a comprehensive system for increasing public education and awareness about donation and the donor shortage. Since it was created in 2000, the Advisory Council established by this new law has worked diligently and achieved many great things. Public education is being accomplished through various means, and all of the funds used to finance this statewide effort come from voluntary donations at tag agencies and on state income tax returns.

Oklahoma has several other laws that were passed within the past five years to help eliminate the donor shortage and provide an example for other states attempting to accomplish the same goal, including:

**Senate Bill 1087** (attached as Appendix "C") was passed in the 1997-1998 session, and requires organs donated in Oklahoma to be given to someone waiting for a transplant in Oklahoma under most circumstances;

**House Bill 1183** (attached as Appendix "D") was passed during the 2001-2002 session, and prohibits anyone from overruling a donor's decision to share his/her **Gift of Life**

when the donor's choice is documented on a driver's license, donor card or will;

**Senate Bill 1628** (attached as Appendix "E") was passed during the 2001-2002 session, and provides 5-30 days of paid leave for state employees who donate bone marrow or certain organs (since bone marrow and certain organs can be donated while the donor is still alive); and

**Senate Bill 586** (attached as Appendix "F") was passed during the 2002-2003 session, and establishes a voluntary donor registry that will be implemented on or before July 1, 2004. The LifeShare Donor Registry will be easily accessible to anyone who wants to register as a donor, and the information maintained in the Registry will be kept completely confidential. The other purpose of the Registry is to provide a quick and efficient method for determining if someone is a donor when minutes or hours can mean life or death to a potential transplant recipient. To add your name to the Registry, just go to: [www.lifeshareregistry.org](http://www.lifeshareregistry.org).

If you need any quantity of additional booklets (like this publication) or less detailed brochures to distribute to co-workers, family members or friends, submit your request to:

**Gift of Life Team**  
Post Office Box 18147  
Oklahoma City, OK 73154  
or  
**GiftOfLifeTeam@aol.com**

For further information, contact Keith Givens at (405) 272-1977 or any of the other resources listed on Appendix "G."

## PART II

### ***FREQUENTLY ASKED QUESTIONS AND ANSWERS YOU SHOULD KNOW***

**1. How do I become an organ and/or tissue donor?**

*You should document your decision by checking the organ donor box on your driver's license and carrying a fully completed donor card (provided on the back cover of this booklet). You should also add your name to the **confidential and voluntary** LifeShare Donor Registry when it becomes available in Oklahoma on or before July 1, 2004. Only one of these methods is necessary for donation to be allowed, but the probability that donation will occur is greater if more than one method is used. **No matter what method you use to document your decision to share your gift of life, you should also inform your family members of your decision to prevent any uncertainty about your wishes.***

**2. Will I receive the same level of medical care if I am involved in an accident and my medical providers know I want to be a donor?**

*Yes. Organ and tissue donation is not even considered until every effort has been made to save a potential donor's life and brain death has been declared.*

**3. Will my decision to donate any organs and/or tissue result in additional expenses to my family?**

*No. Organ and tissue donation will not inflict any additional costs on a donor's estate or his/her family. All organ and tissue recovery costs are paid by the recipient's insurance, government medical coverage or private funds.*

**4. Does organ and tissue donation disfigure my body so an open casket funeral will not be possible?**

*No. Organ and tissue donation occurs in a manner that does not disfigure a donor's body or change the way it looks in a casket.*

**5. What organs and tissue can be donated?**

*The organs that can be donated include: heart, lungs, liver, kidneys, pancreas and intestines. Tissue that can be donated includes: skin, bones, eyes, heart valves and tendons. Since such a large number of organs and tissue can be utilized, just one donor can save the lives of **eight people** through organ transplants and greatly improve the health of **more than 40 others** through tissue transplants.*

**6. Who determines where my organs and tissue go when they are donated?**

*Oklahoma implemented a law in 1998 (attached as Appendix "C") that requires organs donated in Oklahoma to stay in Oklahoma under most circumstances. Decisions about who receives donated organs and tissue are made by organ sharing networks and agencies that are regulated by the government. Those organizations must follow strict legal guidelines that ensure all donated organs and tissue go to the people who need them most, without consideration of the recipient's wealth, notoriety or other non-medical factors.*

**7. Aren't there enough donors for everyone who needs an organ or tissue donation?**

*No. There is a severe shortage of donors in Oklahoma and throughout the United States. Thousands of people die every year (including more than forty Oklahomans)*



*because enough compatible organs are not available. Currently, there are more than 80,000 people suffering on waiting lists across the United States (including over 600 in Oklahoma). Unless more people make the choice to share their gift of life, waiting lists will continue to grow and thousands of preventable deaths will continue to occur every year.*

**8. Can I choose the ways in which my organs and tissue will be used?**

*Yes. Donors can limit their donations in many ways, including: (1) restricting the organs and/or tissue that are donated, (2) restricting their donations to certain recipients, (3) restricting their donations to research efforts, or (4) restricting their donations to non-research efforts.*

**9. Is it against my religion for me to donate organs or tissue?**

*Probably not. Research performed by the National Kidney Foundation, the United Network for Organ Sharing and the International Society for Transplantation, showed that donation is supported or allowed by the most prevalent religions throughout the United States. A copy of this research is available from the **Gift of Life Team** at (405) 272-1977 or through e-mail at **GiftOfLifeTeam@aol.com**. Anyone who has further questions about their particular religion's position should contact their religious organization directly.*

**10. Should I document my wish to be a donor in my will?**

*It is wise to express your decision to be a donor in your will. However, it is likely that nobody will read your will until it is too late for it to affect whether donation occurs.*

*It is much more effective to: (1) check the box on your driver's license, (2) carry a fully completed donor card, and (3) inform all your family members about your wish to be a donor.*

*On the other hand, documenting your decision concerning organ and/or tissue donation on a living will is very important. A living will authorizes donation without any family member's consent and increases the chance your wishes will be fulfilled.*

**11. Do I have to be a certain age or in perfect health to be an organ and tissue donor?**

*No. Donors can be **any** age and have certain medical conditions. The medical providers responsible for your care at the time donation is considered will evaluate whether your particular medical condition prevents donation.*

**12. If I decide to become a donor, can I change my mind later?**

*Yes. You can change your mind at any time. If you decide that being a donor is no longer desired, you can void your previous commitment by obtaining a new driver's license (if you checked the organ donor box previously), tear up your donor card and withdraw your name from the LifeShare Donor Registry (if you registered previously).*

**13. Can I donate any of my organs and tissue while I am still living?**

*Yes. Under some circumstances, you can donate certain organs and/or bone marrow to others while you are still alive. Oklahoma has a new law (attached as Appendix "E") that provides 5-30 days of paid leave for state*

*employees who make living donations. Private companies can provide the same benefit if they choose to do so.*

**14. Can I sell my organs or tissue?**

*No. It is illegal for anyone to sell their organs or tissue.*

**15. Does Oklahoma have a statewide registry of donors?**

*Under a new law that was passed in 2003 (attached as Appendix "F"), Oklahoma will implement a **confidential** and **voluntary** registry known as the LifeShare Donor Registry no later than July, 2004. This registry will provide a quick and efficient method to determine if a person wishes to share their gift of life. The information on the registry will be kept confidential, and anyone who puts their name in the registry can withdraw it at any time and for any reason.*

**16. Where can I get more information and/or donor cards?**

*Three donor cards are provided on the back cover of this booklet. You can use one of the cards for yourself and share the other two cards with family members or friends.*

*For additional information, brochures or any quantity of donor cards (at no cost), send your request to:*

**Gift of Life Team**  
Post Office Box 18147  
Oklahoma City, OK 73154  
or  
**GiftOfLifeTeam@aol.com**

*Information, handouts and donor cards are also available from the sources listed on Appendix "G."*

## **PART III**

### ***SUMMARY OF LAWS GOVERNING ORGAN AND TISSUE DONATION IN OKLAHOMA***

#### **A. Anatomical Gift Act**

In 1968, the Uniform Anatomical Gift Act was introduced. Oklahoma implemented its own version of the Act in 1969. The statutes which comprise Oklahoma's Anatomical Gift Act (the "Act") are located at 63 O.S. §§ 2201-2218 (attached as Appendix "A").

Basically, the Act establishes rules and procedures through which people can become donors. The Act also provides standards for medical providers who perform procedures related to organ and tissue donation. Under the Act, donors can give all or part of their bodies upon death. Donations from living persons are also permitted under limited circumstances. Several provisions within the Act provide immunity from liability for any person acting in good faith under the terms of the Act or similar laws from another jurisdiction. In addition to organ and tissue donations to living recipients, organs, tissue and/or entire bodies can be donated for medical research.

The most relevant provisions in the Act are discussed below.

Section 2203 defines: (1) who may become a donor, and (2) who is authorized to permit donation if a donor's wishes have not been documented on an on-line registry ([www.lifeshareregistry.org](http://www.lifeshareregistry.org)), driver's license, donor card, state identification card, advance directive or will (as long as there is no indication the decedent opposed donation). If a donor has memorialized his/her wish to donate on one of these documents, the donor's choice takes precedence over any family member's decision.

Under the Act, any adult of sound mind may give any or all of his/her body, upon death, for any of the purposes specified in Section 2204 of the Act. Section 2204 allows donation for transplantation and/or medical research. Section 2204 also controls who can accept donated organs and/or tissue.

Regarding the categories of people who can authorize donation of a decedent's organs, tissue and/or body, Section 2203 limits them to the decedent's: spouse, adult children, parents, siblings, guardian or "any other person authorized or under obligation to dispose of the decedent's body." Donation shall not occur if there is actual notice the decedent opposed donation or donation is opposed by the person in the highest ranking category of individuals authorized to approve donation (this does not apply if the decedent indicated her/his wish to donate on an on-line registry, driver's license, donor card, state identification card, advance directive or will).

Section 2205 controls the manner in which gifts of organs and/or tissue may be made. Anyone who wants to become a donor should memorialize his/her wishes on a donor card or will. Since donations typically occur after tragic accidents or injuries, and the time frame in which donation must be performed is relatively short, it is likely there will be insufficient time for a will to be reviewed in time for donation to be a realistic possibility. Therefore, **all donors should: indicate their decision on Oklahoma's on-line registry, carry a completed donor card and memorialize their choice on their driver's license.** Potential donors should also share their decision to donate with all of their family members as soon as they make the decision in case a document memorializing the donor's wishes cannot be located at the critical time.

To comply with the Act, a donor card must be signed by the potential donor and two witnesses at the same time the potential donor signs his/her card.

Section 2205 allows donors to designate specific recipients for any donation(s) that may be possible. However, donors can choose to allow their organs and tissues to be donated to anyone who is waiting for a transplant. The allocation of specific organs and tissues donated in Oklahoma is determined by the Oklahoma Organ Sharing Network (or its successor) in accordance with state and federal laws.

Section 2205 permits potential donors to designate in their wills, donor cards or other documents providing notice of their gifts which surgeon or physician will carry out the donation procedures. If a potential donor does not designate a specific medical provider or if the specified medical provider is not available, the recipient of the donation or another person authorized to accept the donation may employ/authorize a surgeon or physician to accept and utilize the donation.

Section 2207 of the Act authorizes revocation or amendment of a potential donor's decision to donate their organs and/or tissue whenever a potential donor changes their wishes. To revoke or amend a will, donor card or other document signifying a decision to donate, a potential donor can execute a revised document or communicate their revised wishes in the presence of two witnesses. A potential donor can also inform their physician of their revised wishes. Wills may be revoked or amended in the manner provided for revocation or amendment of wills under other Oklahoma statutes.

Section 2208 provides certain rights for recipients of donated organs, tissue and/or bodies, including the right to reject a proposed donation. Certain duties are also imposed under Section 2208 - such as the prohibition against any mutilation of a donor's body during medical procedures related to donation.

Section 2208 prohibits the physician who is treating the donor at the time of his/her death from participating in the procedures for removing or transplanting any of the donor's organ or tissue.

Immunity from civil and criminal liability is provided in Section 2208 for any person acting in good faith and in accordance with the terms of the Act. Immunity is also available to individuals acting pursuant to the Anatomical Gift Laws of other states or foreign countries.

Sections 2210 and 2210.1 govern the donation of eyes for transplantation, therapeutic or scientific purposes.

Section 2211 requires the Oklahoma Department of Public Safety and all motor license agents to provide space for donors to indicate their wish to share their gift of life on their Oklahoma driver's license. Potential donors can use their driver's license to designate whether they want their donations to be unlimited or limited in some manner (such as limiting donation to certain organs or for certain purposes like transplantation or research).

Section 2212 gives medical examiners authority (in deaths that must be investigated by the Chief Medical Examiner's office) to permit organ donation if a potential donor's next-of-kin has been consulted and consents to donation. Section 2212 makes it clear that donation should occur as long as it will not interfere with any investigation or autopsy and the decedent's next-of-kin grants permission. If the potential donor has an organ donor card, consent from his/her next-of-kin shall not be required.

Section 2213 compels law enforcement personnel and medical providers who are involved in the investigation of accidental deaths, homicides and suicides to use reasonable efforts to ascertain if decedents are organ donors. If they are donors, law enforcement personnel and medical providers **shall** inform the proper officials so donation can be considered. Civil and criminal immunity are provided for any law enforcement personnel or medical provider who acts in accordance with this Section.

Section 2214 requires hospital personnel to request consent for organ and tissue donation from a decedent's family member or

guardian whenever death occurs in a hospital. No consent needs to be requested if hospital personnel have actual notice that the decedent or the individuals listed in Section 2203 opposed donation. Section 2214 makes consent from a decedent's family member or guardian totally unnecessary if a decedent registered on Oklahoma's Life Share Donor Registry or has a donor card, state identification card or "other document" indicating his/her decision to donate.

Section 2217 provides immunity from civil liability to anyone acting in accordance with the provisions of Oklahoma's Anatomical Gift Act.

While Oklahoma has a well-defined statutory system governing organ and tissue donation, the basic fact remains that anyone who desires to be an organ or tissue donor must take certain easy steps to ensure donation will occur. First, a potential donor should check the box on their driver's license to indicate their wish to become a donor. Second, a potential donor should execute and carry a donor card at all times. The donor card must be signed in front of two witnesses who then sign the same card to signify the donor's signature occurred in their presence. Third, a potential donor must inform his/her family members of his/her decision to be a donor. Since consent from a family member or guardian could be required under certain circumstances, a donor's family members must be aware of the donor's decision to ensure his/her wishes will be fulfilled.

**B. Senate Bill 1528 (now known as the Cheryl Selman Organ Donor Education and Awareness Act)**

On May 25, 2000, the Oklahoma legislature passed Senate Bill 1528 which makes reducing the shortage of organ and tissue donors in our State a crucial public health priority. This Bill (attached as Appendix "B") did many things, but most importantly, it established the Oklahoma Organ Donor Education and Awareness Program Act (the "ODEAP") and a panel of highly



qualified professionals to implement the ODEAP. To be eligible for panel membership, every candidate must have considerable experience in organ and/or tissue donation advocacy. After the Bill took effect on November 1, 2000 (codified at 63 O.S. §§ 2220.1 - 2220.10), the panel's mission has been to educate the public and raise awareness about organ and tissue donation issues as well as the urgent need for more life-saving donors.

While panel members serve without salary, the ODEAP provides critical sources of funds for implementation of the panel's ideas. Funding has come from various sources, including voluntary public donations made on state income tax returns and through tag agencies where individuals who purchase driver's licenses and other services contribute whatever amount they choose. The panel has certain limits regarding how ODEAP funds can be utilized, but all of the money spent to date has been used in diverse and effective ways to promote and educate people about organ and tissue donation in Oklahoma. One very promising portion of the ODEAP legislation is devoted to facilitating an extensive educational curriculum to be used in elementary and secondary schools throughout Oklahoma. Other types of innovative projects that encourage people to share their gift of life will be created by the ODEAP panel as well.

The panel includes: (a) a professional from an organ procurement agency, (b) a professional from a tissue procurement agency, (c) a representative of the Oklahoma Eye Bank, (d) four members representing organ, tissue and eye transplant recipients and/or donors, (e) a representative of an Oklahoma transplant center and (f) three at-large members who are Oklahoma residents and have demonstrated an interest in organ/tissue donor education and awareness.

The ODEAP and the panel it created are tremendous steps toward reducing the donor shortage that kills more than forty Oklahomans every year. Since the donor shortage not only impacts potential

transplant recipients, but all of their friends and family members as well, the innovations and achievements resulting from the ODEAP will benefit thousands of Oklahoma residents. Oklahoma's leadership on this vital public health issue will surely be recognized and followed across the United States – which will save countless lives throughout the Country.

**PART IV**

**APPENDICES**

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## APPENDIX A

### OKLAHOMA 'S ANATOMICAL GIFT ACT

#### OKLAHOMA STATUTES ANNOTATED TITLE 63. PUBLIC HEALTH AND SAFETY CHAPTER 46. ANATOMICAL GIFT ACT

##### § 2201 Citation

This act<sup>1</sup> shall be known and may be cited as the Uniform Anatomical Gift Act.

##### § 2202 Definitions

1. “Bank or storage facility” means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts thereof;

2. “Decedent” means a deceased individual and includes a stillborn infant or fetus;

3. “Donor” means an individual who makes a gift of all or part of his body;

4. “Hospital” means a hospital licensed, accredited, or approved under the laws of any state; including a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws;

5. “Part” means organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body;

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<sup>1</sup> Title 63, § 2201 et seq.

6. “Person” means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

7. “Physician” or “surgeon” means a physician or surgeon licensed or authorized to practice under the laws of any state;

8. “State” includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America;

9. “Designated organ procurement organization” means an organization that is designated by the United States Department of Health and Human Services, or its successor, to perform or coordinate the surgical recovery, preservation, and transportation of organs and that allocates organs to prospective recipients;

10. “Reciprocal agreement” means an agreement to return to the recipient pool in Oklahoma an organ that is deemed locally acceptable for transplantation; and

11. “Vascular organ” means the heart, lungs, kidneys, liver, pancreas, or any other organ that requires continuous circulation of blood to remain useful for transplantation purposes. As used in Section 2 of this act, the term “vascular organ” does not include human tissue, bones, or corneas.

### **§ 2203 Persons who may execute an anatomical gift**

A. Any adult of sound mind may give all or any part of his or her body for any purpose specified in Section 2204 of this title, the gift to take effect upon death. The wishes of the deceased, as evidenced by an advance directive, a driver license designation, a donor card, a state identification card, an on-line or other organ

donor enrollment registry form, or a will shall take precedence over the wishes of the family.

B. Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in Section 2204 of this title:

1. The spouse;
2. An adult son or daughter;
3. Either parent;
4. An adult brother or sister;
5. A guardian of the person of the decedent at the time of death; or
6. Any other person authorized or under obligation to dispose of the body.

C. If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection B of this section may make the gift after or immediately before the decedent's death.

D. A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

E. The rights of the donee created by the gift are paramount to the rights of others except as provided by subsection (d) of Section 2208 of this title.

**§ 2204 Persons who may become donees—Purposes for which anatomical gifts may be made—Anatomical Board approval to donees**

A. The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

1. Any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation;

2. Any accredited medical or dental school, college or university for education, research, advancement of medical or dental science or therapy;

3. The designated Oklahoma organ procurement organization;

4. Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation;

5. Any specified individual for therapy or transplantation needed by him; or

6. The Anatomical Board of the State of Oklahoma.

B. Any donee receiving a whole body donation from any source shall have approval from the Anatomical Board of the State of Oklahoma prior to receiving such donation.

1. Subject to the provisions of paragraph 2 of this subsection, if, in the judgment of the designated Oklahoma organ procurement organization, it is appropriate to allocate a vascular organ to a patient awaiting transplantation outside of the State of Oklahoma, that the organization shall have the authority to enter into such vascular organ sharing arrangements as may be deemed advisable, necessary or expedient. The terms of such vascular organ sharing agreement shall provide that a vascular organ recovered in Oklahoma shall not be transferred to an out-of-state organ procurement organization and transplanted there into a suitable recipient before such vascular organ is offered and placed into a suitable recipient located in Oklahoma, unless there is a reciprocal agreement by which the recipient pool of patients awaiting transplantation in Oklahoma receive an organ deemed locally acceptable for transplantation in return for the organ sent out of the state.

2. The designated Oklahoma organ procurement organization may only transfer a vascular organ to an out-of-state organ procurement organization or suitable out-of-state recipient for transplantation if one of the following requirements is met:

- a. a suitable recipient in the State of Oklahoma is not known to the designated Oklahoma organ procurement organization within the amount of time necessary to preserve the organ, or
- b. the designated Oklahoma organ procurement organization has a reciprocal agreement as provided by paragraph 1 of this subsection.



## **§ 2205 Manner of executing anatomical gifts**

(a) A gift of all or part of the body under Section 3(a)<sup>2</sup> may be made by will. The 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 gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under Section 3(a) may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of two witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(d) Notwithstanding Section (b),<sup>3</sup> the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or

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<sup>2</sup> Title 63, § 2203(a).

<sup>3</sup> Title 63, § 2208(b).

other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(e) Any gift by a person designated in Section 3(b)<sup>4</sup> shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message.

### **§ 2206 Delivery of document of gift**

If the gift is made by the donor to a specified donee, the will, card, or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.

### **§ 2207 Revocation or amendment of gift**

(a) If the will, card, or other document, or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by:

- (1) the execution and delivery to the donee of a signed statement,
- (2) an oral statement made in the presence of two persons and communicated to the donee,

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<sup>4</sup> Title 63, § 2203(b).

- (3) a statement during a terminal illness or injury addressed to an attending physician and communicated to the donee, or
- (4) a signed card or document found on his person or in his effect.

(b) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (a) or by destruction, cancellation, or mutilation of the original document.

(c) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in subsection (a).

**§ 2208 Rights and duties at death**

(a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the decedent and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body.

(b) The time of death shall be determined by a physician who attends the donor at his death, or, if none, the physician who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.

(c) A person who acts in good faith in accord with the terms of this act<sup>5</sup> or the anatomical gift laws of another state or of a foreign country is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(d) The provisions of this act are subject to the laws of this state prescribing powers and duties with respect to autopsies.

### **§ 2209 Uniformity of interpretation**

This act<sup>6</sup> shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

#### **§ 2209.1 Permits – Rules**

A. On or after November 1, 1999, no person, corporation, partnership, association or other legal entity shall establish, operate or maintain a tissue bank that procures bone, skin, or connective tissue unless that entity has been issued a permit by the State Department of Health.

B. The State Board of Health shall promulgate rules necessary to implement the provisions of this section which shall include, but not be limited to:

1. Requirements for the tissue banks to submit an initial permit application that identifies the proposed service area, the tissue transplantation patient needs in the service area, the probable impact of the establishment and operation of the entity on other tissue banks currently servicing the area, and whether the tissue bank is a for profit or not for profit entity;

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<sup>5</sup> Title 63, § 2201 et seq.

<sup>6</sup> Title 63, § 2201 et seq.

2. A requirement that tissue banks, within one (1) year after receipt of a permit, be accredited by the American Association of Tissue Banks or another nationally recognized accreditation organization for tissue agencies;

3. Provisions that all tissue banks employ a procurement technician or other technical operations personnel certified as a Certified Tissue Bank Specialist by the American Association of Tissue Banks or another nationally recognized accreditation or certification organization for tissue agencies and personnel;

4. A requirement that each tissue bank maintain compliance with federal Food and Drug Administration regulations;

5. A provision that each tissue bank have a medical director who is a physician licensed to practice medicine in this state;

6. Requirements for tissue banks to give priority in tissue distribution to the Oklahoma medical community and Oklahoma patients; and

7. A requirement that each tissue bank submit an annual report to the Department which shall provide the accreditation status of the entity, report of regulatory or internal inspections that affect quality, the certification status of personnel employed by the tissue agency, identity and qualification of the current medical director, type and geographic origins of donor tissue obtained, and units of processed tissue used for patients in the service area of the tissue bank.

C. A permit application or renewal thereof, shall be accompanied by a non-refundable fee established by the Board of Health not to exceed One Thousand Dollars (\$1,000.00).

D. Upon receipt of a complete initial permit application, the Department shall cause a public notice of the proposed tissue bank to be published in a newspaper with the greatest circulation. The Department shall also provide written notice of the permit application to existing tissue banks in the state. Any person or organization may submit written comments regarding the proposed tissue bank to the Department.

E. The Department shall issue or deny an initial permit within seventy-five (75) days after publication of the notice. All permits shall be issued for a period not to exceed thirty-six (36) months and shall automatically expire unless renewed.

F. The Department may deny, revoke, suspend or not renew a permit for failure of a tissue bank to comply with the provisions of this section or rules promulgated pursuant thereto. Any tissue bank that has been determined by the Department to have violated any provision of this section or rule promulgated pursuant thereto, is liable for an administrative penalty of no more than One Hundred Dollars (\$100.00) for each day on which a violation occurs or continues. The maximum administrative penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for any related series of violations.

G. The issuance, denial, suspension, non-renewal or revocation of a permit may be appealed under the provisions of Article II of the Administrative Procedures Act, Section 308a of Title 75 of the Oklahoma Statutes.

H. The Department may bring an action in a court of competent jurisdiction for equitable relief to redress or restrain any entity from providing tissue bank services without a valid permit. Said court shall have jurisdiction to determine said action, and to grant the necessary appropriate relief, including but not limited to, mandatory or prohibitive injunction relief or interim equitable relief.

**§ 2210 Eye enucleation – Eye banks**

A. 1. With respect to a gift of an eye as provided for in this chapter, a licensed embalmer, as defined by the Funeral Services Licensing Act, Section 396 et seq. of Title 59 of the Oklahoma Statutes, or other persons who have successfully completed a course in eye enucleation in the State of Oklahoma or elsewhere and have received a certificate of competence from the Eye Bank Association of America, may enucleate eyes for such gift after proper certification of death by a physician and compliance with the extent of such gift as required by the Uniform Anatomical Gift Act, Section 2201 et seq. of this title.

2. No such properly certified embalmer or other person acting in accordance with the terms of this chapter shall have any liability, civil or criminal, for such eye enucleation.

B. No eye bank shall operate in Oklahoma unless the eye bank:

1. Within one (1) year after beginning operation, is accredited by the Eye Bank Association of America or other nationally recognized accrediting association for eye banks;

2. Employs an eye bank technician certified by the Eye Bank Association of America or other nationally recognized accrediting or certifying association for eye banks;

3. Has as its medical director a board-certified ophthalmic surgeon licensed to practice in this state; and

4. Gives priority to the needs of patients being treated in Oklahoma.

C. Before developing a new eye bank, the person proposing to operate the eye bank shall apply to the State Commissioner of Health for a permit. The permit application shall

be in such form as the Commissioner shall prescribe and shall include a demonstration of the eye bank's probable impact on existing eye banks serving the area where the new eye bank is to be located. The permit application shall be accompanied by a filing fee equal to one quarter of one percent (.25%) of the capital cost of the proposed eye bank, with a minimum fee of Five Hundred Dollars (\$500.00).

D. Upon receipt of a completed permit application, the Commissioner shall cause public notice to be published in a newspaper of general circulation in the area where the eye bank is to be located and in a newspaper of general circulation in the area where the application is available for inspection. Any person may submit written comments regarding the proposed eye bank to the Commissioner.

E. The Commissioner shall issue or deny the permit within seventy-five (75) days after publication of the notice. A permit shall expire thirty-six (36) months from the date of issue. If construction is not completed on or before the permit's expiration date, the permit shall be null and void.

F. Any issuance or denial of a permit may be appealed under Article II of the Administrative Procedures Act, Section 308a of Title 75 of the Oklahoma Statutes.

G. Each eye bank operating in this state shall report annually to the Commissioner on a form prescribed by the Commissioner. The form shall include information on the following:

1. The accreditation status of the eye bank;
2. The certification status of the eye bank technician;
3. The identify and qualifications of the medical director;



4. The numbers and geographic origins of donor corneas and whole eyes; and

5. The numbers and geographic destinations of corneas and other parts of the eyes.

**§ 2210.1 Removal and release of corneal eye tissue during autopsy – Conditions – Liability**

A. Notwithstanding any other provision of law, the Chief Medical Examiner, any County Medical Examiner, or any other person authorized by law to conduct an autopsy may, in the course of an autopsy, remove and release or authorize the removal or release of corneal eye tissue from a body within the custody of such person, if all the following conditions are met:

1. The autopsy is authorized by law;

2. The person performing the autopsy has made a reasonable attempt to contact the next of kin and has no knowledge of any objection to the removal or release of corneal tissue having been made by the decedent, or the next of kin of the decedent; provided, as used in this paragraph, “reasonable attempt” means reaching or attempting to reach the next of kin by telephone and documenting such in the records of the autopsy;

3. The removal or release of such tissue will not interfere with the autopsy;

4. The tissue will be removed by a person qualified under, and as specified by, Section 2210 of Title 63 of the Oklahoma Statutes; and

5. The tissue will be released to a public or nonprofit facility for transplant, therapeutic or scientific purposes.

B. Under such circumstances, neither the person removing or releasing the corneal tissue, nor any hospital, medical center, tissue bank, storage facility, or person acting upon the request, order or direction of such person in the removal or release of the corneal tissue pursuant to this section, shall incur civil liability for such removal or release in an action brought by any person who did not object prior to the removal or release of the corneal tissue, or be subject to criminal prosecution for the removal or release of such corneal tissue pursuant to the provisions of this section.

#### **§ 2211 Donor notation on driver's license**

In order to provide an expeditious procedure for a person to make a gift of all or part of his body pursuant to the provisions of the Uniform Anatomical Gift Act,<sup>7</sup> the Department of Public Safety and all motor license agents shall make space available on the front side of the driver's license and the identification license for an organ donor notation. The donor notation shall identify the licensee or cardholder as a donor of specified body organs or of his entire body or parts of said body for the purposes of transplantation, therapy, medical research, or education pursuant to the provisions of the Uniform Anatomical Gift Act.

#### **§ 2212 Removal of organs – Consent – Legislative intent**

In any death that the Office of the Chief Medical Examiner of the State of Oklahoma is required by law to investigate, a medical examiner may authorize the removal of organs from the deceased for donation to a suitable donee pursuant to the provisions of the Uniform Anatomical Gift Act<sup>8</sup> if the next of kin of the deceased has been consulted and consents to said removal and donation in accordance with the provisions of Section 2203 of this title. It is the intent of the Oklahoma Legislature that, if the

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<sup>7</sup> Title 63, § 2201 et seq.

<sup>8</sup> Title 63, § 2201 et seq.

removal of an organ or organs for transplant will not interfere with the subsequent course of an investigation or autopsy, and if the next of kin of the deceased has been consulted and consents to said removal and donation in accordance with the provisions of Section 2203 of this title, the chief Medical Examiner, county medical examiner or any person authorized by law to conduct an autopsy shall authorize the removal of organs from the deceased for donation to a suitable donee pursuant to the provisions of the Uniform Anatomical Gift Act. In such cases where the deceased has an organ donor card, the consent from next of kin shall not be required.

**§ 2213 Accidental deaths, homicides and suicides – Organ donors**

Law enforcement and medical personnel involved with the investigation of accidental deaths, homicides, and suicides shall make reasonable efforts to ascertain if the victims are organ donors and, if so, to pass that information on to the proper officials. Said law enforcement and medical personnel shall not be subject to criminal or civil liability for complying with the provisions of this section.

**§ 2214 Requests for consent to anatomical gift**

A. When death occurs in a general hospital as defined by Section 1-701 of this title, to a person determined to be a suitable candidate for organ or tissue donation based on accepted medical standards, the hospital administrator or designated representative shall request the appropriate person described in subsection B of Section 2203 of this title to consent to the gift of any part of the body of the decedent as an anatomical gift.

B. No request shall be required, pursuant to this section, when the hospital administrator or designated

representative has actual notice of contrary intention by the decedent or those persons described in subsection B of Section 2203 of this title according to the order of priority stated herein, or reason to believe that an anatomical gift is contrary to the religious beliefs of the decedent.

C. Upon consent of the appropriate person specified in subsection B of Section 2203 of this title, the hospital administrator or designated representative shall notify an appropriate organ or tissue bank, or retrieval organization and cooperative in the procurement of the anatomical gift pursuant to the Uniform Anatomical Gift Act.<sup>9</sup>

D. The person consenting to the request for the anatomical gift may give such consent in person or by telephone, telegraph or other appropriate means pursuant to procedures established by rules of the State Board of Health.

E. The consent provided for in this section is unnecessary if the decedent has a donor card, a state identification card, or an on-line or other organ donor registry enrollment form, or other document consenting to an anatomical gift.

F. With the consent of the parent or legal guardian of a minor, a minor may declare his or her intent to be an organ, eye and tissue donor on any form of donor registration, including a driver license; provided, however, such declaration shall only constitute an intent to donate and shall not constitute consent until such time as the minor attains the age of eighteen (18) years, at which time such donor registration shall constitute legal consent for purposes of organ, eye and tissue donation.

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<sup>9</sup> Title 63, § 2201 et seq.

### **§ 2215 Certificate of request for anatomical gift**

A. When a request is made, pursuant to Section 1 of this act,<sup>10</sup> the person making the request shall complete a certificate of request for an anatomical gift, on a form to be supplied by the State Board of Health. The certificate shall include the following:

1. A statement indicating that a request for an anatomical gift was made;
2. The name and affiliation of the person making the request;
3. An indication of whether consent was granted and, if so, what organs and tissues were donated;
4. The name of the person granting or refusing the request, and his relationship to the decedent; and
5. Whether the consent was given in person, by telephone, telegraph or other appropriate means.

B. A copy of the certificate required by subsection A of this section shall be included in the medical records of the decedent.

### **§ 2216 Rules and regulations**

A. The State Board of Health shall promulgate rules and regulations, concerning but not limited to:

1. The training and qualification of hospital personnel or designated representatives who perform the request; and

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<sup>10</sup> Title 63, § 2214.

2. The procedures to be employed in making the request.

B. The State Board of Health shall promulgate such rules and regulations as are necessary to implement appropriate procedures to facilitate proper coordination among hospitals, organ and tissue banks and retrieval organizations.

### **§ 2217 Civil liability -- Limitations**

No additional civil liability shall be created as a result of the duties imposed by the Uniform Anatomical Gift Act. No person shall be held civilly liable for following the provisions of the Uniform Anatomical Gift Act.<sup>11</sup>

### **§ 2218 Exemptions**

All hospitals with a capacity of fewer than fifty (50) beds shall be exempt from the mandatory provisions of this act,<sup>12</sup> but may elect to voluntarily comply with the provisions of this act and the rules and regulations promulgated by the State Board of Health, and to participate in any training program established or required by the State Board of Health.

## **CHERYL SELMAN ORGAN DONOR EDUCATION AND AWARENESS ACT**

### **§ 2220.1. Short title**

This act shall be known and may be cited as the “Cheryl Selman Organ Donor Education and Awareness Act”. Any references in the statutes to the Oklahoma Organ Donor Education and Awareness Program Act shall be deemed references to the Cheryl Selman Organ Donor Education and Awareness Act.

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<sup>11</sup> Title 63, § 2201 et seq.

<sup>12</sup> Title 63, § 2214 et seq.

There is hereby created the Organ Donor Education and Awareness Program (ODEAP), the purpose of which shall be to promote and encourage organ donor education and awareness in this state.

**§ 2220.2. Organ Donor Education and Awareness Program Advisory Council**

A. There is hereby established within the State Department of Health the Organ Donor Education and Awareness Program Advisory Council which shall consist of the following members appointed by the Governor, with the advice and consent of the Senate:

1. One representative from an organ procurement organization in this state that is certified by the United States Department of Health and Human Services;

2. One representative from a tissue procurement organization in this state that is certified by a national association of tissue banks;

3. One representative from an Oklahoma eye bank that is certified by a national eye bank enucleation organization;

4. Four members representing organ, tissue and eye recipients and their relatives, or donors and relatives of donors who are residents of this state; provided, however, such appointments shall be geographically representative of the four regions of the state;

5. One representative from an Oklahoma transplant center that is a member of a national organ procurement network; and

6. Three at-large members who have demonstrated an interest in organ donor education and awareness and who are residents of this state.

B. 1. Of the initial appointments made to the Oklahoma Organ Donor Education and Awareness Program Advisory Council pursuant to the provisions of subsection A of this section, the Governor shall designate four members to serve terms of four (4) years, four members to serve terms of three (3) years, and three members to serve terms of two (2) years. After the initial appointments, members appointed to the Advisory Council shall serve terms of four (4) years. Members shall serve until successors are appointed and qualified. A member may be removed by the Governor for cause. Members may serve no more than two full terms consecutively. A vacancy on the Advisory Council shall be filled in the same manner as the original appointment, for the unexpired portion of the term.

2. The Advisory Council shall elect from among its membership a chair and a vice-chair and shall adopt procedures for the governance of its operations. The Advisory Council shall meet at least semiannually. Six members shall constitute a quorum for the transaction of business.

3. Members of the Advisory Council shall receive no compensation for their services but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties by the State Department of Health pursuant to the provisions of the State Travel Reimbursement Act.

4. The State Commissioner of Health may employ such staff as necessary to carry out the provisions of this act; provided, however, the cost of administration of this act shall not exceed twenty percent (20%) of the total funds credited to the Organ Donor Education and Awareness Program Fund created in Section 3 of this act, including administrative fees paid to the



Oklahoma Tax Commission and the Commissioner for Public Safety pursuant to the provisions of Sections 4 and 5 of this act.

C. The Oklahoma Organ Donor Education and Awareness Program Advisory Council shall assist the State Department of Health and the State Department of Education in the development of organ donor education awareness programs to educate the general public on the importance of organ donation and shall recommend priorities in the expenditures from the Oklahoma Organ Donor Education and Awareness Program Fund.

D. In administering this act, the Advisory Council is authorized, but not limited to:

1. Develop and implement educational programs and campaigns to increase organ donation in Oklahoma;
2. Make policy recommendations for the promotion of organ donation in Oklahoma;
3. Recommend priorities in the expenditures from the Oklahoma Organ Donor Education Program Fund;
4. Accept and hold property; and
5. Utilize local resources including volunteers when appropriate.

E. The Advisory Council shall annually submit to the Governor and the Legislature a report detailing its expenditures of fund monies, its activities, the status of organ donation in the state, and any recommendations for legislative changes by the first day of December beginning December 1, 2002.

**§ 2220.3. Oklahoma Organ Donor Education and Awareness Program Revolving Fund**

A. There is hereby created in the State Treasury a revolving fund for the State Department of Health, to be designated the “Oklahoma Organ Donor Education and Awareness Program Revolving Fund”. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Health from:

1. Any state monies appropriated for the purpose of implementing the provisions of the Oklahoma Organ Donor Education and Awareness Program Act; and

2. Any monies collected pursuant to this section or any other monies available to the State Department of Health to implement the provisions of the Oklahoma Organ Donor Education and Awareness Program Act.

B. All monies accruing to the credit of the fund are hereby appropriated and shall be budgeted and expended to promote and encourage organ donor education and awareness.

C. Monies credited to the fund, excluding administrative fees paid to the Oklahoma Tax Commission, may be used for, but are not limited to:

1. Administration of the Act, including, but not limited to, personnel and Advisory Council expenses;

2. Development and promotion of organ donor public education and awareness programs in cooperation with the Oklahoma Organ Sharing Network including, but not limited to, the American Red Cross and the Oklahoma Lions Eye Bank;

3. To assist in the publication of information pamphlets or booklets by the State Oklahoma Department of

Health and the State Superintendent of Public Instruction regarding organ donation and donations to the Oklahoma Organ Donor Education and Awareness Program Fund. The State Department of Health shall distribute such informational pamphlets or booklets to the Department of Public Safety for distribution to applicants for original, renewal, or replacement driver licenses and identification cards when making a voluntary contribution pursuant to Section 2220.5 of this title and to the Oklahoma Tax Commission for distribution to individuals when making a voluntary contribution pursuant to the state income tax check off provided for in Section 2220.4 of this title;

4. Implementation of organ donor education and awareness programs in the elementary and secondary schools of this state by the State Department of Education in cooperation with the Oklahoma Organ Donor Education and Awareness Program Advisory Council;

5. Grants by the State Department of Health to certified organ procurement organizations for the development and implementation of organ donor education and awareness programs in this state;

6. Encouraging the incorporation of organ donor information into the medical and nursing school curriculums of the state's medical and nursing schools. If funds are provided to a university for this educational purpose, the university shall annually evaluate the extent to which the curriculum has affected the attitudes of its students and graduates with regard to organ donation and shall forward the evaluation results to the Advisory Council; and

7. A reserve fund in an interest-bearing account with five percent (5%) of the monies received by the fund annually to be placed in this account. No funds may be expended from the reserve fund account until the required balance has reached One Hundred Thousand Dollars (\$100,000.00) and then these funds

may only be used in years when donations do not meet the average normal operating fee incurred by the fund, and funds are expended to meet expenses. Once the balance in the reserve fund account reaches One Hundred Thousand Dollars (\$100,000.00), excess funds earned by interest, and yearly allocations may be used at the discretion of the Advisory Council to cover operating costs and to provide additional funds.

D. The fund may accept bequests and grants from individuals, corporations, organizations, associations, and any other source. The fund supplements and augments services provided by state agencies and does not take the place of such services.

E. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

#### **§ 2220.4. Income tax return contributions**

A. Each individual taxpayer required to file a state income tax return who desires to contribute to the Oklahoma Organ Donor Education and Awareness Program Fund, as created in Section 2220.3 of this title, may designate the contribution on the appropriate income tax form. The contribution may not increase or decrease the income or liability of the taxpayer and may be made by reducing the income tax refund of a taxpayer by the amount designated or by accepting additional payment from the taxpayer by the amount designated, whichever is appropriate.

B. 1. The Oklahoma Tax Commission shall include on each state individual income tax return form for tax years beginning after December 31, 2001, an opportunity for the taxpayer to donate for the benefit of the Oklahoma Organ Donor Education and Awareness Program Fund. The instructions accompanying the income tax form shall be provided to the

Oklahoma Tax Commission by the State Department of Health and shall contain a description of the purpose for which the Oklahoma Organ Donor Education and Awareness Program Revolving Fund was established and information on the use of monies from the income tax contribution.

2. Taxpayers who are entitled to refunds shall have the refunds reduced by the amount designated by the taxpayer. The Oklahoma Tax Commission shall annually determine the total amount designated plus the amount received in excess payments and shall report the total amount to the Office of the State Treasurer. The State Treasurer shall credit the total amount to the Oklahoma Organ Donor Education and Awareness Program Fund created in Section 2220.3 of this title at the earliest possible time.

C. The incremental cost for administration of contributions shall be paid out of the fund to the Oklahoma Tax Commission from amounts received pursuant to this section before funds are expended for the purposes of the fund.

**§ 2220.5. Driver license or identification applications—  
Voluntary contributions**

A. 1. An applicant for an original or replacement driver license or identification card shall be given an opportunity to make a voluntary contribution of One Dollar (\$1.00) to be credited to the Oklahoma Organ Donor Education and Awareness Program Revolving Fund established in Section 2220.3 of this title. Any voluntary contribution shall be added to the driver license, identification card, title, or license plate fee and then be referred to the State Treasurer and credited to the Oklahoma Organ Donor Education and Awareness Program Revolving Fund as provided in Section 2220.3 of this title.

2. An applicant for a vehicle title or transfer of title or for a vehicle license plate shall be given an opportunity to make a minimum voluntary contribution of One Dollar (\$1.00) to be

credited to the Oklahoma Organ Donor Education and Awareness Program Revolving Fund established in Section 2220.3 of this title. Any voluntary contribution shall be added to the title or license plate fee and then be referred to the State Treasurer and credited to the Oklahoma Organ Donor Education and Awareness Program Revolving Fund as provided in Section 2220.3 of this title.

3. The contribution prescribed in this section is voluntary and may be refused by the applicant. The Department of Public Safety and the Oklahoma Tax Commission shall make available an information booklet or other informational sources on the importance or other informational sources on the importance of organ donation to applicants for licensure, as designed and provided by the State Department of Health and State Superintendent of Public Instruction with the assistance of the Oklahoma Organ Donor Education and Awareness Program Advisory Council established in Section 2220.2 of this title.

B. The Department of Public Safety shall inquire of each applicant at the time of presentation of a completed original driver license application or identification card whether the applicant is interested in making the One Dollar (\$1.00) contribution prescribed in subsection A of this section and whether the applicant is interested in being an organ donor. The Department of Public Safety shall also specifically inform the applicant of the ability to make an organ donation by checking the organ donor box on the front of the driver license or identification card that the applicant will receive. The Department of Public Safety shall notify the State Commissioner of Health the name, address, date of birth, and driver license number or identification number of applicants who indicate that they are interested in being an organ donor.

C. The incremental cost of administration of contributions to the fund, not to exceed one percent (1%) of the monies received pursuant to the provisions of this section, shall be

paid by the fund to the Department of Public Safety or the Oklahoma Tax Commission, as applicable, from amounts received pursuant to the provisions of this section before funds are expended for the purposes of the fund.

**§ 2220.6. Education and awareness curricula for elementary and secondary schools**

The State Superintendent of Public Instruction shall develop and implement in conjunction with the State Department of Health and the Oklahoma Organ Donor Education and Awareness Program Advisory Council within the State Department of Health an organ donor [education and awareness curriculum for use in elementary and] secondary schools of this state. The State Board of Education shall promulgate rules to enact the provisions of this section not later than the 2001-2002 school year.

**§ 2220.10 Life Share Donor Registry**

A. 1. There is hereby established an organ, eye and tissue donor registry for the State of Oklahoma to be known as the “Life Share Donor Registry”, and to be administered by a federally designated organ procurement organization in the State of Oklahoma.

2. The registry shall maintain and update as needed the pertinent information on all Oklahomans who have indicated a willingness to be an organ donor, eye donor or tissue donor by a designation on a driver license, commercial driver license or motor cycle operator license, a state identification card, a donor card, an online or other organ donor registry enrollment form, or any other document of gift.

3. The registry shall be fully operational not later than July 1, 2004.

4. The registry and all information therein shall be confidential and subject to access only by the designated organ procurement organization, eye banks and tissue banks, operating in or serving Oklahoma, for the purpose of identifying a potential donor.

5. The purpose of the registry shall include, but not be limited to:

- a. providing a means of recovering an anatomical gift for transplantation or research, and
- b. collecting data to develop and evaluate the effectiveness of educational initiatives promoting organ, eye and tissue donation.

B. Procedures to administer the Life Share Donor Registry shall specify:

1. The information to be included in the registry including, but not limited to, the data subject's full name, address, sex, birth date, age, driver license number or other unique identifying number, and other pertinent identifying personal information;

2. authorization for the federally designated organ procurement organization or a state licensed eye and tissue bank to analyze registry data under research protocols directed toward determination and identification of the means to promote and increase organ, eye and tissue donation within this state;

3. A process for updating information in the registry including a method whereby an individual may revoke his or her intent to be an organ or tissue donor;



4. The method for making information on the registry available to organ procurement organizations, tissue banks and eye banks;

5. Limitations on the use of and access to the registry;

6. A toll-free telephone number, available twenty-four (24) hours a day, for use by the public to obtain information on becoming an organ, tissue or eye donor;

7. A process for establishing an online organ, eye and tissue donor registration process and ensuring the confidentiality of information provided;

8. A process for a donor who has registered online to sign a confirmation card that will be returned to the designated Oklahoma organ procurement organization and made part of the registry record; and

9. Procedures for collaborating with the Department of Public Safety to transmit information stored in driver license data banks from the Department of Public Safety to the Life Share Donor Registry maintained by the organ procurement organization, and to ensure the confidentiality of such information for present and potential donors. Monies credited to the Oklahoma Organ Donor Education and Awareness Program Revolving Fund created in Section 2220.3 of Title 63 of the Oklahoma Statutes may be used for a one-time transfer to the Department of Public Safety for the reasonable costs associated with the initial installation and setup of equipment and software for electronic transfer of donor information. All subsequent electronic transfers of donor information shall be at no charge to the federally designated organ procurement agency; provided, however, all costs associated with the creation and maintenance of the organ, eye and tissue donor registry shall be paid by the procurement agency.

C. Information obtained by the federally designated organ procurement organization shall be used for the purpose of:

1. Establishing a statewide organ and tissue donor registry that is accessible to in-state recognized cadaveric organ and cadaveric tissue agencies for the recovery or placement of organs and tissue; and

2. Procuring agencies in other states when an Oklahoma resident is a donor of an anatomical gift and is not located in Oklahoma at the time of death or immediately before the death of the donor.

**§ 2220.11. (now at 74 O.S. § 840-2.20B) Leaves of absence for state employees serving as donors**

A. Any employee of this state, its departments or agencies shall be granted a leave of absence, subject to approval of the scheduling of such leave by the employee's Appointing Authority, with medical necessity being the primary determinant for such approval, for the time specified for the following purposes:

1. Five (5) workdays to serve as a bone marrow donor if the employee provides the employer written verification that the employee is to serve as a bone marrow donor; and

2. Thirty (30) workdays to serve as a human organ donor if the employee provides the employer written verification that the employee is to serve as a human organ donor.

B. An employee who is granted a leave of absence pursuant to the provisions of this section shall receive the base state pay without interruption during the leave of absence. For purposes of determining seniority, pay or pay advancement, and performance awards, and for the receipt of any benefit that may be affected by a leave of absence, the service of the employee shall be considered uninterrupted by the leave of absence.

C. A state agency shall not penalize an employee for requesting or obtaining a leave of absence pursuant to the provisions of this section.

D. The leave authorized by this section may be requested by the employee only if the employee is the person who is serving as the donor.

## **APPENDIX B**

### **SENATE BILL 1528 – ORIGINAL VERSION**

An Act relating to public health and safety; creating the Oklahoma Organ Donor Education and Awareness Program Act; stating short title; stating purpose of act; establishing the Organ Donor Education and Awareness Program Advisory Council; providing for membership, terms, appointments, removal, vacancies, election of officers, adoption of rules, meetings, quorum and travel reimbursement; allowing State Commissioner of Health to employ specified staff; limiting cost of administration of act; requiring Advisory Council to assist specified agencies in development of organ donor education awareness programs; requiring Advisory Council to recommend priorities in expenditures from specified fund; authorizing duties of Advisory Council; requiring submission of annual report; creating fund; stating contents of fund; appropriating monies accruing to fund; authorizing specified uses of monies in fund; requiring annual evaluation of effect of curriculum of certain educational institutions on specified subject; limiting expenditures from reserve fund account; allowing acceptance of bequests and grants by fund; prohibiting monies from specified fund to replace services provided by state agencies; allowing designation of contribution on state income tax return and providing procedures thereto; allowing voluntary contribution upon purchase of specified licenses or other services offered by the Department of Public Safety and providing procedures thereto; requiring development and implementation of specified curriculum in elementary and secondary schools; requiring promulgation of specified rules; providing for codification; and providing an effective date.

**BE IN ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:**

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2220.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the “Oklahoma Organ Donor Education and Awareness Program Act.”

There is hereby created the Organ Donor Education and Awareness Program, the purpose of which shall be to promote and encourage organ donor education and awareness in this state.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2220.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established within the State Department of Health the Organ Donor Education and Awareness Program Advisory Council which shall consist of the following members appointed by the Governor, with the advice and consent of the Senate:

1. One representative from an organ procurement organization in this state that is certified by the United States Department of Health and Human Services;

2. One representative from a tissue procurement organization in this state that is certified by a national association of tissue banks;

3. One representative from an Oklahoma eye bank that is certified by a national eye bank enucleation organization;

4. Four members representing organ, tissue and eye recipients and their relatives, or donors and relatives of donors who are residents of this state; provided, however, such appointments shall be geographically representative of the four regions of the state;

5. One representative from an Oklahoma transplant center that is a member of a national organ procurement network; and

6. Three at-large members who have demonstrated an interest in organ donor education and awareness and who are residents of this state.

B. 1. Of the initial appointments made to the Oklahoma Organ Donor Education and Awareness Program Advisory Council pursuant to the provisions of subsection A of this section, the Governor shall designate four members to serve terms of four (4) years, four members to serve terms of three (3) years, and three members to serve terms of two (2) years. After the initial appointments, members appointed to the Advisory Council shall serve terms of four (4) years. Members shall serve until successors are appointed and qualified. A member may be removed by the Governor for cause. Members may serve no more than two full terms consecutively. A vacancy on the Advisory Council shall be filled in the same manner as the original appointment, for the unexpired portion of the term.

2. The Advisory Council shall elect from among its membership a chair and a vice-chair and shall adopt procedures for the governance of its operations. The Advisory Council shall meet at least semiannually. Six members shall constitute a quorum for the transaction of business.

3. Members of the Advisory Council shall receive no compensation for their services but may be reimbursed for reasonable and necessary expenses incurred in the performance of

their duties by the State Department of Health pursuant to the provisions of the State Travel Reimbursement Act.

4. The State Commissioner of Health may employ such staff as necessary to carry out the provisions of this act; provided, however, the cost of administration of this act shall not exceed twenty percent (20%) of the total funds credited to the Organ Donor Education and Awareness Program Fund created in Section 3 of this act, including administrative fees paid to the Oklahoma Tax Commission and the Commissioner for Public Safety pursuant to the provisions of Sections 4 and 5 of this act.

C. The Oklahoma Organ Donor Education and Awareness Program Advisory Council shall assist the State Department of Health and the State Department of Education in the development of organ donor education awareness programs to educate the general public on the importance of organ donation and shall recommend priorities in the expenditures from the Oklahoma Organ Donor Education and Awareness Program Fund.

D. In administering this act, the Advisory Council is authorized, but not limited to:

1. Develop and implement educational programs and campaigns to increase organ donation in Oklahoma;
2. Make policy recommendations for the promotion of organ donation in Oklahoma;
3. Recommend priorities in the expenditures from the Oklahoma Organ Donor Education Program Fund;
4. Accept and hold property; and
5. Utilize local resources including volunteers when appropriate.

E. The Advisory Council shall annually submit to the Governor and the Legislature a report detailing its expenditures of fund monies, its activities, the status of organ donation in the state, and any recommendations for legislative changes by the first day of December beginning December 1, 2002.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2220.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the State Department of Health, to be designated the "Oklahoma Organ Donor Education and Awareness Program Revolving Fund." The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Health from:

1. Any state monies appropriated for the purpose of implementing the provisions of the Oklahoma Organ Donor Education and Awareness Program Act; and

2. Any monies collected pursuant to this section or any other monies available to the State Department of Health to implement the provisions of the Oklahoma Organ Donor Education and Awareness Program Act.

B. All monies accruing to the credit of the fund are hereby appropriated and shall be budgeted and expended to promote and encourage organ donor education and awareness.

C. Monies credited to the fund, excluding administrative fees paid to the Oklahoma Tax Commission, may be used for, but are not limited to:

1. Administration of the Act, including, but not limited to, personnel and Advisory Council expenses;



2. Development and promotion of organ donor public education and awareness programs in cooperation with the Oklahoma Organ Sharing Network including, but not limited to, the American Red Cross and the Oklahoma Lions Eye Bank;

3. To assist in the publication of information pamphlets or booklets by the State Department of Health and the State Superintendent of Public Instruction regarding organ donation and donations to the Oklahoma Organ Donor Education and Awareness Program Fund. The State Department of Health shall distribute such informational pamphlets or booklets to the Oklahoma Tax Commission for distribution to individuals when making a voluntary contribution pursuant to the state income tax check off provided for in Section 4 of this act;

4. Implementation of organ donor education and awareness programs in the elementary and secondary schools of this state by the State Department of Education in cooperation with the Oklahoma Organ Donor Education and Awareness Program Advisory Council;

5. Grants by the State Department of Health to certified organ procurement organizations for the development and implementation of organ donor education and awareness programs in this state;

6. Encouraging the incorporation of organ donor information into the medical and nursing school curriculums of the state's medical and nursing schools. If funds are provided to a university for this educational purpose, the university shall annually evaluate the extent to which the curriculum has affected the attitudes of its students and graduates with regard to organ donation and shall forward the evaluation results to the Advisory Council; and

7. A reserve fund in an interest-bearing account with five percent (5%) of the monies received by the fund annually to

be placed in this account. No funds may be expended from the reserve fund account until the required balance has reached One Hundred Thousand Dollars (\$100,000.00) and then these funds may only be used in years when donations do not meet the average normal operating fee incurred by the fund, and funds are expended to meet expenses. Once the balance in the reserve fund account reaches One Hundred Thousand Dollars (\$100,000.00), excess funds earned by interest, and yearly allocations may be used at the discretion of the Advisory Council to cover operating costs and to provide additional funds.

D. The fund may accept bequests and grants from individuals, corporations, organizations, associations, and any other source. The fund supplements and augments services provided by state agencies and does not take the place of such services.

E. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2220.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Each individual taxpayer required to file a state income tax return who desires to contribute to the Oklahoma Organ Donor Education and Awareness Program Fund, as created in Section 3 of this act, may designate the contribution on the appropriate income tax form. The contribution may not increase or decrease the income or liability of the taxpayer and may be made by reducing the income tax refund of a taxpayer by the amount designated or by accepting additional payment from the taxpayer by the amount designated, whichever is appropriate.

B. 1. Each Oklahoma individual income tax return form for tax years commencing after December 31, 2000, shall contain a designation for a contribution to the Oklahoma Organ Donor Education and Awareness Program Fund. The instructions accompanying the income tax form shall be provided to the Oklahoma Tax Commission by the State Department of Health and shall contain a description of the purpose for which the Oklahoma Organ Donor Education and Awareness Program Revolving Fund was established and information on the use of monies from the income tax contribution.

2. Tax payers who are entitled to refunds shall have the refunds reduced by the amount designated pursuant to the provisions of paragraph 1 of this subsection. The Oklahoma Tax Commission shall annually determine the total amount designated plus the amount received in excess payments and shall report the total amount to the Office of the State Treasurer. The State Treasurer shall credit the total amount to the Oklahoma Organ Donor Education and Awareness Program Fund created in Section 3 of this act at the earliest possible time.

C. The incremental cost of administration of contributions shall be paid out of the fund to the Oklahoma Tax Commission from amounts received pursuant to this section before funds are expended for the purposes of the fund.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2220.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. 1. An applicant for a new or renewal driver license, commercial driver license, motorcycle driver license, identification card, issuance of a vehicle title or transfer of title, or issuance of a vehicle license plate shall be given an opportunity in writing to make a minimum voluntary contribution of One Dollar (\$1.00) to be credited to the Oklahoma Organ Donor

Education and Awareness Program Revolving Fund established in Section 3 of this act. Any voluntary contribution shall be added to the driver license, identification card, title, or license plate fee and then be referred to the State Treasurer and credited to the Oklahoma Organ Donor Education and Awareness Program Revolving Fund as provided in Section 3 of this act.

2. The donation prescribed in this section is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The Commissioner for Public Safety and the Oklahoma Tax Commission shall make available an information booklet or other informational sources on the importance of organ donation to applicants for licensure, as designed and provided by the State Department of Health and the State Superintendent of Public Instruction with the assistance of the Oklahoma Organ Donor Education and Awareness Program Advisory Council established in Section 2 of this act.

B. The Commissioner for Public Safety shall inquire of each applicant at the time of presentation of a completed license application whether the applicant is interested in making the One Dollar (\$1.00) donation prescribed in subsection A of this section and whether the applicant is interested in being an organ donor. The Commissioner of Public Safety shall also specifically inform the licensee of the ability to make an organ donation by checking the organ donor box on the front of the driver license, commercial driver license or motorcycle driver license that the applicant will receive. The Commissioner of Public safety shall notify the State Commissioner of Health regarding health information obtained from applicants who indicate that they are interested in being an organ donor.

C. The incremental cost of administration of contributions to the fund, not to exceed one percent (1%) of the monies received pursuant to the provisions of this section, shall be paid by the fund to the Commissioner for Public Safety and the

Oklahoma Tax Commission from amounts received pursuant to the provisions of this section before funds are expended for the purposes of the fund.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2220.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

The State Superintendent of Public Instruction shall develop and implement in conjunction with the State Department of Health and the Oklahoma Organ Donor Education and Awareness Program Advisory Council within the State Department of Health an organ donor education and awareness curriculum for use in the elementary and secondary schools of this state. The State Board of Education shall promulgate rules to enact the provisions of this section not later than the 2001-2002 school year.

SECTION 7. This act shall become effective November 1, 2000.

Passed the Senate the 25<sup>th</sup> day of May, 2000.

## APPENDIX C

### SENATE BILL 1087

An Act relating to public health and organ donations; amending 63 O.S. 1991, Sections 2202 and 2204, which relate to the Uniform Anatomical Gift Act; adding definitions; authorizing certain agreements for the transfer of donated organs to out-of-state transplant recipients; establishing certain conditions for the agreement; and declaring an emergency.

#### **BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:**

SECTION 1. AMENDATORY 63 O.S. 1991, Section 2202, is amended to read as follows:

Section 2202. ~~(a)~~ 1. “Bank or storage facility” means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts thereof;

~~(b)~~ 2. “Decedent” means a deceased individual and includes a stillborn infant or fetus;

~~(c)~~ 3. “Donor” means an individual who makes a gift of all or part of his body;

~~(d)~~ 4. “Hospital” means a hospital licensed, accredited, or approved under the laws of any state; including a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws;

~~(e)~~ 5. “Part” means organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body;

~~(f)~~ 6. “Person” means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

~~(h)~~ 8. “Physician” or “surgeon” means a physician or surgeon licensed or authorized to practice under the laws of any state;

9. “Designated organ procurement organization” means an organization that is designated by the United States Department of Health and Human Services, or its successor, to perform or coordinate the surgical recovery, preservation, and transportation of organs and that allocates organs to prospective recipients;

10. “Reciprocal agreement” means an agreement to return to the recipient pool in Oklahoma an organ that is deemed locally acceptable for transplantation; and

11. “Vascular organ” means the heart, lungs, kidneys, liver, pancreas, or any other organ that requires continuous circulation of blood to remain useful for transplantation purposes. As used in Section 2 of this act, the term “vascular organ” does not include human tissue, bones, or corneas.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 2204, is amended to read as follows:

Section 2204. A. The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

1. Any hospital, surgeon, or physician, for medical or dental education research, advancement of medical or dental science, therapy or transplantation;

2. An accredited medical or dental school, college or university for education, research, advancement of medical or dental science or therapy;

3. The designated Oklahoma organ procurement organization;

4. Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation;

4. 5. Any specified individual for therapy or transplantation needed by him; or

5. 6. The Anatomical Board of the State of Oklahoma.

B. Any donee receiving a whole body donation from any source shall have approval from the Anatomical Board of the State of Oklahoma prior to receiving such donation.

1. Subject to the provisions of paragraph 2 of this subsection, if, in the judgment of the designated Oklahoma organ procurement organization, it is appropriate to allocate a vascular organ to a patient awaiting transplantation outside of the State of Oklahoma, that the organization shall have the authority to enter into such vascular organ sharing arrangements as may be deemed advisable, necessary or expedient. The terms of such vascular organ sharing agreement shall provide that a vascular organ recovered in Oklahoma shall not be transferred to an out-of-state organ procurement organization and transplanted there into a suitable recipient before such vascular organ is offered and placed into a suitable recipient located in Oklahoma, unless there is a reciprocal agreement by which the recipient pool of patients awaiting transplantation in Oklahoma receive an organ deemed locally acceptable for transplantation in return for the organ sent out of the state.



2. The designated Oklahoma organ procurement organization may only transfer a vascular organ to an out-of-state organ procurement organization or suitable out-of-state recipient for transplantation if one of the following requirements is met:

- a. a suitable recipient in the State of Oklahoma is not known to the designated Oklahoma organ procurement organization within the amount of time necessary to preserve the organ, or
- b. the designated Oklahoma organ procurement organization has a reciprocal agreement as provided by paragraph 1 of this subsection.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Approved April 13, 1998.

**APPENDIX D**

**HOUSE BILL 1183**

An Act relating to public health and safety; amending 63 O.S. 1991, Sections 2203, 2214 and 2217, which relate to anatomical gifts; authorizing anatomical gifts be donated in spite of contrary intent by certain persons; clarifying language; prohibiting persons from interfering with the right of another to make an anatomical gift; providing immunity from certain actions; and declaring an emergency.

**BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:**

SECTION 1. AMENDATORY      63 O.S. 1991, Section 2203, is amended to read as follows:

Section 2203. ~~4-A.~~ Any adult of sound mind may give all or any part of his body for any purpose specified in Section 2204 of this title, the gift to take effect upon death. The wishes of the deceased, as evidenced by the advance directive, driver license designation or a will shall take precedence over the wishes of the family.

~~2-B.~~ Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in Section 2204 of this title:

a. ~~the~~

1. The spouse;

2. An adult son or daughter;

e. ~~either~~

3. Either parent;

d. ~~an~~

4. An adult brother or sister;

e. ~~a~~

5. A guardian of the person of the decedent at the time of his death; or

f. ~~any~~

6. Any other person authorized or under obligation to dispose of the body.

~~3.C.~~ If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection ~~2~~ B of this section may make the gift after or immediately before the decedent's death.

~~4.D.~~ A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

~~5.E.~~ The rights of the donee created by the gift or paramount to the rights of others except as provided by subsection (d) of Section 2208(d) 2208 of this title.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 2214, is amended to read as follows:

Section 2214. A. When death occurs in a general hospital as defined by Section 1-701 of ~~Title 63 of the Oklahoma~~

~~Statutes~~ this title, to a person determined to be a suitable candidate for organ or tissue donation based on accepted medical standards, the hospital administrator or designated representative shall request the appropriate person described in ~~paragraph 2~~ subsection B of Section 2203 of this title according to the order of priority stated therein, or reason to believe that an anatomical gift is contrary to the religious beliefs of the decedent.

C. Upon consent of the appropriate person specified in ~~paragraph 2~~ subsection B of Section 2203 of ~~Title 63 of the Oklahoma Statutes~~ this title, the hospital administrator or designated representative shall notify an appropriate organ or tissue bank, or retrieval organization and cooperate in the procurement of the anatomical gift pursuant to the Uniform Anatomical Gift Act.

D. The person consenting to the request for the anatomical gift may give such consent in person or by telephone, telegraph or other appropriate means pursuant to procedures established by rules ~~and regulations~~ of the State Board of Health.

E. The consent provided for in this section is unnecessary if the decedent has a donor card or other document consenting to an anatomical gift.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 2217, is amended to read as follows:

Section 2217 No additional civil liability shall be created as a result of the duties imposed by ~~this act~~ the Uniform Anatomical Gift Act. No person shall be held civilly liable for following the provisions of the Uniform Anatomical Gift Act.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

## APPENDIX E

### SENATE BILL 1628

An Act relating to public health and safety; amending 63 O.S. 2001, Section 2220.1, which relates to the Oklahoma Organ Donor Education and Awareness Program Act; modifying name of the act; clarifying references to certain act; providing for granting of leave of absence to certain state employees; providing for noninterruption of base state pay during such leave; prohibiting penalizing of employee; stating requirement regarding authorization of leave; providing for codification; providing an effective date; and declaring an emergency.

#### **BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:**

SECTION 1. AMENDATORY 63 O.S. 2001, Section 2220.1, is amended to read as follows:

Section 2220.1 This act shall be known and may be cited as the "~~Oklahoma~~ Cheryl Selman Organ Donor Education and Awareness ~~Program~~ Act". Any references in the statutes to the Oklahoma Organ Donor Education and Awareness Program Act shall be deemed references to the Cheryl Selman Organ Donor Education and Awareness Act.

There is hereby created the Organ Donor Education and Awareness Program (ODEAP), the purpose of which shall be to promote and encourage organ donor education and awareness in this state.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2220.11 of Title 63, unless there is created a duplication in number, reads as follows:

A. Any employee of this state, its departments or agencies shall be granted a leave of absence for the time specified for the following purposes:

1. Five (5) workdays to serve as a bone marrow donor if the employee provides the employer written verification that the employee is to serve as a bone marrow donor; and

2. Thirty (30) workdays to serve as a human organ donor if the employee provides the employer written verification that the employee is to serve as a human organ donor.

B. An employee who is granted a leave of absence pursuant to the provisions of this section shall receive the base state pay without interruption during the leave of absence. For purposes of determining seniority, pay or pay advancement, and performance awards, and for the receipt of any benefit that may be affected by a leave of absence, the service of the employee shall be considered uninterrupted by the leave of absence.

C. A state agency shall not penalize an employee for requesting or obtaining a leave of absence pursuant to the provisions of this section.

D. The leave authorized by this section may be requested by the employee only if the employee is the person who is serving as the donor.

SECTION 3. This act shall become effective July 1, 2002.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 6th day of May, 2002.

Passed the House of Representatives the 24th day of April, 2002.

## APPENDIX F

### SENATE BILL 586

An Act relating to public health and safety; amending 63 O.S. 2001, Sections 2203 and 2214, which relate to anatomical gifts; expanding list of acceptable evidentiary documents related to organ donation; establishing method of declaration of intent by a minor regarding organ donation; modifying uses of certain fund; providing procedures; establishing an organ, eye and tissue donor registry; requiring specified administration of registry; stating purposes and operational date; providing for confidentiality of registry information; specifying purpose of certain information; specifying procedures; providing for certain one-time transfer for specified purpose; requiring that subsequent electronic transfers of donor information be at no cost to specified agency; requiring certain costs be paid for by procurement agency; providing for codification; and declaring an emergency.

### **BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:**

SECTION 1. AMENDATORY      63 O.S. 2001, Section 2203, is amended to read as follows:

Section 2203. A.      Any adult of sound mind may give all or any part of his or her body for any purpose specified in Section 2204 of this title, the gift to take effect upon death. The wishes of the deceased, as evidenced by ~~the~~ an advance directive, a driver license designation, a donor card, a state identification card, an on-line or other organ donor enrollment registry form, or a will shall take precedence over the wishes of the family.

B.      Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the

same or a prior class, may give all or any part of the decedent's body for any purpose specified in Section 2204 of this title:

1. The spouse;
2. An adult son or daughter;
3. Either parent;
4. An adult brother or sister;
5. A guardian of the person of the decedent at the time of death; or
6. Any other person authorized or under obligation to dispose of the body.

C. If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection B of this section may make the gift after or immediately before the decedent's death.

D. A gift of all or part of the body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

E. The rights of the donee created by the gift are paramount to the rights of others except as provided by subsection (d) of Section 2208 of this title.

SECTION 2. AMENDATORY 63 O.S. 2001, Section 2214, is amended to read as follows:

Section 2214. A. When death occurs in a general hospital as defined by Section 1-701 of this title, to a person



determined to be a suitable candidate for organ or tissue donation based on accepted medical standards, the hospital administrator or designated representative shall request the appropriate person described in subsection B of Section 2203 of this title to consent to the gift of any part of the body of the decedent as an anatomical gift.

B. No request shall be required, pursuant to this section, when the hospital administrator or designated representative has actual notice of contrary intention by the decedent or those persons described in subsection B of Section 2203 of this title according to the order of priority stated therein, or reason to believe that an anatomical gift is contrary to the religious beliefs of the decedent.

C. Upon consent of the appropriate person specified in subsection B of Section 2203 of this title, the hospital administrator or designated representative shall notify an appropriate organ or tissue bank, or retrieval organization and cooperate in the procurement of the anatomical gift pursuant to the Uniform Anatomical Gift Act.

D. The person consenting to the request for the anatomical gift may give such consent in person or by telephone, telegraph or other appropriate means pursuant to procedures established by rules of the State Board of Health.

E. The consent provided for in this section is unnecessary if the decedent has a donor card, a state identification card, or an on-line or other organ donor registry enrollment form, or other document consenting to an anatomical gift.

F. With the consent of the parent or legal guardian of a minor, a minor may declare his or her intent to be an organ, eye and tissue donor on any form of donor registration, including a driver license; provided, however, such declaration shall only constitute an intent to donate and shall not constitute consent until

such time as the minor attains the age of eighteen (18) years, at which time such donor registration shall constitute legal consent for purposes of organ, eye and tissue donation.

Section 3. NEW LAW A new section of the law to be codified in the Oklahoma Statutes as Section 2220.10 of Title 63, unless there is created a duplication in number, reads as follows:

A. 1. There is hereby established an organ, eye and tissue donor registry for the State of Oklahoma to be known as the “Life Share Donor Registry”, and to be administered by a federally designated organ procurement organization in the State of Oklahoma.

2. The registry shall maintain and update as needed the pertinent information on all Oklahomans who have indicated a willingness to be an organ donor, eye donor or tissue donor by a designation on a driver license, commercial driver license or motor cycle operator license, a state identification card, a donor card, an online or other organ donor registry enrollment form, or any other document of gift.

3. The registry shall be fully operational not later than July 1, 2004.

4. The registry and all information therein shall be confidential and subject to access only by the designated organ procurement organization, eye banks and tissue banks, operating in or serving Oklahoma, for the purpose of identifying a potential donor.

5. The purpose of the registry shall include, but not be limited to:

- a. providing a means of recovering an anatomical gift for transplantation or research, and
- b. collecting data to develop and evaluate the effectiveness of educational initiatives promoting organ, eye and tissue donation.

B. Procedures to administer the Life Share Donor Registry shall specify:

1. The information to be included in the registry including, but not limited to, the data subject's full name, address, sex, birth date, age, driver license number or other unique identifying number, and other pertinent identifying personal information;

2. authorization for the federally designated organ procurement organization or a state licensed eye and tissue bank to analyze registry data under research protocols directed toward determination and identification of the means to promote and increase organ, eye and tissue donation within this state;

3. A process for updating information in the registry including a method whereby an individual may revoke his or her intent to be an organ or tissue donor;

4. The method for making information on the registry available to organ procurement organizations, tissue banks and eye banks;

5. Limitations on the use of and access to the registry;

6. A toll-free telephone number, available twenty-four (24) hours a day, for use by the public to obtain information on becoming an organ, tissue or eye donor;

7. A process for establishing an online organ, eye and tissue donor registration process and ensuring the confidentiality of information provided;

8. A process for a donor who has registered online to sign a confirmation card that will be returned to the designated Oklahoma organ procurement organization and made part of the registry record; and

9. Procedures for collaborating with the Department of Public Safety to transmit information stored in driver license data banks from the Department of Public Safety to the Life Share Donor Registry maintained by the organ procurement organization, and to ensure the confidentiality of such information for present and potential donors. Monies credited to the Oklahoma Organ Donor Education and Awareness Program Revolving Fund created in Section 2220.3 of Title 73 of the Oklahoma Statutes may be used for a one-time transfer to the Department of Public Safety for the reasonable costs associated with the initial installation and setup of equipment and software for electronic transfer of donor information. All subsequent electronic transfers of donor information shall be at no charge to the federally designated organ procurement agency; provided, however, all costs associated with the creation and maintenance of the organ, eye and tissue donor registry shall be paid by the procurement agency.

C. Information obtained by the federally designated organ procurement organization shall be used for the purpose of:

1. Establishing a statewide organ and tissue donor registry that is accessible to in-state recognized cadaveric organ and cadaveric tissue agencies for the recovery or placement of organs and tissue; and

2. Procuring agencies in other states when an Oklahoma resident is a donor of an anatomical gift and is not

located in Oklahoma at the time of death or immediately before the death of the donor.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 6th day of May, 2002.

Passed the House of Representatives the 24th day of April, 2002.

## **APPENDIX G**

### ***ADDITIONAL SOURCES FOR INFORMATION AND/OR DONOR CARDS***

#### **Oklahoma Organ Sharing Network**

5801 N. Broadway, Suite 300  
Oklahoma City, OK 73118  
405-840-5551  
888-580-5680  
**[www.lifeshareoklahoma.org](http://www.lifeshareoklahoma.org)**

#### **Global Organization For Organ Donation**

1767 East 31<sup>st</sup> Street  
Tulsa, OK 74105  
918-745-6637  
918-605-1994  
**[www.global-good.org](http://www.global-good.org)**  
e-mail: **[info@global-good.org](mailto:info@global-good.org)**

#### **U.S. Health and Human Services Dept.**

**[www.organdonor.gov](http://www.organdonor.gov)**

#### **Coalition on Donation**

1100 Boulders Parkway, Suite 500  
Richmond, Virginia 23225  
800-826-LIFE  
804-782-4920  
**[www.shareyourlife.org](http://www.shareyourlife.org)**

#### **Donor Family Network**

American Red Cross Tissue Services  
1621 N. Kent Street, 4<sup>th</sup> Floor  
Arlington, Virginia 22209  
888-484-7783