

**A-Engrossed**  
**House Bill 3092**

Ordered by the House May 2  
Including House Amendments dated May 2

Sponsored by COMMITTEE ON HEALTH CARE (at the request of Oregon Delegation of National Conference of Commissioners on Uniform State Laws)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Adopts provisions of Revised Uniform Anatomical Gift Act of 2006.

**A BILL FOR AN ACT**

1  
2 Relating to anatomical gifts; creating new provisions; amending ORS 97.130, 97.966, 114.305, 125.230,  
3 125.315, 127.510 and 802.179; and repealing ORS 97.950, 97.952, 97.954, 97.956, 97.958, 97.960,  
4 97.962 and 97.964.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1. Sections 1 to 22 of this 2007 Act may be cited as the Revised Uniform Ana-**  
7 **tomical Gift Act.**

8 **SECTION 2. As used in sections 1 to 22 of this 2007 Act:**

9 (1) **“Adult” means an individual who is 18 years of age or older.**

10 (2) **“Agent” means an:**

11 (a) **Attorney-in-fact as that term is defined in ORS 127.505; or**

12 (b) **Individual expressly authorized to make an anatomical gift on the principal's behalf**  
13 **by any record signed by the principal.**

14 (3) **“Anatomical gift” means a donation of all or part of a human body to take effect after**  
15 **the donor's death for the purpose of transplantation, therapy, research or education.**

16 (4) **“Body part” means an organ, an eye or tissue of a human being. The term does not**  
17 **include the whole body.**

18 (5) **“Decedent” means a deceased individual whose body or body part is or may be the**  
19 **source of an anatomical gift, and includes a stillborn infant or a fetus.**

20 (6)(a) **“Disinterested witness” means a witness other than:**

21 (A) **A spouse, child, parent, sibling, grandchild, grandparent or guardian of the individual**  
22 **who makes, amends, revokes or refuses to make an anatomical gift; or**

23 (B) **An adult who exhibited special care and concern for the individual.**

24 (b) **“Disinterested witness” does not include a person to whom an anatomical gift could**  
25 **pass under section 10 of this 2007 Act.**

26 (7) **“Document of gift” means a donor card or other record used to make an anatomical**  
27 **gift. The term includes a statement, symbol or designation on a driver license, identification**  
28 **card or donor registry.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (8) "Donor" means an individual whose body or body part is the subject of an anatomical  
2 gift.

3 (9) "Donor registry" means a centralized database that contains records of anatomical  
4 gifts and amendments to or revocations of anatomical gifts.

5 (10) "Driver license" means a license or permit issued under ORS 807.040, 807.200 or  
6 807.280, regardless of whether conditions are attached to the license or permit.

7 (11) "Eye bank" means an organization licensed, accredited or regulated under federal  
8 or state law to engage in the recovery, screening, testing, processing, storage or distribution  
9 of human eyes or portions of human eyes.

10 (12) "Guardian" means a person appointed by a court to make decisions regarding the  
11 support, care, education, health or welfare of an individual. "Guardian" does not include a  
12 guardian ad litem.

13 (13) "Hospital" means a facility licensed as a hospital under the law of any state or a  
14 facility operated as a hospital by the United States, a state or a subdivision of a state.

15 (14) "Identification card" means the card issued under ORS 807.400 or a comparable pro-  
16 vision of the motor vehicle laws of another state.

17 (15) "Know" means to have actual knowledge.

18 (16) "Minor" means an individual who is under 18 years of age.

19 (17) "Organ procurement organization" means an organization designated by the Secre-  
20 tary of the United States Department of Health and Human Services as an organ procure-  
21 ment organization.

22 (18) "Parent" means a parent whose parental rights have not been terminated.

23 (19) "Physician" means an individual authorized to practice medicine or osteopathy under  
24 the law of any state.

25 (20) "Procurement organization" means an eye bank, organ procurement organization or  
26 tissue bank.

27 (21) "Prospective donor" means an individual who is dead or near death and has been  
28 determined by a procurement organization to have a body part that could be medically suit-  
29 able for transplantation, therapy, research or education. The term does not include an indi-  
30 vidual who has made a refusal.

31 (22) "Reasonably available" means able to be contacted by a procurement organization  
32 without undue effort and willing and able to act in a timely manner consistent with existing  
33 medical criteria necessary for the making of an anatomical gift.

34 (23) "Recipient" means an individual into whose body a decedent's body part has been or  
35 is intended to be transplanted.

36 (24) "Record" means information that is inscribed on a tangible medium or that is stored  
37 in an electronic or other medium and is retrievable in perceivable form.

38 (25) "Refusal" means a record that expressly states an intent to prohibit other persons  
39 from making an anatomical gift of an individual's body or body part.

40 (26) "Sign" means, with the present intent to authenticate or adopt a record:

41 (a) To execute or adopt a tangible symbol; or

42 (b) To attach to or logically associate with the record an electronic symbol, sound or  
43 process.

44 (27) "State" means a state of the United States, the District of Columbia, Puerto Rico,  
45 the United States Virgin Islands or any territory or insular possession subject to the juris-

1 diction of the United States.

2 (28) "Technician" means an individual determined to be qualified to remove or process  
3 body parts by an appropriate organization that is licensed, accredited or regulated under  
4 federal or state law. The term includes an enucleator.

5 (29) "Tissue" means a portion of the human body other than an organ or an eye. The  
6 term does not include blood unless the blood is donated for the purpose of research or edu-  
7 cation.

8 (30) "Tissue bank" means a person that is licensed, accredited or regulated under federal  
9 or state law to engage in the recovery, screening, testing, processing, storage or distribution  
10 of tissue.

11 (31) "Transplant hospital" means a hospital that furnishes organ transplants and other  
12 medical and surgical specialty services required for the care of transplant patients.

13 **SECTION 3.** (1) Subject to section 7 of this 2007 Act, a donor may make an anatomical  
14 gift of a donor's body or body part during the life of the donor for the purpose of trans-  
15 plantation, therapy, research or education.

16 (2) An anatomical gift may be made in the manner provided in section 4 of this 2007 Act  
17 by:

18 (a) The donor, if the donor is an adult or if the donor is a minor and is:

19 (A) Emancipated; or

20 (B) Authorized under ORS 807.280 to apply for an instruction driver permit because the  
21 donor is at least 15 years of age;

22 (b) An agent of the donor, unless the power of attorney for health care or other record  
23 prohibits the agent from making an anatomical gift;

24 (c) A parent of the donor, if the donor is an unemancipated minor; or

25 (d) The donor's guardian.

26 **SECTION 4.** (1) A donor may make an anatomical gift:

27 (a) By a designation on the donor's driver license or identification card;

28 (b) In a will;

29 (c) During a terminal illness or injury of the donor, by any form of communication ad-  
30 dressed to at least two adults, at least one of whom is a disinterested witness;

31 (d) By a donor card or other record signed by the donor or other person making the gift;  
32 or

33 (e) By authorizing that a statement, symbol or designation indicating that the donor has  
34 made an anatomical gift is to be included on a donor registry.

35 (2) If the donor or other person authorized to make an anatomical gift under section 3  
36 of this 2007 Act is physically unable to sign a record, the record may be signed by another  
37 individual at the direction of the donor or other person and must:

38 (a) Be witnessed by at least two adults, at least one of whom is a disinterested witness,  
39 who have signed at the request of the donor or the other person; and

40 (b) State that it has been signed and witnessed as provided in paragraph (a) of this sub-  
41 section.

42 (3) Revocation, suspension, expiration or cancellation of a driver license or identification  
43 card upon which an anatomical gift is indicated does not invalidate the gift.

44 (4) An anatomical gift made by will takes effect upon the donor's death whether or not  
45 the will is probated. Invalidation of the will after the donor's death does not invalidate the

1 gift.

2 **SECTION 5.** (1) Except as provided in section 7 of this 2007 Act, a donor or other person  
3 authorized to make an anatomical gift under section 3 of this 2007 Act may amend or revoke  
4 an anatomical gift by:

5 (a) A record signed by:

6 (A) The donor;

7 (B) The other person; or

8 (C) Subject to subsection (2) of this section, another individual acting at the direction of  
9 the donor or the other person if the donor or other person is physically unable to sign; or

10 (b) A later-executed document of gift that amends or revokes a previous anatomical gift  
11 or portion of an anatomical gift, either expressly or by inconsistency.

12 (2) A record signed pursuant to subsection (1)(a)(C) of this section must:

13 (a) Be witnessed by at least two adults, at least one of whom is a disinterested witness,  
14 who have signed at the request of the donor or the other person; and

15 (b) State that it has been signed and witnessed as required in this subsection.

16 (3) Except as provided in section 7 of this 2007 Act, a donor or other person authorized  
17 to make an anatomical gift under section 3 of this 2007 Act may revoke an anatomical gift  
18 by the destruction or cancellation of the document of gift, or the portion of the document  
19 of gift used to make the gift, with the intent to revoke the gift.

20 (4) A donor may amend or revoke an anatomical gift that was not made in a will by any  
21 form of communication during a terminal illness or injury addressed to at least two adults,  
22 at least one of whom is a disinterested witness.

23 (5) A donor who makes an anatomical gift in a will may amend or revoke the gift in the  
24 manner provided for amendment or revocation of wills or as provided in subsection (3) of this  
25 section.

26 **SECTION 6.** (1) An individual may refuse to make an anatomical gift of the individual's  
27 body or body part by:

28 (a) A record signed by:

29 (A) The individual; or

30 (B) Subject to subsection (2) of this section, another individual acting at the direction  
31 of the individual if the individual is physically unable to sign;

32 (b) The individual's will, whether or not the will is admitted to probate or invalidated  
33 after the individual's death; or

34 (c) Any form of communication made by the individual during the individual's terminal  
35 illness or injury addressed to at least two adults, at least one of whom is a disinterested  
36 witness.

37 (2) A record signed under subsection (1)(a)(B) of this section must:

38 (a) Be witnessed by at least two adults, at least one of whom is a disinterested witness,  
39 who have signed at the request of the individual; and

40 (b) State that it has been signed and witnessed as provided in this subsection.

41 (3) An individual who has made a refusal may amend or revoke the refusal:

42 (a) In the manner provided in subsection (1) of this section for making a refusal;

43 (b) By subsequently making an anatomical gift pursuant to section 4 of this 2007 Act that  
44 is inconsistent with the refusal; or

45 (c) By destroying or canceling the record evidencing the refusal, or the portion of the

1 record used to make the refusal, provided that the destruction or cancellation is done with  
2 the intent to revoke the refusal.

3 (4) Except as otherwise provided in section 7 (8) of this 2007 Act, in the absence of an  
4 express, contrary indication by the individual set forth in the refusal, an individual's unre-  
5 voked refusal to make an anatomical gift of the individual's body or body part prohibits all  
6 other persons from making an anatomical gift of the individual's body or body part.

7 **SECTION 7.** (1) Except as otherwise provided in subsection (7) of this section and subject  
8 to subsection (6) of this section, in the absence of an express, contrary indication by the  
9 donor, a person other than the donor is prohibited from making, amending or revoking an  
10 anatomical gift of a donor's body or body part if the donor made an anatomical gift of the  
11 donor's body or body part under section 4 of this 2007 Act or an amendment to an anatomical  
12 gift of the donor's body or body part under section 5 of this 2007 Act.

13 (2) A donor's revocation of an anatomical gift of the donor's body or body part under  
14 section 5 of this 2007 Act is not a refusal and does not prohibit another person specified in  
15 section 3 or 8 of this 2007 Act from making an anatomical gift of the donor's body or body  
16 part under section 4 or 9 of this 2007 Act.

17 (3) If a person other than the donor makes an unrevoked anatomical gift of the donor's  
18 body or body part under section 4 of this 2007 Act or an amendment to an anatomical gift  
19 of the donor's body or body part under section 5 of this 2007 Act, another person may not  
20 make, amend or revoke the gift of the donor's body or body part under section 9 of this 2007  
21 Act.

22 (4) A revocation of an anatomical gift of a donor's body or body part under section 5 of  
23 this 2007 Act by a person other than the donor does not prohibit another person from making  
24 an anatomical gift of the body or body part under section 4 or 9 of this 2007 Act.

25 (5) In the absence of an express, contrary indication by the donor or other person au-  
26 thorized to make an anatomical gift under section 3 of this 2007 Act, an anatomical gift of  
27 a body part is neither a refusal to give another body part nor a limitation on the making of  
28 an anatomical gift of another body part at a later time by the donor or other person.

29 (6) In the absence of an express, contrary indication by the donor or other person au-  
30 thorized to make an anatomical gift under section 3 of this 2007 Act, an anatomical gift of  
31 a body part for one or more of the purposes set forth in section 3 of this 2007 Act is not a  
32 limitation on the making of an anatomical gift of the body part for any of the other purposes  
33 by the donor or other person under section 4 or 9 of this 2007 Act.

34 (7) If a donor who is an unemancipated minor dies, a parent of the donor who is rea-  
35 sonably available may revoke or amend an anatomical gift of the donor's body or body part.

36 (8) If an unemancipated minor who signed a refusal dies, a parent of the minor who is  
37 reasonably available may revoke the minor's refusal.

38 **SECTION 8.** (1) Subject to subsections (2) and (3) of this section and unless prohibited  
39 by section 6 or 7 of this 2007 Act, an anatomical gift of a decedent's body or body part for  
40 purpose of transplantation, therapy, research or education may be made by any member of  
41 the following classes of persons who is reasonably available, in the following order:

42 (a) An agent of the decedent at the time of death who could have made an anatomical  
43 gift under section 3 (2)(b) of this 2007 Act immediately before the decedent's death;

44 (b) The spouse of the decedent;

45 (c) An adult child of the decedent;

- 1 (d) A parent of the decedent;
- 2 (e) An adult sibling of the decedent;
- 3 (f) An adult grandchild of the decedent;
- 4 (g) A grandparent of the decedent;
- 5 (h) An adult who exhibited special care and concern for the decedent;
- 6 (i) A guardian of the decedent at the time of death; or
- 7 (j) Any other person having the authority to dispose of the decedent's body.

8 (2) If there is more than one member of a class listed in subsection (1) of this section  
9 entitled to make an anatomical gift, an anatomical gift may be made by a member of the  
10 class unless that member or a person to which the gift may pass under section 10 of this 2007  
11 Act knows of an objection by another member of the class. If an objection is known, the gift  
12 may be made only by a majority of the members of the class who are reasonably available.

13 (3) A person may not make an anatomical gift if, at the time of the decedent's death, a  
14 person in a prior class under subsection (1) of this section is reasonably available to make  
15 or to object to the making of an anatomical gift.

16 **SECTION 9.** (1) A person authorized to make an anatomical gift under section 8 of this  
17 2007 Act may make an anatomical gift by a document of gift signed by the person making  
18 the gift or by that person's oral communication that is electronically recorded or is  
19 contemporaneously reduced to a record and signed by the individual receiving the oral com-  
20 munication.

21 (2) Subject to subsection (3) of this section, an anatomical gift by a person authorized  
22 under section 8 of this 2007 Act may be amended or revoked orally or in a record by any  
23 member of a prior class who is reasonably available. If more than one member of the prior  
24 class is reasonably available, the gift made by a person authorized under section 8 of this  
25 2007 Act may be:

26 (a) Amended only if a majority of the reasonably available members agree to amendment  
27 of the gift; or

28 (b) Revoked only if a majority of the reasonably available members agree to the revoca-  
29 tion of the gift or if they are equally divided as to whether to revoke the gift.

30 (3) A revocation under subsection (2) of this section is effective only if, before an incision  
31 has been made to remove a body part from the donor's body or before invasive procedures  
32 have begun to prepare the recipient, the procurement organization, transplant hospital,  
33 physician or technician knows of the revocation.

34 **SECTION 10.** (1) An anatomical gift may be made to the following persons named in the  
35 document of gift:

36 (a) A hospital, accredited medical school, dental school, college, university, organ pro-  
37 curement organization or other appropriate person, for research or education;

38 (b) Subject to subsection (2) of this section, an individual designated by the person mak-  
39 ing the anatomical gift if the individual is the recipient of the body part; or

40 (c) An eye bank or tissue bank.

41 (2) If an anatomical gift to an individual under subsection (1)(b) of this section cannot  
42 be transplanted into the individual, the body part passes in accordance with subsection (7)  
43 of this section in the absence of an express, contrary indication by the person making the  
44 anatomical gift.

45 (3) If an anatomical gift of one or more specific body parts or of all body parts is made

1 in a document of gift that does not name a person described in subsection (1) of this section  
2 but identifies the purpose for which an anatomical gift may be used, the following rules ap-  
3 ply:

4 (a) If the body part is an eye and the gift is for the purpose of transplantation or therapy,  
5 the gift passes to the appropriate eye bank.

6 (b) If the body part is tissue and the gift is for the purpose of transplantation or therapy,  
7 the gift passes to the appropriate tissue bank.

8 (c) If the body part is an organ and the gift is for the purpose of transplantation or  
9 therapy, the gift passes to the appropriate organ procurement organization as custodian of  
10 the organ.

11 (d) If the body part is an organ, an eye or tissue and the gift is for the purpose of re-  
12 search or education, the gift passes to the appropriate procurement organization.

13 (4) For the purposes of subsection (3) of this section, if there is more than one purpose  
14 of an anatomical gift set forth in the document of gift but the purposes are not set forth in  
15 any priority, the gift must be used for transplantation or therapy, if suitable. If the gift  
16 cannot be used for transplantation or therapy, the gift may be used for research or educa-  
17 tion.

18 (5) If an anatomical gift of one or more specific body parts is made in a document of gift  
19 that does not name a person described in subsection (1) of this section and does not identify  
20 the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift  
21 passes in accordance with subsection (7) of this section.

22 (6) If a document of gift specifies only a general intent to make an anatomical gift by  
23 words such as “donor,” “organ donor” or “body donor” or by a symbol or statement of sim-  
24 ilar import, the gift may be used only for transplantation or therapy, and the gift passes in  
25 accordance with subsection (7) of this section.

26 (7) For purposes of subsections (2), (5) and (6) of this section, the following rules apply:

27 (a) If the body part is an eye, the gift passes to the appropriate eye bank.

28 (b) If the body part is tissue, the gift passes to the appropriate tissue bank.

29 (c) If the body part is an organ, the gift passes to the appropriate organ procurement  
30 organization as custodian of the organ.

31 (8) An anatomical gift of an organ for transplantation or therapy, other than an ana-  
32 tomical gift under subsection (1)(b) of this section, passes to the organ procurement organ-  
33 ization as custodian of the organ.

34 (9) If an anatomical gift does not pass pursuant to subsections (1) to (8) of this section  
35 or the decedent’s body or body part is not used for transplantation, therapy, research or  
36 education, custody of the body or body part passes to the person under obligation to dispose  
37 of the body or body part.

38 (10) A person may not accept an anatomical gift if the person knows that the gift was  
39 not effectively made under section 4 or 9 of this 2007 Act or if the person knows that the  
40 decedent made a refusal under section 6 of this 2007 Act that was not revoked. For purposes  
41 of this subsection, if a person knows that an anatomical gift was made on a document of gift,  
42 the person is deemed to know of any amendment or revocation of the gift or any refusal to  
43 make an anatomical gift on the same document of gift.

44 (11) Except as otherwise provided in subsection (1)(b) of this section, sections 1 to 22 of  
45 this 2007 Act do not affect the allocation of organs for transplantation or therapy.

1       **SECTION 11.** (1) The following persons shall make a reasonable search of an individual  
2 who the persons reasonably believe is dead or near death for a document of gift or other  
3 information identifying the individual as a donor or as an individual who made a refusal:

4       (a) A law enforcement officer, firefighter, paramedic or other emergency rescuer finding  
5 the individual; and

6       (b) If no other source of the information is immediately available, a hospital, as soon as  
7 practicable after the individual's arrival at the hospital.

8       (2) If a document of gift or a refusal to make an anatomical gift is located by the search  
9 required by subsection (1)(a) of this section and the individual or deceased individual to whom  
10 it relates is taken to a hospital, the person responsible for conducting the search shall send  
11 the document of gift or the refusal to the hospital.

12       (3) A person is not subject to criminal or civil liability for failing to discharge the duties  
13 imposed by this section but may be subject to administrative sanctions.

14       **SECTION 12.** (1) A document of gift need not be delivered during the donor's lifetime to  
15 be effective.

16       (2) Upon or after an individual's death, a person in possession of a document of gift or  
17 a refusal to make an anatomical gift with respect to the individual shall allow examination  
18 and copying of the document of gift or the refusal by a person authorized to make or object  
19 to the making of an anatomical gift with respect to the individual or by a person to whom  
20 the gift could pass under section 10 of this 2007 Act.

21       **SECTION 13.** (1) When a hospital refers an individual at or near death to a procurement  
22 organization, the organization shall make a reasonable search of the records of the Depart-  
23 ment of Transportation and any donor registry that it knows exists for the geographical area  
24 in which the individual resides to ascertain whether the individual has made an anatomical  
25 gift.

26       (2) A procurement organization must be allowed reasonable access to information in the  
27 records of the Department of Transportation to ascertain whether an individual at or near  
28 death is a donor.

29       (3) When a hospital refers an individual at or near death to a procurement organization,  
30 the organization may conduct any reasonable examination necessary to ensure the medical  
31 suitability of a body part that is or could be the subject of an anatomical gift for transplan-  
32 tation, therapy, research or education from a donor or a prospective donor. During the ex-  
33 amination period, measures necessary to ensure the medical suitability of the body part may  
34 not be withdrawn unless the hospital or procurement organization knows that the individual  
35 expressed a contrary intent.

36       (4) Unless otherwise prohibited by law, at any time after a donor's death, the person to  
37 whom a body part passes under section 10 of this 2007 Act may conduct any reasonable ex-  
38 amination necessary to ensure the medical suitability of the body or body part for its in-  
39 tended purpose.

40       (5) Unless otherwise prohibited by law, an examination under subsection (3) or (4) of this  
41 section may include an examination of all medical and dental records of the donor or pro-  
42 spective donor.

43       (6) Upon the death of a minor who was a donor or had signed a refusal, unless a pro-  
44 curement organization knows the minor is emancipated, the procurement organization shall  
45 conduct a reasonable search for the parents of the minor and provide the parents with an



1 opportunity to revoke or amend the anatomical gift or revoke the refusal.

2 (7) Upon referral by a hospital under subsection (1) of this section, a procurement or-  
3 ganization shall make a reasonable search for any person listed in section 8 of this 2007 Act  
4 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement  
5 organization receives information that an anatomical gift to any other person was made,  
6 amended or revoked, it shall promptly advise the other person of all relevant information.

7 (8) Subject to sections 10 (9) and 20 of this 2007 Act, the rights of the person to whom a  
8 body part passes under section 10 of this 2007 Act are superior to the rights of all others  
9 with respect to the body part. The person may accept or reject an anatomical gift in whole  
10 or in part. Subject to the terms of the document of gift and sections 1 to 22 of this 2007 Act,  
11 a person who accepts an anatomical gift of an entire body may allow embalming, burial or  
12 cremation and use of remains in a funeral service. If the gift is of a body part, the person  
13 to whom the body part passes under section 10 of this 2007 Act, upon the death of the donor  
14 and before embalming, burial or cremation, shall cause the body part to be removed without  
15 unnecessary mutilation.

16 (9) Neither the physician who attends the decedent at death nor the physician who de-  
17 termines the time of the decedent's death may participate in the procedures for removing  
18 or transplanting a body part from the decedent.

19 (10) A physician or technician may remove from the body of a donor a donated body part  
20 that the physician or technician is qualified to remove.

21 **SECTION 14.** Each hospital in this state shall enter into agreements or affiliations with  
22 procurement organizations for coordination of procurement and use of anatomical gifts.

23 **SECTION 15.** (1) A person who acts in accordance with sections 1 to 22 of this 2007 Act  
24 or with the applicable anatomical gift law of another state, or attempts in good faith to do  
25 so, is not liable for the act in a civil action, criminal prosecution or administrative proceed-  
26 ing.

27 (2) Neither the person making an anatomical gift nor the donor's estate is liable for any  
28 injury or damage that results from the making or use of the gift.

29 (3) In determining whether an anatomical gift has been made, amended or revoked under  
30 sections 1 to 22 of this 2007 Act, a person may rely upon representations of an individual  
31 listed in section 8 (1)(b), (c), (d), (e), (f), (g) or (h) of this 2007 Act relating to the individual's  
32 relationship to the donor or prospective donor unless the person knows that the represen-  
33 tation is untrue.

34 **SECTION 16.** (1) A document of gift is valid if executed in accordance with:

35 (a) Sections 1 to 22 of this 2007 Act;

36 (b) The laws of the state or country where it was executed; or

37 (c) The laws of the state or country where the person making the anatomical gift was  
38 domiciled, had a place of residence or was a national at the time the document of gift was  
39 executed.

40 (2) If a document of gift is valid under this section, the law of this state governs the in-  
41 terpretation of the document of gift.

42 (3) A person may presume that a document of gift or amendment of an anatomical gift  
43 is valid unless that person knows that it was not validly executed or was revoked.

44 **SECTION 17.** (1)(a) The Department of Human Services may allow an organ procurement  
45 organization to establish a donor registry.

1 (b) Only one donor registry may be established within this state.

2 (c) The donor registry shall comply with subsections (3) and (4) of this section.

3 (2) The Department of Transportation shall:

4 (a) Cooperate with a person who administers the donor registry established under sub-  
5 section (1) of this section for the purpose of transferring to the donor registry all relevant  
6 information regarding a donor's making, amending or revoking an anatomical gift.

7 (b) When requested by the organ procurement organization that has established the do-  
8 nor registry in this state, the department shall electronically transfer to the organ pro-  
9 curement organization the name, address, birthdate and donor designation listed on the  
10 driver license or identification card of a person designated as a donor. The organ procure-  
11 ment organization shall treat the information transferred from the department as confiden-  
12 tial and may use the information only to expedite the making of anatomical gifts authorized  
13 by the donor.

14 (3) The donor registry must:

15 (a) Allow a donor or other person authorized under section 3 of this 2007 Act to include  
16 on the donor registry a statement or symbol that the donor has made, amended or revoked  
17 an anatomical gift;

18 (b) Be accessible to a procurement organization to allow the procurement organization  
19 to obtain relevant information on the donor registry to determine, at or near death of the  
20 donor or a prospective donor, whether the donor or prospective donor has made, amended  
21 or revoked an anatomical gift; and

22 (c) Be accessible for purposes of this subsection seven days a week on a 24-hour basis.

23 (4) Personally identifiable information on the donor registry about a donor or prospective  
24 donor may not be used or disclosed without the express consent of the donor, prospective  
25 donor or person who made the anatomical gift for any purpose other than to determine, at  
26 or near death of the donor or prospective donor, whether the donor or prospective donor has  
27 made, amended or revoked an anatomical gift.

28 **SECTION 18.** (1) As used in this section:

29 (a) "Advance directive" has the meaning given that term in ORS 127.505.

30 (b) "Declaration" means a record signed by a prospective donor specifying the circum-  
31 stances under which a life support system may be withheld or withdrawn from the prospec-  
32 tive donor.

33 (c) "Health care decision" means any decision regarding the health care of a prospective  
34 donor.

35 (2) If a prospective donor has a declaration or advance directive and the terms of the  
36 declaration or advance directive and the express or implied terms of a potential anatomical  
37 gift are in conflict regarding administration of measures necessary to ensure the medical  
38 suitability of a body part for transplantation, therapy, research or education, the prospective  
39 donor and the prospective donor's attending physician shall confer to resolve the conflict.

40 (3) If the prospective donor is incapable of resolving the conflict, one of the following  
41 persons shall act for the prospective donor to resolve the conflict:

42 (a) An agent acting under the prospective donor's declaration or advance directive; or

43 (b) If an agent is not named in the declaration or advance directive or the agent is not  
44 reasonably available, another person authorized by law, other than in sections 1 to 22 of this  
45 2007 Act, to make health care decisions for the prospective donor.

1 (4) The conflict must be resolved as expeditiously as possible.

2 (5) Information relevant to the resolution of the conflict may be obtained from the ap-  
3 propriate procurement organization and any person authorized under section 8 of this 2007  
4 Act to make an anatomical gift for the prospective donor.

5 (6) During the resolution of the conflict, measures necessary to ensure the medical  
6 suitability of the body part may not be withheld or withdrawn from the prospective donor  
7 unless withholding or withdrawing the measures is medically indicated by appropriate end  
8 of life care.

9 **SECTION 19.** (1) A medical examiner shall cooperate with procurement organizations to  
10 maximize the opportunity to recover anatomical gifts for the purpose of transplantation,  
11 therapy, research or education.

12 (2) Subject to section 20 of this 2007 Act, if a medical examiner receives notice from a  
13 procurement organization that an anatomical gift might be available or was made with re-  
14 spect to a decedent whose body is under the jurisdiction of the medical examiner and a  
15 post-mortem examination is going to be performed, the medical examiner or designee shall  
16 conduct a post-mortem examination of the body or the body part in a manner and within a  
17 period compatible with its preservation for the purposes of the gift.

18 (3) A body part may not be removed from the body of a decedent under the jurisdiction  
19 of a medical examiner for transplantation, therapy, research or education unless the body  
20 part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the  
21 medical examiner may not be delivered to a person for research or education unless the body  
22 is the subject of an anatomical gift. This subsection does not preclude a medical examiner  
23 from performing the medicolegal investigation upon the body or body parts of a decedent  
24 under the jurisdiction of the medical examiner.

25 **SECTION 20.** (1) Upon request of a procurement organization, a medical examiner shall  
26 release to the procurement organization the name, contact information and available medical  
27 and social history of a decedent whose body is under the jurisdiction of the medical examiner.  
28 If the decedent's body or body part is medically suitable for transplantation, therapy, re-  
29 search or education, the medical examiner shall release post-mortem examination results to  
30 the procurement organization. The procurement organization may make a subsequent dis-  
31 closure of the post-mortem examination results or other information received from the  
32 medical examiner only if relevant to transplantation, therapy, research or education.

33 (2) The medical examiner may conduct a medicolegal examination by reviewing all med-  
34 ical records, laboratory test results, X-rays, other diagnostic results and other information  
35 that any person possesses about a donor or prospective donor whose body is under the ju-  
36 risdiction of the medical examiner that the medical examiner determines may be relevant to  
37 the investigation.

38 (3) A person who has any information requested by a medical examiner pursuant to  
39 subsection (2) of this section shall provide that information as expeditiously as possible to  
40 allow the medical examiner to conduct the medicolegal investigation within a period com-  
41 patible with the preservation of body parts for the purpose of transplantation, therapy, re-  
42 search or education.

43 (4) If an anatomical gift has been or might be made of a body part of a decedent whose  
44 body is under the jurisdiction of the medical examiner and a post-mortem examination is not  
45 required, or the medical examiner determines that a post-mortem examination is required

1 but that the recovery of the body part that is the subject of an anatomical gift will not in-  
2 terfere with the examination, the medical examiner and procurement organization shall co-  
3 operate in the timely removal of the body part from the decedent for the purpose of  
4 transplantation, therapy, research or education.

5 (5) If an anatomical gift of a body part from the decedent under the jurisdiction of the  
6 medical examiner has been or might be made, but the medical examiner initially believes that  
7 the recovery of the body part could interfere with the post-mortem investigation into the  
8 decedent's cause or manner of death, the medical examiner shall consult with the procure-  
9 ment organization, or physician or technician designated by the procurement organization,  
10 about the proposed recovery. The procurement organization shall provide the medical ex-  
11 aminer with all of the information that the procurement organization possesses that could  
12 relate to the decedent's cause or manner of death.

13 (6)(a) The medical examiner and the procurement organization may enter into an agree-  
14 ment establishing protocols and procedures governing their relationship when:

15 (A) An anatomical gift of a body part from a decedent whose body is under the jurisdic-  
16 tion of the medical examiner has been or might be made; and

17 (B) The medical examiner believes that the recovery of the body part could interfere with  
18 the post-mortem investigation into the decedent's cause or manner of death or the doc-  
19 umentation or preservation of evidence.

20 (b) A decision regarding the recovery of the body part from the decedent shall be made  
21 in accordance with the agreement.

22 (c) The medical examiner and the procurement organization shall evaluate the effective-  
23 ness of the agreement at regular intervals but not less frequently than every two years.

24 (7)(a) In the absence of an agreement establishing protocols and procedures governing  
25 the relationship between the medical examiner and the procurement organization when an  
26 anatomical gift of an eye or tissue from a decedent whose body is under the jurisdiction of  
27 the medical examiner has been or might be made, and following the consultation under sub-  
28 section (5) of this section, the medical examiner may delay the recovery of the eye or tissue  
29 until after the collection of evidence or the post-mortem examination, in order to preserve  
30 and collect evidence, to maintain a proper chain of custody and to allow an accurate deter-  
31 mination of the decedent's cause or manner of death.

32 (b) When a determination to delay the recovery of an eye or tissue is made, every effort  
33 possible shall be made by the medical examiner to complete the collection of evidence or the  
34 post-mortem examination in a timely manner compatible with the preservation of the eye  
35 or tissue for the purpose of transplantation, therapy, research or education.

36 (c) The collection of evidence or the post-mortem examination shall occur during the  
37 normal business hours of the medical examiner and, when possible and practicable, at times  
38 other than the normal business hours of the medical examiner.

39 (d) If the collection of evidence or the post-mortem examination occurs at times other  
40 than the normal business hours of the medical examiner, the procurement organization shall  
41 reimburse the medical examiner a mutually agreed-upon reasonable fee.

42 (8) If the medical examiner denies or delays recovery under subsection (6) or (7) of this  
43 section, the medical examiner shall:

44 (a) Explain in a record the specific reasons for not allowing or for delaying recovery of  
45 the body part;

1 (b) Include the specific reasons in the records of the medical examiner; and

2 (c) Provide a record with the specific reasons to the procurement organization.

3 (9) If the medical examiner allows recovery of a body part, the procurement organization  
4 shall cooperate with the medical examiner in any documentation of injuries and the preser-  
5 vation and collection of evidence prior to and during the recovery of the body part and, upon  
6 request of the medical examiner, shall cause the physician or technician who removes the  
7 body part to provide the medical examiner with a record describing the condition of the body  
8 part, a photograph and any other information and observations that would assist in the  
9 post-mortem examination.

10 **SECTION 21.** (1) Except as otherwise provided in subsection (3) of this section, a person  
11 commits the crime of purchase or sale of a body part for transplantation or therapy if the  
12 person, for valuable consideration, knowingly purchases or sells a body part for transplan-  
13 tation or therapy if removal of the body part from an individual is intended to occur after  
14 the individual's death.

15 (2) Purchase or sale of a body part for transplantation or therapy is a Class C felony.

16 (3) A person may charge a reasonable amount for the removal, processing, preservation,  
17 quality control, storage, transportation, implantation or disposal of a body part.

18 **SECTION 22.** (1) A person commits the crime of alteration of a document of gift if the  
19 person, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces  
20 or obliterates a document of gift, an amendment or revocation of a document of gift or a  
21 refusal.

22 (2) Alteration of a document of gift is a Class C felony.

23 **SECTION 23.** The provisions of sections 1 to 22 of this 2007 Act modify, limit and super-  
24 sede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq.,  
25 but do not modify, limit or supersede section 101(a) of the Electronic Signatures in Global  
26 and National Commerce Act, 15 U.S.C. 7001, or authorize electronic delivery of any of the  
27 notices described in section 103(b) of the Electronic Signatures in Global and National Com-  
28 merce Act, 15 U.S.C. 7003(b) as in effect January 1, 2008.

29 **SECTION 24.** ORS 97.130 is amended to read:

30 97.130. (1) Any individual of sound mind who is 18 years of age or older, by completion of a  
31 written signed instrument or by preparing or prearranging with any funeral service practitioner li-  
32 censed under ORS chapter 692, may direct any lawful manner of disposition of the individual's re-  
33 mains. Except as provided under subsection (6) of this section, disposition directions or disposition  
34 prearrangements that are prepaid or that are filed with a funeral service practitioner licensed under  
35 ORS chapter 692 shall not be subject to cancellation or substantial revision.

36 (2) A person within the first applicable listed class among the following listed classes that is  
37 available at the time of death or, in the absence of actual notice of a contrary direction by the  
38 decedent as described under subsection (1) of this section or actual notice of opposition by com-  
39 pletion of a written instrument by a member of the same class or a member of a prior class, may  
40 direct any lawful manner of disposition of a decedent's remains by completion of a written instru-  
41 ment:

42 (a) The spouse of the decedent.

43 (b) A son or daughter of the decedent 18 years of age or older.

44 (c) Either parent of the decedent.

45 (d) A brother or sister of the decedent 18 years of age or older.

1 (e) A guardian of the decedent at the time of death.

2 (f) A person in the next degree of kindred to the decedent.

3 (g) The personal representative of the estate of the decedent.

4 (h) The person nominated as the personal representative of the decedent in the decedent's last  
5 will.

6 (i) A public health officer.

7 (3) The decedent or any person authorized in subsection (2) of this section to direct the manner  
8 of disposition of the decedent's remains may delegate such authority to any person 18 years of age  
9 or older. Such delegation shall be made by completion of the written instrument described in sub-  
10 section (7) of this section. The person to whom the authority is delegated shall have the same au-  
11 thority under subsection (2) of this section as the person delegating the authority.

12 (4) If a decedent or the decedent's designee issues more than one authorization or direction for  
13 the disposal of the decedent's remains, only the most recent authorization or direction shall be  
14 binding.

15 (5) A donation of anatomical gifts under [ORS 97.952 or 97.954] **sections 1 to 22 of this 2007**  
16 **Act** shall take priority over directions for the disposition of a decedent's remains under this section  
17 only if the person making the donation is of a priority under subsection (1) or (2) of this section the  
18 same as or higher than the priority of the person directing the disposition of the remains.

19 (6) If the decedent directs a disposition under subsection (1) of this section and those financially  
20 responsible for the disposition are without sufficient funds to pay for such disposition or the estate  
21 of the decedent has insufficient funds to pay for the disposition, or if the direction is unlawful, the  
22 direction shall be void and disposition shall be in accordance with the direction provided by those  
23 persons given priority in subsection (2) of this section and who agree to be financially responsible.

24 (7) The signature of the individual shall be required for the completion of the written instrument  
25 required in subsection (3) of this section. The following form or a form substantially similar shall  
26 be used by all individuals:

27 \_\_\_\_\_

28  
29 APPOINTMENT OF PERSON  
30 TO MAKE DECISIONS  
31 CONCERNING DISPOSITION  
32 OF REMAINS

33 I, \_\_\_\_\_, appoint \_\_\_\_\_, whose address is  
34 \_\_\_\_\_ and whose telephone number is (\_\_\_\_) \_\_\_\_\_, as the person  
35 to make all decisions regarding the disposition of my remains upon my death for my burial or  
36 cremation. In the event \_\_\_\_\_ is unable to act, I appoint \_\_\_\_\_,  
37 whose address is \_\_\_\_\_ and whose telephone number is (\_\_\_\_)  
38 \_\_\_\_\_, as my alternate person to make all decisions regarding the disposition of my re-  
39 mains upon my death for my burial or cremation.

40 It is my intent that this Appointment of Person to Make Decisions Concerning Disposition of  
41 Remains act as and be accepted as the written authorization presently required by ORS 97.130 (or  
42 its corresponding future provisions) or any other provision of Oregon Law, authorizing me to name  
43 a person to have authority to dispose of my remains.

44 DATED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

45 \_\_\_\_\_

(Signature)

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DECLARATION OF WITNESSES

We declare that \_\_\_\_\_ is personally known to us, that he/she signed this Appointment of Person to Make Decisions Concerning Disposition of Remains in our presence, that he/she appeared to be of sound mind and not acting under duress, fraud or undue influence, and that neither of us is the person so appointed by this document.

Witnessed By: \_\_\_\_\_ Date: \_\_\_\_\_

Witnessed By: \_\_\_\_\_ Date: \_\_\_\_\_

(8) Subject to the provisions of [ORS 97.950 to 97.964] sections 1 to 22 of this 2007 Act, if disposition of the remains of a decedent has not been directed and authorized under this section within 10 days after the date of the death of the decedent, a public health officer may direct and authorize disposition of the remains.

**SECTION 25.** ORS 114.305 is amended to read:

114.305. Subject to the provisions of ORS 97.130 (2) and except as restricted or otherwise provided by the will of the decedent, a document of anatomical gift under [ORS 97.952] section 8 of this 2007 Act or by court order, a personal representative, acting reasonably for the benefit of interested persons, is authorized to:

(1) Direct and authorize disposition of the remains of the decedent pursuant to ORS 97.130 and incur expenses for the funeral, burial or other disposition of the remains in a manner suitable to the condition in life of the decedent. Only those funeral expenses necessary for a plain and decent funeral and disposition of the remains of the decedent may be paid from the estate if the assets are insufficient to pay the claims of the Department of Human Services for the net amount of public assistance, as defined in ORS 411.010, paid to or for the decedent and for care and maintenance of any decedent who was at a state institution to the extent provided in ORS 179.610 to 179.770.

(2) Retain assets owned by the decedent pending distribution or liquidation.

(3) Receive assets from fiduciaries or other sources.

(4) Complete, compromise or refuse performance of contracts of the decedent that continue as obligations of the estate, as the personal representative may determine under the circumstances. In performing enforceable contracts by the decedent to convey or lease real property, the personal representative, among other courses of action, may:

(a) Execute and deliver a deed upon satisfaction of any sum remaining unpaid or upon receipt of the note of the purchaser adequately secured; or

(b) Deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the successors of the decedent, as designated in the escrow agreement.

(5) Satisfy written pledges of the decedent for contributions, whether or not the pledges constituted binding obligations of the decedent or were properly presented as claims.

(6) Deposit funds not needed to meet currently payable debts and expenses, and not immediately distributable, in bank or savings and loan association accounts, or invest the funds in bank or

1 savings and loan association certificates of deposit, or federally regulated money-market funds and  
2 short-term investment funds suitable for investment by trustees under ORS 130.750 to 130.775, or  
3 short-term United States Government obligations.

4 (7) Abandon burdensome property when it is valueless, or is so encumbered or is in a condition  
5 that it is of no benefit to the estate.

6 (8) Vote stocks or other securities in person or by general or limited proxy.

7 (9) Pay calls, assessments and other sums chargeable or accruing against or on account of se-  
8 curities.

9 (10) Sell or exercise stock subscription or conversion rights.

10 (11) Consent, directly or through a committee or other agent, to the reorganization, consol-  
11 idation, merger, dissolution or liquidation of a corporation or other business enterprise.

12 (12) Hold a security in the name of a nominee or in other form without disclosure of the interest  
13 of the estate, but the personal representative is liable for any act of the nominee in connection with  
14 the security so held.

15 (13) Insure the assets of the estate against damage and loss, and insure the personal represen-  
16 tative against liability to third persons.

17 (14) Advance or borrow money with or without security.

18 (15) Compromise, extend, renew or otherwise modify an obligation owing to the estate. A per-  
19 sonal representative who holds a mortgage, pledge, lien or other security interest may accept a  
20 conveyance or transfer of the encumbered asset in lieu of foreclosure in full or partial satisfaction  
21 of the indebtedness.

22 (16) Accept other real property in part payment of the purchase price of real property sold by  
23 the personal representative.

24 (17) Pay taxes, assessments and expenses incident to the administration of the estate.

25 (18) Employ qualified persons, including attorneys, accountants and investment advisers, to ad-  
26 vise and assist the personal representative and to perform acts of administration, whether or not  
27 discretionary, on behalf of the personal representative.

28 (19) Prosecute or defend actions, claims or proceedings in any jurisdiction for the protection of  
29 the estate and of the personal representative in the performance of duties as personal represen-  
30 tative.

31 (20) Prosecute claims of the decedent including those for personal injury or wrongful death.

32 (21) Continue any business or venture in which the decedent was engaged at the time of death  
33 to preserve the value of the business or venture.

34 (22) Incorporate or otherwise change the business form of any business or venture in which the  
35 decedent was engaged at the time of death.

36 (23) Discontinue and wind up any business or venture in which the decedent was engaged at the  
37 time of death.

38 (24) Provide for exoneration of the personal representative from personal liability in any con-  
39 tract entered into on behalf of the estate.

40 (25) Satisfy and settle claims and distribute the estate as provided in ORS chapters 111, 112, 113,  
41 114, 115, 116 and 117.

42 (26) Perform all other acts required or permitted by law or by the will of the decedent.

43 **SECTION 26.** ORS 125.230 is amended to read:

44 125.230. (1) Except as provided in subsection (3) of this section, a fiduciary's authority termi-  
45 nates upon the death, resignation or removal of the fiduciary or upon the protected person's death.



1 If the fiduciary is a guardian appointed solely by reason of the minority of the protected person, the  
2 fiduciary's authority terminates upon the protected person attaining 18 years of age.

3 (2) Resignation or removal of a fiduciary does not discharge the fiduciary until a final report  
4 or accounting has been approved by the court, any surety exonerated and the fiduciary discharged  
5 by order of the court.

6 (3) A guardian retains the authority to direct disposition of the remains of a deceased protected  
7 person if the guardian is unaware of any contact during the 12-month period immediately preceding  
8 the death of the protected person between the protected person and any person with priority over  
9 the fiduciary to control disposition of the remains under ORS 97.130 or to make an anatomical gift  
10 under [ORS 97.954] **section 8 of this 2007 Act.**

11 **SECTION 27.** ORS 125.315 is amended to read:

12 125.315. (1) A guardian has the following powers and duties:

13 (a) Except to the extent of any limitation under the order of appointment, the guardian has  
14 custody of the protected person and may establish the protected person's place of abode within or  
15 without this state.

16 (b) The guardian shall provide for the care, comfort and maintenance of the protected person  
17 and, whenever appropriate, shall arrange for training and education of the protected person.  
18 Without regard to custodial rights of the protected person, the guardian shall take reasonable care  
19 of the person's clothing, furniture and other personal effects unless a conservator has been ap-  
20 pointed for the protected person.

21 (c) Subject to the provisions of ORS 127.505 to 127.660, the guardian may consent, refuse consent  
22 or withhold or withdraw consent to health care, as defined in ORS 127.505, for the protected person.  
23 A guardian is not liable solely by reason of consent under this paragraph for any injury to the  
24 protected person resulting from the negligence or acts of third persons.

25 (d) The guardian may:

26 (A) Make advance funeral and burial arrangements;

27 (B) Subject to the provisions of ORS 97.130, control the disposition of the remains of the pro-  
28 tected person; and

29 (C) Subject to the provisions of [ORS 97.954 (1)] **section 8 of this 2007 Act**, make an anatomical  
30 gift of all or any part of the body of the protected person.

31 (e) The guardian of a minor has the powers and responsibilities of a parent who has legal cus-  
32 tody of a child, except that the guardian has no obligation to support the minor beyond the support  
33 that can be provided from the estate of the minor, and the guardian is not liable for the torts of the  
34 minor. The guardian may consent to the marriage or adoption of a protected person who is a minor.

35 (f) Subject to the provisions of ORS 125.320 (2), the guardian may receive money and personal  
36 property deliverable to the protected person and apply the money and property for support, care and  
37 education of the protected person. The guardian shall exercise care to conserve any excess for the  
38 protected person's needs.

39 (2) If a conservator has been appointed for the protected person, the guardian may file a motion  
40 with the court seeking an order of the court on the duties of the conservator relating to payment  
41 of support for the protected person.

42 **SECTION 28.** ORS 127.510 is amended to read:

43 127.510. (1) A capable adult may designate in writing a competent adult to serve as attorney-  
44 in-fact for health care. A capable adult may also designate a competent adult to serve as alternative  
45 attorney-in-fact if the original designee is unavailable, unable or unwilling to serve as attorney-in-

1 fact at any time after the power of attorney for health care is executed. The power of attorney for  
2 health care is effective when it is signed, witnessed and accepted as required by ORS 127.505 to  
3 127.660 and 127.995. The attorney-in-fact so appointed shall make health care decisions on behalf of  
4 the principal if the principal becomes incapable.

5 (2) A capable adult may execute a health care instruction. The instruction shall be effective  
6 when it is signed and witnessed as required by ORS 127.505 to 127.660 and 127.995.

7 (3) Unless the period of time that an advance directive is to be effective is limited by the terms  
8 of the advance directive, the advance directive shall continue in effect until:

9 (a) The principal dies; or

10 (b) The advance directive is revoked, suspended or superseded pursuant to ORS 127.545.

11 (4) Notwithstanding subsection (3) of this section, if the principal is incapable at the expiration  
12 of the term of the advance directive, the advance directive continues in effect until:

13 (a) The principal is no longer incapable;

14 (b) The principal dies; or

15 (c) The advance directive is revoked, suspended or superseded pursuant to the provisions of ORS  
16 127.545.

17 (5) A health care provider shall make a copy of an advance directive and any other instrument  
18 a part of the principal's medical record when a copy of that instrument is provided to the principal's  
19 health care provider.

20 (6) Notwithstanding subsections (3) and (4) of this section, an anatomical gift, as defined in [ORS  
21 97.950] **section 2 of this 2007 Act**, made on an advance directive is effective.

22 **SECTION 29.** ORS 802.179 is amended to read:

23 802.179. (1) The Department of Transportation, upon request or as required by law, shall disclose  
24 personal information from a motor vehicle record to a government agency for use in carrying out  
25 its governmental functions.

26 (2) The department shall disclose personal information from a motor vehicle record for use in  
27 connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor  
28 vehicle product alterations, recalls or advisories, performance monitoring of motor vehicles and  
29 dealers by motor vehicle manufacturers, and removal of nonowner records from the original owner  
30 records of motor vehicle manufacturers to carry out the purposes of any of the following federal  
31 Acts:

32 (a) The Automobile Information Disclosure Act.

33 (b) The Motor Vehicle Information and Cost Saving Act.

34 (c) The National Traffic and Motor Vehicle Safety Act of 1966.

35 (d) The Anti-Car Theft Act of 1992.

36 (e) The Clean Air Act.

37 (3)(a) If the department determines that a business is a legitimate business, the department shall  
38 disclose personal information to the business for use in the normal course of business in:

39 (A) Verifying the accuracy of personal information submitted to the business; or

40 (B) Correcting personal information submitted to the business, but only in order to:

41 (i) Prevent fraud;

42 (ii) Pursue legal remedies against the individual who submitted the personal information; or

43 (iii) Recover a debt from, or satisfy a security interest against, the individual.

44 (b) The department shall adopt rules specifying the kind of information that the department will  
45 accept as evidence that a business is a legitimate business.

1 (4) The department shall disclose personal information to:

2 (a) An attorney, a financial institution as defined in ORS chapter 706 or a collection agency  
3 registered under ORS 697.031 for use in connection with a civil, criminal, administrative or arbi-  
4 tration proceeding in any court, government agency or self-regulatory body. Permissible uses of  
5 personal information under this paragraph include, but are not limited to, service of process, inves-  
6 tigation in anticipation of litigation and the execution and enforcement of judgments and orders.

7 (b) A process server acting as an agent for an individual for use in serving documents in con-  
8 nection with an existing civil, criminal, administrative or arbitration proceeding, or a judgment, in  
9 any court, government agency or self-regulatory body. Nothing in this paragraph limits the activities  
10 of a process server when acting as an agent for an attorney, collection agency or like person or for  
11 a government agency.

12 (5) The department shall disclose personal information other than names to a researcher for use  
13 in researching health and educational questions and providing statistical reports, as long as the  
14 personal information is not published, redisclosed or used to contact individuals. The department  
15 may disclose information under this subsection only for research sponsored by an educational insti-  
16 tution or a health research institution.

17 (6) The department shall disclose personal information to an insurer, an insurance support or-  
18 ganization or a self-insured entity in connection with claims investigation activities, antifraud ac-  
19 tivities, underwriting or rating.

20 (7) The department shall disclose personal information regarding ownership or other financial  
21 interests in a vehicle to a person who is required by the state or federal Constitution, a statute or  
22 an ordinance to give notice to another person concerning the vehicle. Personal information disclosed  
23 under this subsection may be used only for giving the required notice. Persons authorized to receive  
24 personal information under this subsection include, but are not limited to:

25 (a) Tow companies;

26 (b) Persons who have or are entitled to have liens on the vehicle; and

27 (c) Persons taking an action that could affect ownership rights to the vehicle.

28 (8) The department shall disclose personal information to any private security professional cer-  
29 tified under ORS 181.878, to be used for the purpose of determining ownership of vehicles parked in  
30 a place over which the private security professional, acting within the scope of the professional's  
31 employment, exercises control.

32 (9) The department shall disclose personal information to the employer of an individual who  
33 holds a commercial driver license, or the insurer of the employer, to obtain or verify information  
34 about the holder of the commercial driver license.

35 (10) The department shall disclose personal information to the operator of a private toll facility  
36 for use in collecting tolls.

37 (11) The department may not disclose personal information for bulk distributors of surveys,  
38 marketing materials or solicitations except as provided in this subsection. The department shall  
39 implement methods and procedures to ensure:

40 (a) That individuals are offered an opportunity to request that personal information about  
41 themselves be disclosed to bulk distributors; and

42 (b) That the personal information provided by the department will be used, rented or sold solely  
43 for bulk distribution of surveys, marketing materials and solicitations.

44 (12) The department shall disclose personal information to a person who requests the informa-  
45 tion if the requester provides the department with written permission from the individual whose

1 personal information is requested. The written permission from the individual must be notarized.

2 (13) The department shall disclose personal information to a person who is in the business of  
3 disseminating such information under the following conditions:

4 (a) In addition to any other requirements under the contract executed pursuant to paragraph (b)  
5 of this subsection, the person requesting the information must file a performance bond with the de-  
6 partment in the amount of \$25,000. The bond must be executed in favor of the State of Oregon and  
7 its form is subject to approval by the Attorney General.

8 (b) The disseminator shall enter into a contract with the department. A contract under this  
9 paragraph shall contain at least the following provisions:

10 (A) That the disseminator will not reproduce or distribute the personal information in bulk but  
11 only in response to an individual record inquiry.

12 (B) That the disseminator will provide the personal information only to a person or government  
13 agency authorized to receive the information under this section and only if the person or govern-  
14 ment agency has been authorized by the department to receive the information.

15 (C) That the disseminator will have a method of ensuring that the disseminator can delay for a  
16 period of up to two days the giving of personal information to a requester who is not a subscriber.

17 (14) The department shall disclose personal information to representatives of the news media for  
18 the gathering or dissemination of information related to the operation of a motor vehicle or to public  
19 safety.

20 (15) The department shall disclose personal information as provided in ORS 802.220 (5).

21 (16) The department shall adopt rules providing for the release of personal information from  
22 motor vehicle records to a person who has a financial interest in the vehicle. Rules adopted under  
23 this subsection may include, but need not be limited to, rules establishing procedures for the de-  
24 partment to verify the financial interest of the person making the request for personal information.

25 (17) The department shall adopt rules providing for the release of personal information from  
26 motor vehicle records to a person who is injured by the unsafe operation of a vehicle or who owns  
27 property that is damaged because of the unsafe operation of a vehicle.

28 (18) The department shall disclose personal information to a private investigator licensed by any  
29 licensing authority within the State of Oregon, to be used for any purpose permitted any person  
30 under this section. A licensed private investigator requesting information must prove to the de-  
31 partment that the person has a corporate surety bond, an irrevocable letter of credit issued by an  
32 insured institution as defined in ORS 706.008 or such other security as the Department of Public  
33 Safety Standards and Training may prescribe by rule in the minimum amount of \$5,000 or errors and  
34 omissions insurance in the minimum amount of \$5,000.

35 (19) The department shall disclose personal information to a procurement organization as de-  
36 fined in [ORS 97.950] **section 2 of this 2007 Act** for the purpose of facilitating the making of ana-  
37 tomical gifts under the provisions of [97.952] **section 3 of this 2007 Act**.

38 **SECTION 30.** ORS 97.966 is amended to read:

39 97.966. A person named executor who carries out [the] **an anatomical** gift of the testator made  
40 under the provisions of [ORS 97.950 to 97.964] **section 4 of this 2007 Act** before issuance of letters  
41 testamentary or under a will which is not admitted to probate shall not be liable to the surviving  
42 spouse or next of kin for performing acts necessary to carry out the gift of the testator.

43 **SECTION 31.** ORS 97.950, 97.952, 97.954, 97.956, 97.958, 97.960, 97.962 and 97.964 are re-  
44 **pealed.**

45 **SECTION 32.** (1) Sections 1 to 23 of this 2007 Act, the amendments to statutes by sections

1 24 to 30 of this 2007 Act and the repeal of statutes by section 31 of this 2007 Act apply to  
2 documents of gifts and amendments to, revocations of and refusals of documents of gifts  
3 made on or after the effective date of this 2007 Act.

4 (2) Sections 1 to 23 of this 2007 Act, the amendments to statutes by sections 24 to 30 of  
5 this 2007 Act and the repeal of statutes by section 31 of this 2007 Act do not apply to or affect  
6 any action or document relating to an anatomical gift made before the effective date of this  
7 2007 Act.

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