

Annex 5A

**SALE OF ORGANS
AND RELATED STATUTES**

ARKANSAS

CODE OF ALA. § 22-19-175 (2009). Sale or purchase of parts prohibited.

(a) Except as otherwise provided in subsection (b), a person, that for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a Class C felony.

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

ARIZONA

A.R.S. § 36-854 (2009). Sale or purchase of parts; classification.

A. Except as otherwise provided in subsection B, a person who for valuable consideration knowingly purchases or sells a part for transplantation or therapy, if removal of a part from an individual is intended to occur after the individual's death, is guilty of a class 3 felony.

B. This section does not prevent a person from charging a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation or disposal of a part.

ARKANSAS

A.C.A. § 20-17-802 (2009). Fetal remains resulting from abortion.

(a) Any physician who performs an abortion shall ensure that the fetal remains and all parts thereof are disposed of in a fashion similar to that in which other tissue is disposed.

(b) (1) No person shall perform any biomedical or behavioral research on a fetus born alive as the result of a legal abortion unless the research is for the exclusive benefit of the fetus so born.

(2) No person shall perform any biomedical or behavioral research on any fetus born dead as the result of a legal abortion or on any fetal tissue produced by the abortion without permission of the mother.

(c) No person shall buy, sell, give, exchange, or barter or offer to buy, sell, give, exchange, or barter any fetus born dead as a result of a legal abortion or any organ, member, or tissue of fetal material resulting from a legal abortion.

(d) No person shall possess either a fetus born dead as a result of a legal abortion or any organ, member, or tissue of fetal material resulting from a legal abortion.

(e) This section shall not apply to:

(1) A physician performing a legal abortion or a pathologist performing a pathological examination as the result of a legal abortion and shall not apply to an employee, agent, or servant of such a physician or pathologist;

(2) The staff, faculty, students, or governing body of any institution of higher learning or institution of secondary education to the extent of courses of instruction taught and research conducted at the institutions;

(3) Licensed physicians or their employees, agents, and servants while in the conduct of medical research; or

(4) Any licensed physician when performing a standard autopsy examination.

(f) Any person violating this section shall be guilty of a Class A misdemeanor.

CALIFORNIA

CAL. PEN. CODE § 367f (2009). Acquisition, sale, or other transfer of human organ for transplantation.

(a) Except as provided in subdivisions (d) and (e), it shall be unlawful for any person to knowingly acquire, receive, sell, promote the transfer of, or otherwise transfer any human organ, for purposes of transplantation, for valuable consideration.

(b) Except as provided in subdivisions (d), (e), and (f), it shall be unlawful to remove or transplant any human organ with the knowledge that the organ has been acquired or will be transferred or sold for valuable consideration in violation of subdivision (a).

(c) For purposes of this section, the following definitions apply:

(1) "Human organ" includes, but is not limited to, a human kidney, liver, heart, lung, pancreas, or any other human organ or nonrenewable or nonregenerative tissue except

plasma and sperm.

(2) "Valuable consideration" means financial gain or advantage, but does not include the reasonable costs associated with the removal, storage, transportation, and transplantation of a human organ, or reimbursement for those services, or the expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ.

(d) No act respecting the nonsale donation of organs or other nonsale conduct pursuant to or in the furtherance of the purposes of the Uniform Anatomical Gift Act, Chapter 3.5 (commencing with [Section 7150\) Part 1 of Division 7 of the Health and Safety Code](#), including acts pursuant to anatomical gifts offered under [Section 12811 of the Vehicle Code](#), shall be made unlawful by this section.

(e) This section shall not apply to the person from whom the organ is removed, nor to the person who receives the transplant, or those persons' next-of-kin who assisted in obtaining the organ for purposes of transplantations.

(f) A licensed physician and surgeon who transplants a human organ in violation of subdivision (b) shall not be criminally liable under that subdivision if the act is performed under emergency and life-threatening conditions.

(g) Any person who violates subdivision (a) or (b) shall be punished by a fine not to exceed fifty thousand dollars (\$50,000), or by imprisonment in the state prison for three, four, or five years, or both.

COLORADO

C.R.S. 12-34-116 (2009). Sale or purchase of parts prohibited.

(a) Except as otherwise provided in subsection (b) of this section, a person that knowingly acquires, receives, or otherwise transfers a part for valuable consideration for transplantation may be liable as specified in [42 U.S.C. sec. 274e](#).

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

CONNECTICUT

CONN. GEN. STAT. § 19a-280a (2008). Prohibition against transfer for valuable consideration of any human organ for use in human transplantation. Penalty.

(a) For the purposes of this section:

(1) "Human organ" means human kidney, liver, heart, lung, pancreas, eye, bone, skin, fetal tissue or any other human organ or tissue, but does not include hair or blood, blood components including plasma, blood derivatives, or blood reagents.

(2) "Valuable consideration" does not include (A) a fee paid to a physician or to other medical personnel for services rendered in the usual course of medical practice or a fee paid for hospital or other clinical services; (B) reimbursement of legal or medical expenses incurred for the benefit of the ultimate receiver of the organ; or (C) reimbursement of expenses of travel, housing and lost wages incurred by the donor of a human organ in connection with the donation of the organ.

(b) No person shall knowingly acquire, receive or otherwise transfer for valuable consideration any human organ for use in human transplantation.

(c) Any person who violates the provisions of this section shall be guilty of a class A misdemeanor.

DISTRICT OF COLUMBIA

D.C. CODE § 7-1501.01 (2009). "Human body parts" defined; prohibited acts [Formerly § 6-2601]

(a) For the purposes of this subchapter, the term "human body parts" means any portion of a living human body, including, but not limited to, organs, tissues, eyes, bones, veins, and arteries, except that the term shall not mean hair and blood.

(b) It is unlawful for any person in the District of Columbia to buy, to offer to buy, to sell, to offer to sell, or to procure through purchase any human body part for any reason, including, but not limited to, medical and specific uses, such as transplantation, implantation, infusion, or injection.

DELAWARE

11 DEL. C. § 1333 (2009). Trading in human remains and Associated Funerary Objects.

(a) As used in this section:

(1) "Associated Funerary Objects" means an item of human manufacture or use that is intentionally placed with human remains at the time of interment in a burial site or later as a part of a death rite or ceremony of a culture, religion or group. "Associated Funerary Object" includes any gravestone, monument, tomb or other structure in or directly associated with a burial site.

(b) A person is guilty of trading in human remains and Associated Funerary Objects when the person knowingly sells, buys or transports for sale or profit, or offers to buy, sell or transport for sale or profit, within this State, any unlawfully removed human remains or any Associated Funerary Objects.

(c) The provisions of this section shall not apply to:

(1) Any person acting in the course of medical, archaeological, educational or scientific study authorized by an accredited educational institution or governmental entity; or

(2) A licensed mortician or other professional who transports human remains in the course of carrying out the individual's professional duties and responsibilities.

(d) Nothing in this section shall be construed to interfere with the normal operation and maintenance of a public or private cemetery including correction of improper burial siting, and, with the consent of any person who would qualify as an heir of the deceased, moving the remains within a public or private cemetery.

Trading in human remains and Associated Funerary Objects is a class B misdemeanor.

16 DEL. C. § 2713 (2009). Manner of executing anatomical gifts (see (f) below).

(a) A gift of all or part of the body under § 2711(a) of this title may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under § 2711(a) of this title may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of 2 witnesses who need not be in the presence of each other but who must sign the document in the donor's presence. If the donor cannot sign, the document may be signed for the donor at the donor's direction and in the donor's presence and in the presence of 2 witnesses who must sign the document in the donor's presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

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

(d) Notwithstanding § 2716(b) of this title, the donor may designate in the donor's will,

card or other document of gift the surgeon, physician or recovery specialist to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon, physician or recovery specialist for the purpose or, in the case of a gift of eyes, donee or authorized person may employ or authorize an undertaker licensed by the State or a qualified eye bank technician on the staff of the Medical Eye Bank of Delaware or the Lion's Eye Bank of Delaware Valley who has successfully completed a course in eye enucleation approved by the Medical Examiner of the State to enucleate eyes for the gift after certification of death by a physician. A qualified undertaker or eye bank technician acting in accordance with this subsection shall be free from civil and criminal liability with respect to the eye enucleation.

(e) Any gift by a person designated in § 2711(c) of this title shall be made by a document signed by the person or made by the person's telegraphic, recorded, telephonic or other recorded message.

(f) A person who so directs the manner in which the person's body or any part of the person's body shall be disposed of shall receive no remuneration or other thing of value for such disposition.

FLORIDA

FLA. STAT. § 873.01 (2009). Purchase or sale of human organs and tissue prohibited.

(1) No person shall knowingly offer to purchase or sell, or purchase, sell, or otherwise transfer, any human organ or tissue for valuable consideration.

(2) No for-profit corporation or any employee thereof shall transfer or arrange for the transfer of any human body part for valuable consideration.

(3) (a) The human organs and tissues subject to the provisions of this section are the eye, cornea, kidney, liver, heart, lung, pancreas, bone, and skin or any other organ or tissue adopted by rule by the Agency for Health Care Administration for this purpose.

(b) As used in this section, the term "valuable consideration" does not include the reasonable costs associated with the removal, storage, and transportation of a human organ or tissue.

(4) A person who violates the provisions of this section is guilty of a felony of the second degree, punishable as provided in [s. 775.082](#), [s. 775.083](#), or [s. 775.084](#).

GEORGIA

O.C.G.A. § 16-12-160 (2009). Buying or selling or offering to buy or sell the human

body or parts.

(a) It shall be unlawful, except as provided in subsection (b) of this Code section, for any person, firm, or corporation to buy or sell, to offer to buy or sell, or to assist another in buying or selling or offering to buy or sell a human body or any part of a human body or buy or sell a human fetus or any part thereof.

(b) The prohibition contained in subsection (a) of this Code section shall not apply to:

(1) The purchase or sale of whole blood, blood plasma, blood products, blood derivatives, other self-replicating body fluids, or hair;

(2) A gift or donation of a human body or any part of a human body or any procedure connected therewith as provided in Article 6 of Chapter 5 of Title 44 or to the payment of a fee in connection with such gift or donation pursuant to subsection (b) of [Code Section 44-5-154](#) if such fee is paid to a procurement organization, as that term is defined in [Code Section 44-5-141](#);

(3) The reimbursement of actual expenses, including medical costs, lost income, and travel expenses, incurred by a living person in giving or donating a part of the person's body;

(4) The payment of financial assistance under a plan of insurance or other health care coverage;

(5) The purchase or sale of human tissue, organs, or other parts of the human body for health sciences education; or

(6) The payment of reasonable costs associated with the removal, storage, or transportation of a human body or any part of a human body given or donated for medical or scientific purposes.

(c) Any person, firm, or corporation convicted of violating subsection (a) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine not exceeding \$5,000.00 or by imprisonment for not less than one year nor more than five years, or both.

HAWAII

HRS § 327-16 (2009). Sale or purchase of body parts prohibited.

(a) Except as otherwise provided in subsection (b), a person that knowingly, for valuable consideration, purchases or sells a body part for transplantation or therapy if removal of a body part from an individual is intended to occur after the individual's death commits a class C felony and upon conviction is subject to a fine not exceeding \$50,000,

imprisonment not exceeding five years, or both.

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

IDAHO

IDAHO CODE § 39-3417 (2009). Sale or purchase of parts prohibited.

(1) Except as otherwise provided in subsection (2) of this section, a person that for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a felony and upon conviction is subject to a fine not exceeding fifty thousand dollars (\$ 50,000) or imprisonment not exceeding five (5) years, or both such fine and imprisonment.

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

(3) A coroner acting pursuant to this section shall not authorize the removal of a part from a body within the coroner's custody if the coroner, or any deputy or agent of the coroner, derives or may derive any direct or indirect financial benefit relative to the removal, donation or use of the part.

ILLINOIS

§ 720 ILCS 5/12-20 (2009). Sale of body parts.

[Prior to 1/1/93 cited as: Ill. Rev. Stat., Ch. 38, para. 12-20]

Sec. 12-20. Sale of body parts. (a) Except as provided in subsection (b), any person who knowingly buys or sells, or offers to buy or sell, a human body or any part of a human body, is guilty of a Class A misdemeanor for the first conviction and a Class 4 felony for subsequent convictions.

(b) This Section does not prohibit:

(1) An anatomical gift made in accordance with the Illinois Anatomical Gift Act [[755 ILCS 50/1](#) et seq.].

(2) The removal and use of a human cornea in accordance with the Illinois Anatomical Gift Act [[755 ILCS 50/1](#) et seq.].

(3) Reimbursement of actual expenses incurred by a living person in donating an organ, tissue or other body part or fluid for transplantation, implantation, infusion, injection, or other medical or scientific purpose, including medical costs, loss of income, and travel

expenses.

(4) Payments provided under a plan of insurance or other health care coverage.

(5) Reimbursement of reasonable costs associated with the removal, storage or transportation of a human body or part thereof donated for medical or scientific purposes.

(6) Purchase or sale of blood, plasma, blood products or derivatives, other body fluids, or human hair.

(7) Purchase or sale of drugs, reagents or other substances made from human bodies or body parts, for use in medical or scientific research, treatment or diagnosis.

INDIANA

BURNS IND. CODE ANN. § 35-46-5-1 (2009). Unlawful transfer of human organ.

(a) As used in this section, "fetal tissue" means tissue from an infant or a fetus who is stillborn or aborted.

(b) As used in this section, "human organ" means the kidney, liver, heart, lung, cornea, eye, bone marrow, bone, pancreas, or skin of a human body.

(c) As used in this section, "item of value" means money, real estate, funeral related services, and personal property. "Item of value" does not include:

(1) the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ; or

(2) the reimbursement of travel, housing, lost wages, and other expenses incurred by the donor of a human organ related to the donation of the human organ.

(d) A person who intentionally acquires, receives, sells, or transfers in exchange for an item of value:

(1) a human organ for use in human organ transplantation; or

(2) fetal tissue;

commits unlawful transfer of human tissue, a Class C felony.

IOWA

IOWA CODE § 142C.10 (2008). Sale or purchase of parts prohibited -- penalty.

1. A person shall not knowingly, for valuable consideration, purchase or sell a part for transplantation or therapy if removal of the part is intended to occur after the death of the decedent.
2. Valuable consideration does not include reasonable payment for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.
3. A person who violates this section commits a class "C" felony.

KANSAS

K.S.A. § 65-3235 (2008). Sale or purchase of parts prohibited.

- (a) Except as otherwise provided in subsection (b), a person that for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a severity level 5, nonperson felony.
- (b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

KENTUCKY

KRS § 311.171 (2009). Prohibitions and restrictions relating to transplantable organs.

- (1) No person shall sell or make a charge for any transplantable organ.
- (2) No person shall offer remuneration for a transplantable organ.
- (3) No person shall broker for the sale or transfer of a transplantable organ.
- (4) No person shall charge a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, preserving, distributing, or transplanting the transplantable organ.
- (5) Nothing in this section shall be construed in any way to relate to the use, sale, distribution, procurement, preservation, distribution, experimentation, research, drug manufacture, or other treatment of any human or nonhuman part other than transplantable organs.

LOUISIANA

LA. R.S. 14:101.1 (2009). Purchase or sale of human organs.

A. No person shall intentionally acquire, receive, sell, or otherwise transfer in exchange for anything of value any human organ for use in human transplantation.

B. For purposes of Subsection A:

(1) The term "human organ" means the human kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, skin, and any other human organ.

(2) The term "anything of value" shall not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ or the expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ.

C. Whoever violates the provisions of this Section shall be fined not more than fifty thousand dollars or imprisoned with or without hard labor not more than five years, or both.

MICHIGAN

MCLS § 333.10116 (2009). Purchase or sale of body part for transplantation or therapy; violation as felony; penalty; exception.

Sec. 10116. (1) Except as otherwise provided in subsection (2), a person that for valuable consideration knowingly purchases or sells a body part for transplantation or therapy if removal of the body part from an individual is intended to occur after the individual's death is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$50,000.00, or both.

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

MCLS § 333.10204 (2009). Prohibited conduct; felony; permissible practices; definitions; rules.

Sec. 10204. (1) Except as otherwise provided in subsection (2), a person shall not knowingly acquire, receive, or otherwise transfer a human organ or part of a human organ

for valuable consideration for any purpose, including but not limited to transplantation, implantation, infusion, injection, or other medical or scientific purpose. A person who violates this subsection is guilty of a felony.

(2) Subsection (1) does not prohibit 1 or more of the following practices:

(a) The removal and use of a human cornea pursuant to section 10202, or the removal and use of a human pituitary gland pursuant to section 2855.

(b) An anatomical gift pursuant to part 101, or the acquisition or distribution of bodies or parts by the department pursuant to sections 2652 to 2663.

(c) Financial assistance payments provided under a plan of insurance or other health care coverage.

(3) Except as otherwise provided in part 101, only an individual who is 1 of the following may surgically remove a human organ for transplantation, implantation, infusion, injection, or any other medical or scientific purpose:

(a) A physician licensed under article 15.

(b) An individual acting under the delegatory authority and supervision of a physician pursuant to section 16215(2), but not including an individual whose license has been suspended under article 15. This subdivision includes, but is not limited to, an individual described in section 16215(3).

(c) An individual residing in another state and authorized to practice allopathic medicine or osteopathic medicine and surgery in that state who is called into this state by a physician licensed under article 15 and is authorized by a hospital licensed under article 17 to surgically remove 1 or more of the following organs for transport back to the other state:

(i) A heart.

(ii) A liver.

(iii) A lung.

(iv) A pancreas.

(v) A kidney.

(vi) All or part of an intestine.

(vii) Any other human organ specified by rule promulgated by the department under subsection (6).

(4) An individual who violates subsection (3) is guilty of a felony.

(5) As used in this section:

(a) "Human organ" means the human kidney, liver, heart, lung, pancreas, intestine, bone marrow, cornea, eye, bone, skin, cartilage, dura mater, ligaments, tendons, fascia, pituitary gland, and middle ear structures and any other human organ specified by rule promulgated by the department under subsection (6). Human organ does not include whole blood, blood plasma, blood products, blood derivatives, other self-replicating body fluids, or human hair.

(b) "Valuable consideration" does not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ or the medical expenses and expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the human organ.

(6) The department may promulgate rules to specify human organs in addition to the human organs listed in subsection (3)(c) or (5)(a).

MCLS § 333.9121 (2009). Blood, blood plasma, blood products, blood derivatives, and human and artificial tissues; standards regulating procurement, processing, distribution, and use; rendition of service; warranty; liability.

Sec. 9121. (1) The department shall establish standards pursuant to section 9133 to regulate the procurement, processing, distribution, and use of blood, blood plasma, blood products, blood derivatives, and human and artificial tissues.

(2) The procurement, processing, distribution, and use of whole blood, blood plasma, blood products, blood derivatives, and human and artificial tissues including, but not limited to, corneas, bones, organs, or parts of organs for the purpose of injecting, transfusing, or transplanting into a human body, is for all purposes the rendition of a service by a person participating therein and, whether or not remuneration is paid to the person, is not a sale for any purpose.

(3) An express, implied, or other warranty does not attach to services described in subsection (2). A person involved in the rendition of the service is not liable as a result thereof, except for the person's own negligence or willful misconduct.

MINNESOTA

MINN. STAT. § 145.422 (2009). EXPERIMENTATION, RESEARCH OR SALE.

Subdivision 1. Penalty.

Whoever uses or permits the use of a living human conceptus for any type of scientific, laboratory research or other experimentation except to protect the life or health of the conceptus, or except as herein provided, shall be guilty of a gross misdemeanor.

Subd. 2. Permitted acts.

The use of a living human conceptus for research or experimentation which verifiable scientific evidence has shown to be harmless to the conceptus shall be permitted.

Subd. 3. Penalty; permitted payments.

Whoever buys or sells a living human conceptus or nonrenewable organ of the body is guilty of a gross misdemeanor. Nothing in this subdivision prohibits (1) the buying and selling of a cell culture line or lines taken from a nonliving human conceptus; (2) payments for reasonable expenses associated with the removal, storage, and transportation of a human organ, including payments made to or on behalf of a living organ donor for actual expenses such as medical costs, lost income, or travel expenses

that are incurred as a direct result of the donation of the nonrenewable organ; or (3) financial assistance payments provided under insurance and Medicare reimbursement programs.

MISSISSIPPI

MISS. CODE ANN. § 41-39-131 (2009). Sale or purchase of parts prohibited.

[Repealed effective July 1, 2012]

(a) Except as otherwise provided in subsection (b), a person that, for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a felony and upon conviction is subject to a fine not exceeding Fifty Thousand Dollars (\$ 50,000.00) or imprisonment not exceeding five (5) years, or both.

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

MISSOURI

§ 194.275 R.S.Mo. (2009). Purchase or sale of body parts for valuable consideration prohibited--penalty--definition

1. Except as otherwise provided in subsection 2 of this section, a person that for valuable consideration knowingly purchases or sells a part for any purpose if removal of the whole body or a part from an individual is intended to occur after the individual's death commits a felony and upon pleading or being found guilty is subject to a fine not exceeding fifty thousand dollars or imprisonment not exceeding seven years, or both.

2. For purposes of this section, the term "valuable consideration" does not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of any part or a whole body.

MONTANA

MONT. CODE ANNO., § 72-17-302 (2009). Sale or purchase of parts prohibited.

(1) A person may not knowingly, for valuable consideration, purchase or sell a part for transplantation or therapy, if removal of the part is intended to occur after the death of the decedent.

(2) Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transportation, or implantation

of a part.

(3) A person who violates this section is guilty of a felony and upon conviction is subject to a fine not exceeding \$ 50,000 or imprisonment not exceeding 5 years, or both.

NEVADA

NEV. REV. STAT. ANN. § 201.460 (2009). Sale, acquisition, receipt or transfer for consideration of human organ for transplantation prohibited; penalty.

1. A person shall not knowingly sell, acquire, receive or otherwise transfer for valuable consideration any human organ for use in human transplantation.

2. As used in this section:

(a) "Human organ" includes the human kidney, liver, heart, lung, bone marrow and any other part of the human body except blood.

(b) "Valuable consideration" does not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control or storage of a human organ or the expenses of travel, housing and lost wages incurred by the donor in connection with the donation of a human organ.

3. Any person who violates this section is guilty of a misdemeanor.

NEW HAMPSHIRE

RSA 291-A:11 (2009).Sale or Purchase of Parts Prohibited.

I. A person shall not knowingly, for valuable consideration, purchase or sell a part, if removal of the part occurs or is intended to occur after the death of the decedent.

II. Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transportation, or implantation of a part.

III. A person who violates this section is guilty of a felony and, notwithstanding [RSA 651:2](#), upon conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding 5 years, or both.

NEW JERSEY

N.J. STAT. § 2C:22-2 (2009). Disposition of body parts, criminal penalties imposed for certain offenses.

a. A person who knowingly, for valuable consideration, purchases or sells a part for transplantation or therapy, if removal of a part from a donor is intended to occur after the donor's death, is guilty of a crime of the third degree and, notwithstanding the provisions of [N.J.S.2C:43-3](#), shall be subject to a fine of not more than \$ 50,000, as well as the term of imprisonment provided under [N.J.S.2C:43-6](#), or both.

Nothing in this subsection shall be construed to prohibit a person from charging a reasonable amount for the removal, processing, disposal, preservation, quality control, storage, transportation, or implantation of a part.

b. A person who intentionally falsifies, forges, conceals, defaces, or obliterates a document by which a gift of all or part of a human body may be made pursuant to P.L.2008, c.50 ([C.26:6-77](#) et al.), an amendment or revocation of such a document, or any death record or document of medical or social history pertaining to the body or part of the donor, or a refusal to make a gift, in order to obtain a financial benefit or gain, is guilty of a crime of the second degree and, notwithstanding the provisions of [N.J.S.2C:43-3](#), shall be subject to a fine of not more than \$ 50,000, as well as the term of imprisonment provided under [N.J.S.2C:43-6](#), or both.

c. As used in this section, the terms "decedent," "donor," "part," and "person" have the meaning ascribed to them in section 2 of P.L.2008, c.50 ([C.26:6-78](#)).

NEW MEXICO

N.M. STAT. ANN. § 24-6B-16 (2009). Sale or purchase of parts prohibited.

A. Except as otherwise provided in Subsection B of this section, a person who for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a third degree felony and upon conviction is subject to a fine not exceeding five thousand dollars (\$ 5,000) or imprisonment not exceeding six years, or both.

B. A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation or disposal of a part.

NEW YORK

NY CLS PUB HEALTH § 4307 (2009). Prohibition of sales and purchases of human organs.

1. It shall be unlawful for any person to knowingly acquire, receive, or otherwise

transfer for valuable consideration any human organ for use in human transplantation. The term human organ means the human kidney, liver, heart, lung, bone marrow, and any other human organ or tissue as may be designated by the commissioner but shall exclude blood. The term "valuable consideration" does not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ or the expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ. Any person who violates this section shall be guilty of a class E felony.

2. For the purposes of this section, the donation of a kidney or other organ from a live donor for transplantation into an individual conditioned upon the donation and transplantation of a similar organ into an individual specified by the donor shall not, in and of itself, be considered to be "valuable consideration" provided that such donation and transplant are performed in accordance with other applicable laws, rules and regulations, including any specific rules and regulations the commissioner may adopt, with the advice and consent of the transplant council, with respect to such conditional donations. No individual may make a donation conditioned upon the race, color, creed, national origin or religious affiliation of the recipient, and no hospital, organ procurement organization, tissue bank, physician or other professional may participate in the performance of any procedure or otherwise facilitate the donation and/or transfer of organs and/or tissue conditioned on such factors.

OREGON

ORS § 97.981 (2007). Purchase or sale of body parts prohibited.

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

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

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

PENNSYLVANIA

35 P.S. § 10025 (2009). Prohibition of organ and nonregenerative tissue purchases.

(a) GENERAL RULE. --It is unlawful for any person to knowingly acquire, receive, transfer or in any way facilitate the transfer for transplantation or other medical therapy any human organ or nonregenerative tissue for valuable consideration.

(b) PENALTY. --Any person who violates subsection (a) commits a misdemeanor of the first degree and, upon conviction, shall be fined not more than \$ 50,000 or imprisoned not more than five years, or both.

(c) DEFINITIONS. --As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"HUMAN ORGAN." The human kidney, liver, heart, lung, pancreas or any other vital human organ from living or cadaveric providers.

"NONREGENERATIVE TISSUE." Includes eyes, corneas, bones, cartilage and other tissue not normally renewable by the human body. The term specifically excludes such regenerative tissues as human blood and blood products, in vitro preparations of human cells, sperm and other tissues readily renewable by the human body.

"VALUABLE CONSIDERATION." Does not include the reasonable costs associated with the medical evaluation, removal, preservation and transportation of human organs and tissues for transplantation or other medical therapy, but includes any other consideration of value given or received.

TEXAS

TEX. PENAL CODE § 48.02 (2009). Prohibition of the Purchase and Sale of Human Organs.

(a) "Human organ" means the human kidney, liver, heart, lung, pancreas, eye, bone, skin, fetal tissue, or any other human organ or tissue, but does not include hair or blood, blood components (including plasma), blood derivatives, or blood reagents.

(b) A person commits an offense if he or she knowingly or intentionally offers to buy, offers to sell, acquires, receives, sells, or otherwise transfers any human organ for valuable consideration.

(c) It is an exception to the application of this section that the valuable consideration is: (1) a fee paid to a physician or to other medical personnel for services rendered in the usual course of medical practice or a fee paid for hospital or other clinical services; (2) reimbursement of legal or medical expenses incurred for the benefit of the ultimate receiver of the organ; or (3) reimbursement of expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ.

(d) A violation of this section is a Class A misdemeanor.

WISCONSIN

WIS. STAT. § 146.345 (2009). Sale of human organs prohibited.

(1) In this section:(a) "Human organ" means a human kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone or skin or any other human organ specified by the department by rule. "Human organ" does not mean human whole blood, blood plasma, a blood product or a blood derivative or human semen.(b) "Human organ transplantation" means the medical procedure by which transfer of a human organ is made from the body of a person to the body of another person.(c) "Valuable consideration" does not include reasonable payment associated with the removal, transportation, implantation, processing, preservation, quality control or storage of a human organ or an expense of travel, housing or lost wages incurred by a human organ donor in connection with donation of the human organ.

(2) No person may knowingly and for valuable consideration acquire, receive or otherwise transfer any human organ for use in human organ transplantation.

(3) Any person who violates this section is guilty of a Class H felony, except that, notwithstanding the maximum fine specified in [s. 939.50 \(3\) \(h\)](#), the person may be fined not more than 50,000.

VERMONT

9A V.S.A. § 2-108 (2009). Miscellaneous health provisions; blood or tissue transfer services.

The procurement, processing, distribution or use of whole blood, plasma, blood products or blood derivatives for the purpose of injecting or transfusing any of them into the human body shall be construed, for all purposes, as the rendition of a service by every person participating therein and, whether or not any remuneration is paid therefor, shall not be construed as a sale of such whole blood, plasma, blood products or blood derivatives for any purpose whatsoever. The use of any part of a body including organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of the human body for the purpose of transplantation in the human body shall be construed for all purposes as a rendition of a service by each and every person participating therein and, whether or not remuneration is paid therefore, shall not be construed as a sale of such part for any purpose whatsoever.

