

Requested by Senator FAGAN

**PROPOSED AMENDMENTS TO
SENATE BILL 144**

1 On page 1 of the printed bill, line 2, after “bodies;” insert “creating new
2 provisions;”.

3 In line 17, delete “to facilitate” and insert “approved by the Oregon
4 Health Authority that facilitates”.

5 On page 2, line 26, delete the second comma.

6 In line 27, delete “body donation organization”.

7 On page 3, line 7, delete “a person” and insert “an organization”.

8 Delete lines 36 through 45 and delete page 4.

9 On page 5, delete lines 1 through 42 and insert:

10 **“SECTION 3.** ORS 97.969 is amended to read:

11 “97.969. (1) An anatomical gift may be made to the following persons
12 named in the document of gift:

13 “(a) A hospital, accredited medical school, dental school, college, univer-
14 sity, organ procurement organization, **body donation organization** or other
15 appropriate person, for research or education;

16 “(b) Subject to subsection (2) of this section, an individual designated by
17 the person making the anatomical gift if the individual is the recipient of
18 [*the*] **a** body part; or

19 “(c) An eye bank or tissue bank.

20 “(2) If an anatomical gift to an individual under subsection (1)(b) of this
21 section cannot be transplanted into the individual, the body part passes in

1 accordance with subsection (7) of this section in the absence of an express,
2 contrary indication by the person making the anatomical gift.

3 “(3) If an anatomical gift of one or more specific body parts, [or] of all
4 body parts **or of the whole body** is made in a document of gift that does
5 not name a person described in subsection (1) of this section but identifies
6 the purpose for which an anatomical gift may be used, the following rules
7 apply:

8 “(a) If the body part is an eye and the gift is for the purpose of trans-
9 plantation or therapy, the gift passes to the appropriate eye bank.

10 “(b) If the body part is tissue and the gift is for the purpose of trans-
11 plantation or therapy, the gift passes to the appropriate tissue bank.

12 “(c) If the body part is an organ and the gift is for the purpose of trans-
13 plantation or therapy, the gift passes to the appropriate organ procurement
14 organization as custodian of the organ.

15 “(d) If the body part is an organ, an eye or tissue and the gift is for the
16 purpose of research or education, the gift passes to the appropriate procure-
17 ment organization.

18 “(e) **If the gift is of the whole body, the gift is for the purpose of**
19 **research or education, and all possible gifts of body parts under para-**
20 **graphs (a) to (d) of this subsection have been fulfilled, the gift passes**
21 **to the appropriate procurement organization or body donation organ-**
22 **ization.**

23 “(4) For the purposes of subsection (3) of this section, if there is more
24 than one purpose of an anatomical gift set forth in the document of gift but
25 the purposes are not set forth in any priority, the gift must be used for
26 transplantation or therapy, if suitable. If the gift cannot be used for trans-
27 plantation or therapy, the gift may be used for research or education.

28 “(5) If an anatomical gift of one or more specific body parts is made in
29 a document of gift that does not name a person described in subsection (1)
30 of this section and does not identify the purpose of the gift, the gift may be

1 used only for transplantation or therapy, and the gift passes in accordance
2 with subsection (7) of this section.

3 “(6) If a document of gift specifies only a general intent to make an an-
4 atomical gift by words such as ‘donor,’ ‘organ donor’ or ‘body donor’ or by
5 a symbol or statement of similar import, the gift may be used only for
6 transplantation or therapy, and the gift passes in accordance with subsection
7 (7) of this section.

8 “(7) For purposes of subsections (2), (5) and (6) of this section, the fol-
9 lowing rules apply:

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

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

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

15 “(8) An anatomical gift of an organ for transplantation or therapy, other
16 than an anatomical gift under subsection (1)(b) of this section, passes to the
17 organ procurement organization as custodian of the organ.

18 “(9) If an anatomical gift does not pass pursuant to subsections (1) to (8)
19 of this section or the decedent’s body or body part is not used for trans-
20 plantation, therapy, research or education, custody of the body or body part
21 passes to the person under obligation to dispose of the body or body part.

22 “(10) A person may not accept an anatomical gift if the person knows that
23 the gift was not effectively made under ORS 97.957 or 97.967 or if the person
24 knows that the decedent made a refusal under ORS 97.961 that was not re-
25 voked. For purposes of this subsection, if a person knows that an anatomical
26 gift was made on a document of gift, the person is deemed to know of any
27 amendment or revocation of the gift or any refusal to make an anatomical
28 gift on the same document of gift.

29 “(11) Except as otherwise provided in subsection (1)(b) of this section,
30 ORS 97.951 to 97.982 do not affect the allocation of organs for transplanta-

1 tion or therapy.

2 **“SECTION 4.** ORS 97.972 is amended to read:

3 “97.972. (1) When a hospital refers an individual at or near death to a
4 procurement organization, the organization shall make a reasonable search
5 of the records of the Department of Transportation and any donor registry
6 that it knows exists for the geographical area in which the individual resides
7 to ascertain whether the individual has made an anatomical gift.

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

11 **“(3) A hospital may not refer an individual at or near death to a
12 body donation organization unless the individual has no body part that
13 is suitable for transplantation or therapy or all possible gifts under
14 ORS 97.969 (3)(a) to (d) and (4) have been fulfilled.**

15 “[~~(3)~~] (4) When a hospital refers an individual at or near death to a **body**
16 **donation organization or** procurement organization, the organization may
17 conduct any reasonable examination necessary to ensure the medical suit-
18 ability of a **body or** body part that is or could be the subject of an anatom-
19 ical gift for transplantation, therapy, research or education from a donor or
20 a prospective donor. During the examination period, measures necessary to
21 ensure the medical suitability of the **body or** body part may not be with-
22 drawn unless the hospital or [*procurement*] organization knows that the in-
23 dividual expressed a contrary intent.

24 “[~~(4)(a)~~] (5)(a) Unless otherwise prohibited by law, at any time after a
25 donor’s death, the person to whom a **body or** body part passes under ORS
26 97.969 may conduct any reasonable examination necessary to ensure the
27 medical suitability of the body or body part for its intended purpose.

28 “(b) A transplant hospital may not deny a recipient from receiving an
29 anatomical gift exclusively on the basis that the recipient is a registry
30 identification cardholder as defined in ORS 475B.791.

1 “[5] (6) Unless otherwise prohibited by law, an examination under sub-
2 section [(3) or (4)(a)] (4) or (5)(a) of this section may include an examination
3 of all medical and dental records of the donor or prospective donor.

4 “[6] (7) Upon the death of a minor who was a donor or had signed a
5 refusal, unless a procurement organization knows the minor is emancipated,
6 the procurement organization shall conduct a reasonable search for the par-
7 ents of the minor and provide the parents with an opportunity to revoke or
8 amend the anatomical gift or revoke the refusal.

9 “[7] (8) [Upon referral by a hospital under subsection (1) of this section,
10 a procurement organization] **When a hospital refers an individual at or**
11 **near death to a body donation organization or procurement organiza-**
12 **tion, the organization** shall make a reasonable search for any person listed
13 in ORS 97.965 having priority to make an anatomical gift on behalf of a
14 prospective donor. If a **body donation organization or** procurement organ-
15 ization receives information that an anatomical gift to any other person was
16 made, amended or revoked, [it] **the organization** shall promptly advise the
17 other person of all relevant information.

18 “[8] (9) Subject to ORS 97.969 (9) and 97.980, the rights of the person to
19 whom a **body or** body part passes under ORS 97.969 are superior to the
20 rights of all others with respect to the **body or** body part. The person may
21 accept or reject an anatomical gift in whole or in part. Subject to the terms
22 of the document of gift and ORS 97.951 to 97.982, a person who accepts an
23 anatomical gift of [an entire] **a whole** body may allow embalming, burial or
24 cremation and use of remains in a funeral service. If the gift is of a body
25 part, the person to whom the body part passes under ORS 97.969, upon the
26 death of the donor and before embalming, burial or cremation, shall cause
27 the body part to be removed without unnecessary mutilation.

28 “[9] (10) Neither the physician who attends the decedent at death nor
29 the physician who determines the time of the decedent’s death may partic-
30 ipate in the procedures for removing or transplanting a body part from the

1 decedent.

2 “[~~(10)~~] (11) A physician or technician may remove from the body of a do-
3 nor a donated body part that the physician or technician is qualified to re-
4 move.”.

5 On page 8, after line 1, insert:

6 “(10) A medical examiner may refer a person authorized to make an ana-
7 tomical gift of a decedent’s body under ORS 97.965 to a body donation or-
8 ganization.”.

9 In line 5, delete “to facilitate” and insert “approved by the Oregon Health
10 Authority that facilitates”.

11 On page 9, after line 3, insert:

12 **“SECTION 9. Section 10 of this 2019 Act is added to and made a part
13 of ORS 97.951 to 97.982.**

14 **“SECTION 10. (1) A body donation organization may not directly
15 solicit an individual to make an anatomical gift of a whole body.**

16 **“(2) A body donation organization may provide education on whole
17 body donation to health care professionals and to the general public.**

18 **“SECTION 11. The Department of Transportation shall:**

19 **“(1) To the extent practicable, make available in field offices of the
20 department informational material provided by a national association
21 of tissue banks regarding the donation of the whole body to be used
22 for research and education; and**

23 **“(2) Maintain on the department’s website a link to a webpage of a
24 national association of tissue banks for the purpose of providing in-
25 formation on the donation of the whole body to be used for research
26 and education.**

27 **“SECTION 12. (1) Sections 10 and 11 of this 2019 Act and the
28 amendments to ORS 97.953, 97.963, 97.969, 97.972, 97.978, 97.980, 441.079
29 and 441.082 by sections 1 to 8 of this 2019 Act become operative on July
30 1, 2020.**

1 **“(2) The Oregon Health Authority and the Department of Trans-**
2 **portation may take any action before the operative date specified in**
3 **subsection (1) of this section to enable the authority and the depart-**
4 **ment to exercise, on and after the operative date specified in sub-**
5 **section (1) of this section, all of the duties, functions and powers**
6 **conferred on the authority and the department by sections 10 and 11**
7 **of this 2019 Act and the amendments to ORS 97.953, 97.963, 97.969,**
8 **97.972, 97.978, 97.980, 441.079 and 441.082 by sections 1 to 8 of this 2019**
9 **Act.”.**

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