

Enrolled House Bill 3055

Sponsored by Representative NOLAN, Senator BATES

CHAPTER

AN ACT

Relating to revocation of an anatomical gift; creating new provisions; and amending ORS 97.957, 97.959, 97.961 and 97.963.

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

SECTION 1. ORS 97.957 is amended to read:

97.957. (1) A donor may make an anatomical gift:

- (a) By a designation on the donor’s driver license or identification card;
- (b) In a will;
- (c) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness;
- (d) By a donor card or other record signed by the donor or other person making the gift; or
- (e) By authorizing that a statement, symbol or designation indicating that the donor has made an anatomical gift is to be included on a donor registry.

(2) If the donor or other person authorized to make an anatomical gift under ORS 97.955 is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

- (a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and
- (b) State that it has been signed and witnessed as provided in paragraph (a) of this subsection.
- (3) Revocation, suspension, expiration or cancellation of a driver license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

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

(5) An anatomical gift made by a designation on the donor’s driver license or identification card is conclusively presumed valid.

SECTION 2. ORS 97.959 is amended to read:

97.959. (1) Except as provided in subsection (7) of this section, an anatomical gift made by a designation on a donor’s driver license or identification card under ORS 97.957 (1)(a) may be revoked only by the donor in accordance with the provisions of this section and may not be revoked by any other person otherwise authorized to make, amend or revoke a gift under ORS 97.963 or 97.967 or this section.

~~[(1)]~~ (2) Except as provided in **subsection (1) of this section** and ORS 97.963, a donor or other person authorized to make an anatomical gift under ORS 97.955 may amend or revoke an anatomical gift by:

- (a) A record signed by:

(A) The donor;
(B) The other person; or
(C) Subject to subsection [(2)] (3) of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

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

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

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

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

[(3)] (4) Except as provided in ORS 97.963, a donor or other person authorized to make an anatomical gift under ORS 97.955 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

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

[(5)] (6) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection [(3)] (4) of this section.

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

SECTION 3. ORS 97.961 is amended to read:

97.961. (1) An individual may refuse to make an anatomical gift of the individual's body or body part by:

(a) A record signed by:

(A) The individual; or

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

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

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

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

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

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

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

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

(b) By subsequently making an anatomical gift pursuant to ORS 97.957 that is inconsistent with the refusal; or

(c) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, provided that the destruction or cancellation is done with the intent to revoke the refusal.

(4) Except as otherwise provided in [ORS 97.963 (8)] **subsection (5) of this section**, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or body part prohibits all other persons from making an anatomical gift of the individual's body or body part.

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

SECTION 4. ORS 97.963 is amended to read:

97.963. (1) *[Except as otherwise provided in subsection (7) of this section and subject to subsection (6) of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is prohibited from making, amending or revoking]* An anatomical gift of a donor's body or body part, if the donor made an anatomical gift of the donor's body or body part under ORS 97.957 or an amendment to an anatomical gift of the donor's body or body part under ORS 97.959, **may not be revoked except in accordance with ORS 97.959.**

(2) A donor's revocation of an anatomical gift of the donor's body or body part under ORS 97.959 is not a refusal and does not prohibit another person specified in ORS 97.955 or 97.965 from making an anatomical gift of the donor's body or body part under ORS 97.957 or 97.967.

(3) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or body part under ORS 97.957 or an amendment to an anatomical gift of the donor's body or body part under ORS 97.959, another person may not make, amend or revoke the gift of the donor's body or body part under ORS 97.967.

(4) A revocation of an anatomical gift of a donor's body or body part under ORS 97.959 by a person other than the donor does not prohibit another person from making an anatomical gift of the body or body part under ORS 97.957 or 97.967.

(5) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under ORS 97.955, an anatomical gift of a body part is neither a refusal to give another body part nor a limitation on the making of an anatomical gift of another body part at a later time by the donor or other person.

(6) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under ORS 97.955, an anatomical gift of a body part for one or more of the purposes set forth in ORS 97.955 is not a limitation on the making of an anatomical gift of the body part for any of the other purposes by the donor or other person under ORS 97.957 or 97.967.

[(7) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or body part.]

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

SECTION 5. The amendments to ORS 97.957 and 97.959 by sections 1 and 2 of this 2009 Act apply to donor designations appearing on driver licenses or identification cards issued by this state or any other state before, on or after the effective date of this 2009 Act.

Passed by House April 14, 2009

.....
Chief Clerk of House

.....
Speaker of House

Passed by Senate May 7, 2009

.....
President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2009

.....
Secretary of State