

Enrolled
House Bill 2852

Sponsored by Representative HUNT; Representatives DEMBROW, DOHERTY, GELSER, NOLAN
(Presession filed.)

CHAPTER

AN ACT

Relating to anatomical gifts; creating new provisions; and amending ORS 97.959 and 97.963.

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

SECTION 1. ORS 97.959 is amended to read:

97.959. (1) Except as provided in subsection (7) **or (8)** 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 **amended or** revoked only by the donor in accordance with the provisions of this section and may not be **amended or** revoked by any other person otherwise authorized to make, amend or revoke a gift under ORS 97.963 or 97.967 [or this section].

(2) [Except as provided in subsection (1) of this section and ORS 97.963,] A donor or other person authorized to [make] **amend or revoke** an anatomical gift under [ORS 97.955] **subsection (7) or (8) of this section** 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 (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.

(3) A record signed pursuant to subsection (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.

(4) [Except as provided in ORS 97.963,] A donor or other person authorized to [make] **revoke** an anatomical gift under [ORS 97.955] **subsection (7) or (8) of this section** 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.

(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.

(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 (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.

- (8) An agent or guardian of a donor may amend or revoke an anatomical gift only if:**
(a) The agent or guardian made the gift under ORS 97.955 (2)(b) or (d); or
(b) The power of attorney for health care or other record appointing the agent expressly authorizes the agent to amend or revoke anatomical gifts.

SECTION 2. ORS 97.963 is amended to read:

97.963. (1) An anatomical gift of a donor's body or body part, if the donor **or another person** 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.

SECTION 3. The amendments to ORS 97.959 and 97.963 by sections 1 and 2 of this 2011 Act apply to anatomical gift amendments and revocations made on or after the effective date of this 2011 Act.

Passed by House March 15, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 5, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State