INCREASING ORGAN DONATION RATES IN OHIO USING GRATUITY-BASED LEGISLATION: A HISTORICAL REVIEW AND PROPOSAL

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CHAPTER I

INTRODUCTION

“Without the organ donor, there is no story, no hope, no transplant. But when there is an organ donor, life springs from death, sorrow turns to hope and a terrible loss becomes a gift.” -UNOS, 2015

In the United States, it is estimated that over 120,000 people are on the national transplant waiting list (United Network for Organ Sharing [UNOS], 2015). The ever-growing need for transplantable organs is a major medical need in the United States. This is significant because one organ donor can save eight lives and one tissue donor can enhance the lives of 50 others (LifeBanc). In Ohio, 3,000 individuals are waiting for a life-saving transplant at any given time (“The facts about organ and tissue donation,” 2010). However, only 58% of Ohioans are registered donors, which creates a lack of viable organs (The Need – Nationwide to Stateside, 2015). One manner in which to address this shortage is to offer incentive-based legislation.

Previously, organ donation legislation aided in increasing awareness of organ donation and increasing donor rates. The Uniform Anatomical Gift Act (UAGA) of 1968 is the model statute for donation. It provided the legal foundation for donation, defined donation, and deemed the transplantation as a gift (USHHS, 2013). Legislation was essential to set ground rules to regulate organ procurement and transplantation, but transplantation and donation rates have plateaued, indicating a need for new policies. In 2005, 90,526 people remained waiting for an organ at the year’s end; in 2010, there
remained 110,375; and in 2015, 122,071 individuals remained waiting for a transplant (Organ Procurement and Transplantation Network [OPTN], 2017). Despite advances in the medical community, the gap between the supply and demand continues to widen (see Figure 1).

![Figure 1](image.png)

*Figure 1.* A visual representation of the widening gap between the demand for organs and the supply of organs available. (OPTN, 2015).

**A Need for Legislation**

The National Organ Transplant Act (NOTA, see Prohibition of Organ Purchases, 1984) prohibited a monetary value to be placed on human organs, thus making the buying and selling of organs illegal. Therefore, this legislation cannot be a direct payment, which can be viewed as a bribe to donate. However, a gratuity-based reimbursement program would preserve the ethical principles established by NOTA. Third party reimbursement of funds can convey gratitude for the donation without creating the morally grey area of bribes. Organ donation is an emotional decision, and monetary
value cannot be placed on the gift of an organ. Legislation needs to be created that reflects this principle, but also combats the serious organ shortage. The goal of this legislation is to compensate the families of the organ donor for funeral and burial expenses, or provide a donation to a charity of the family’s choice, through allotted monies (e.g., a portion of driver’s license or tag renewal fees). A basic principle of economics is that people respond to incentives (Mankiw, 2007). Since individuals make decisions by comparing costs and benefits, they respond to incentives and undecided individuals are more likely to choose an option if there is an incentive attached. Reimbursement of funeral expenses paid directly to the funeral home or a donation to a charity of the family’s choice are the two most effective ways of conveying gratitude without the conflict of bribes (Arnold et al., 2002). The goal of this legislation is to recognize and convey to the families the importance of their loved one’s contribution.

There are many misconceptions (i.e., “If I am an organ donor, medical professionals will not work to save my life” or “I am too old/unhealthy to donate my organs”) that contribute to the low percentage of registered donors. Only a little over half of Ohioans are registered organ donors (The Need - Nationwide to Stateside, 2015). However, there is a lack of education on the topic of organ donation. Inadequate education is often the root of these misconceptions, so individuals may lack a proper understanding of the process and significance of donation (Cárdenas, Thornton, Wong, Spigner, & Allen, 2010). A lack of available organs is argued to stem from the knowledge deficit on the organ donation process (López-Montesinos et al., 2010). Educational programs will fill in the gaps that exist with the knowledge deficit in the
public. Once the public is educated, many will understand the process, but may remain undecided. A gratuity-based policy can help push those on the fence toward the side of donation, thus increasing donation rates as more individuals gain a proper understanding of donation and accept use of the policy.

**Statement of Problem**

Every other day, one Ohioan dies waiting for a life-saving transplant (The Need - Nationwide to Stateside, 2015). A single donor can save up to eight lives through organ donation. Nationally, 79 life-saving transplantations are performed every day. However, in that same period of time, 21 people from the waiting list will die as a result of a lack of available organs (The Need - Nationwide to Stateside, 2015). A lack of available organs stems from a knowledge deficit of the process (López-Montesinos et al., 2010). A strengthening of organ donation education will lay the foundation to prove the Economic Theory of Incentives. Individuals respond to incentives, and individuals wish to carry on the legacy of their loved one who has passed. Legislative policy needs to be created to inspire people in favor of donation. The creation of legislation that allows financial support for funeral and burial expenses by compensation to the funeral home or provide a donation to a charity dear to the family, via state supported funds to the family of the donor, will convey gratitude for the life-saving gift.
CHAPTER II

A STATUTORY AND REGULATORY HISTORY OF ORGAN DONATION

Organ donation has a brief history when compared to the extent of medical knowledge. The first successful living transplant was performed in 1954, and the first successful cadaver transplant followed in 1962. It was not until 1968 that federal policy began to develop in reference to the new medical feat.

The Uniform Anatomical Gift Act (1968)

Enacted in 1968, the Uniform Anatomical Gift Act (UAGA) followed the first successful heart transplant, performed by Dr. Christian Barnard in 1967. Originally, the UAGA created the ability for life-saving organs, eyes, and tissue to be donated to a recipient that needed these organs or tissues to survive. The policy was revised in 1987 to compensate for non-specific changes in medicine and medical practice. However, the law was left up to the states to revise, which resulted in significant disparities between states. In 2006, the UAGA was revised again in an attempt to level any non-uniformity that existed between the states. The 2006 UAGA also established the indication as donor on the driver’s license to be a legal document for donation. A large step for the 2006 UAGA was the strengthening of prior language barring other individuals (i.e., family members) attempting to override a decision to make or refuse to make an anatomical gift. In strengthening the language, it established no reason to seek consent from the donor’s family because the family has no legal right in revoking the anatomical gift. Donor registries and procurement organizations were strengthened as a result of this
amendment. Standards for accessing documents, medical records, and state motor vehicle department records were established. These standards aid these organizations in determining whether an individual is a donor. The 2006 revision aids in establishing continuity between healthcare systems and procurement organizations, solidifying consent or refusal to donate or receive organs, and creates standards for donor registries to simplify the process of determining donor status (Uniform Law Commission [ULC]).

**The Uniform Brain Death Act (1978) and The Uniform Determination of Death Act (1980)**

As an effort to clear up the legal confusion resulting from the questions that had arisen in determining death, the ULC created the Uniform Brain Death Act in 1978. With the rise in medical technology, a re-evaluation of the traditional legal standards of declaring death was necessary. Previously, a cessation of circulation and respiratory function were the criteria for determining death. However, the cessation of brain activity was widely disputed on whether it is suitable criteria for death. Cessation of respiration and circulation are easily detectable and, until recently, the cessation of brain activity was very difficult to determine. Technology has not only aided in determining death, but also in preventing it. Biological functions can now be maintained beyond the time that the brain would terminate these functions. The Uniform Brain Death Act resulted from this and established that the “irreversible cessation of all functioning of the brain, including the brain stem” is one definition of death in accordance with “reasonable medical standards” (ULC). When created, the ULC did not mention the traditional standards of death, circulation and respiration, in the statute, which proved to be confusing when
states sought to adopt the law into effect. As a result, the ULC created the Uniform Determination of Death Act (UDDA) in 1980 to replace the Uniform Brain Death Act. The draft language remained the same except for the addition of “irreversible cessation of circulatory and respiratory functions” as an alternative standard for determining death. This act is solely concerned with the medical determination of biological death, so it is clear to not contain an exclusive determination for death. Its purpose is to recognize “cardiorespiratory and brain death in accordance with the criteria the medical profession universally accepts” (ULC). It does not seek to define death, but only associate death in medical terms that are accepted by the medical community.


NOTA established the OPTN to maintain the national organ registry for matching donors to recipients. The act created a board of directors and called for the registry to be operated by a non-profit organization under federal contract. The OPTN was created to oversee the transplant and donation system. This act prohibits giving valuable consideration or monetary amounts assigned to donor organs, thus prohibiting the sale of organs. A national list of patients who need organs was created, along with a standard to distribute organs fairly and equitably among patients. Standards were created in relation to overseeing the transportation of organs, education about organ donation, and working to increase the supply of organs available (OPTN, 42 USC 274, 1990).

**Children’s Health Act (2000)**

The Children’s Health Act is a federal law that called attention to the specific differences between pediatric and adult organ donation and the specific needs that affect
each age population. It called on the OPTN to create criteria, policies, and procedures that addressed each group’s specific needs based on age and development. Furthermore, it called for extended research on immunosuppressant drugs and determining which insurance plans are willing to cover the cost of treatment for organ recipients. This report was a pioneer in the call for research to be done about the “special growth and developmental issues that children have pre- and post-organ transplantation” (Pediatric Organ Donation and Transplantation, n.d.).

**Organ Donation and Recovery Improvement Act (2004)**

The Organ Donation and Recovery Improvement Act allocated $25 million in new resources toward efforts to increase organ donation rates. Reimbursement of travel and expenses were to be granted toward individuals making a living organ donation. Grants were also allocated toward studies and demonstration projects to increase organ donation numbers and recipient recovery rates, including public education, donor awareness, and outreach activities specific to each state. Hospitals were also allocated funds to begin projects within the healthcare system, in an effort to increase donation rates within the hospital. With this act, research was encouraged to develop scientific evidence that supported increasing donation rates, developing uniform clinical vocabulary for the programs, and enhancing the skills of the organ procurement workforce (H.R. 3926, 2004).

**Stephanie Tubbs Jones Gift of Life Medal Act (2008)**

The Stephanie Tubbs Jones Gift of Life Medal Act is a gratuity-based act that issues a medal to both living and deceased organ donors. Families can apply for this
medal through a relevant organ procurement organization. No federal funds were to be allocated toward the costs of producing and awarding the medals to families and donors. Instead, the medals were funded by donations received by the Organ Procurement and Transplantation Network (H.R 7159, 110th Congress). These medals sought to “commemorate the compassion and courage manifested by and the sacrifices made by organ donors and their families” (H.R. 7159, 110th Congress).
CHAPTER III

A LITERATURE REVIEW ON ORGAN DONATION

With 120,000 individuals waiting for an organ in the United States, including 3,500 in Ohio, the rapidly growing need for organs is a major medical and healthcare priority (United Network for Organ Sharing [UNOS], 2015). Organs from a single donor can save eight lives (The Need - Nationwide to Stateside, 2015). Surveys have shown that an overwhelming majority (90%) of Ohioans support organ donation, but only 58% are registered donors (The Need - Nationwide to Stateside, 2015). This trend parallels national statistics; 94.9% of adults were favorable toward donation, but only 60.1% are registered donors (USHHS, 2013). This literature review explores the support for organ donation and how incentives may impact the number of registered donors.

There is a lack of research available regarding attitudes toward organ donation and financial incentives. For the purpose of this review, articles published after 2000 were used, unless deemed a sentinel article. Policies were consulted that were enacted throughout federal and state legislative history. The lack of available research in organ donation creates a large historical gap in the literature. Compared to modern medicine research, organ donation information has fallen behind, thus leading to a limited supply of research available for review. Though several studies proved helpful in determining the extent of organ donation knowledge in a large population, smaller studies need to be conducted that contain the knowledge and attitudes on organ donation of the State of Ohio.
Attitudes Toward Organ Donation

In 2012, an overwhelming 94.9% of adults stated that they supported or strongly support organ donation in a National Survey of Organ Donation Attitudes and Behaviors (USHHS, 2013). However, only 60.1% granted permission for donation on their driver’s license. Of the population who had not granted permission for donation, 38.6% said that they had reservations about donation and 59.2% said that they were open to considering donation.

The likelihood of donating a family member’s organs upon death was 96.7%, if the family member’s wishes were known. When unsure of their loved one’s wishes, a family member was less likely to consent to donation (i.e., 75.6%). Only a little over half of adults were informed of their loved one’s wishes regarding donation, leaving a weighty decision for the family. Gratuity legislation can help guide these families toward a decision to donate. In 2012, 25.4% of adults reported that a financial incentive would increase the likelihood of donation of their own organs. This is a significant increase from 16.7% in 2005. However, although the majority of U.S. adults supported financial incentives, 63.6% reported that an incentive would have no impact on their decision to donate (USHHS, 2013).

Attitudes Toward Financial Incentives

As discussed above, positive attitude toward financial incentives for individual donation has increased from 16.7% in 2005 to 25.4% in 2012 (USHHS, 2013). Likewise, support for donating a loved one’s organs was higher in 2012 than in 2005 (i.e., an increase from 18.3% to 25.8%). An open-ended question was asked to 3,000 participants
of a survey: “Is there a particular reason why a payment would make you more likely to donate your organs or a family member’s organs? If yes, what reason?” The responses are recorded in Table 1.

Table 1
_An Analysis of Incentive Responses (United States Health and Human Services, 2013)_

<table>
<thead>
<tr>
<th>Reason</th>
<th>Percentage per response</th>
<th>Weighted Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>If it could help the family with burial or funeral expenses or medical costs</td>
<td>57.8</td>
<td>619</td>
</tr>
<tr>
<td>No/No reason in particular</td>
<td>22.6</td>
<td>242</td>
</tr>
<tr>
<td>Money talks/Could persuade people to sell for financial gain</td>
<td>5.0</td>
<td>53</td>
</tr>
</tbody>
</table>

The majority of respondents said that assistance with burial and funeral expenses would push them toward a decision to donate. The American Medical Association (AMA) has wrestled with financial incentives for some time, especially given the increasing need for organs at each year’s end. The AMA concluded that there was enough evidence in favor of financial incentives for cadaver donation to begin a pilot program (Byrne & Thompson, 2000).

**Arguments Favoring Financial Incentives**

The National Organ Transplant Act and the Uniform Anatomical Gift Act prohibits any purchase or sale of human organs. Presently, living donors have the option
to receive compensation for food, travel, and other expenses that may incur as a result of lost wages and temporary relocation (S. 573, 2003). However, there is no current policy in place to benefit deceased donors.

The demand for organs grossly outweighs the supply of organs available for transplantation (The Need - Nationwide to Stateside, 2015). Of the individuals who are not registered donors, the vast majority do not explicitly oppose organ donation, but are instead undecided and therefore do not register as a donor (USHHS, 2013). This is the major argument for financial compensation of deceased donors: the theory of incentives in economics states that people compare costs and benefits of a decision and those who are undecided will ultimately make the choice with the incentive attached (Mankiw, 2007). According to this economic principle, an incentive attached to donating one’s organs after death will increase the rates of organ donation.

In deceased donation, the organ donor is the only member of the transplantation process who has no tangible benefit when a financial incentive is offered (Shaikh & Bruce, 2016). Financial benefits to living donors are much more likely to be used to fund their living expenses, and thus violate NOTA’s ethical policy (e.g., an individual donates a kidney to fund their education). Therefore, deceased donation is less likely to receive criticism for violating NOTA’s policy against the sale or purchase of organs.

The attitudes toward offering financial incentives for deceased donation are favorable. When asked if there was a particular reason that would make an individual more likely to donate their deceased loved one’s organs, 57.8% said that assistance with funeral or burial costs would make them more likely to donate. Assistance with funeral
costs is a beneficial and an altruistic way to increase the availability of organs while conveying gratitude toward the donor and family. Funeral reimbursement will preserve the altruistic act of organ donation and also holds true NOTA’s principle prohibiting payment for organs, since the donor does not directly benefit from this incentive.

**Difference Between Purchasing Organs and Incentivizing Donation**

There are two types of financial incentives in organ donation. An incentive will either be a monetary compensation that conveys gratitude for the altruistic gift, or a purchase through attaching a monetary value to the commodity, or organ. Direct payment for organs is not only a bribe, but it is a direct violation of the National Organ Transplant Act. There are also two sides to monetary gifts related to organ donation, how ethically acceptable the incentive is and how likely the incentive is to increase donation rates, as illustrated in Table 2.

**Table 2**

**Incentive Moral Analysis**

<table>
<thead>
<tr>
<th></th>
<th>Direct payment</th>
<th>Income tax credit</th>
<th>Funeral expenses</th>
<th>Charitable contribution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ethically Acceptable</td>
<td>Low</td>
<td>Low</td>
<td>Moderate</td>
<td>High</td>
</tr>
<tr>
<td>Ability to increase</td>
<td>High</td>
<td>High</td>
<td>Moderate</td>
<td>Low</td>
</tr>
<tr>
<td>donation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Note.* From Figure 2, Arnold et al., 2002
The purchase of organs is strictly forbidden under the National Organ Transplantation Act. Many undesirable consequences would accompany a policy that rewarded a donor directly. A payment system that rewarded the donor (e.g., a tax credit for donation) may exploit the economically underserved as a means of obtaining funds. When the patient is receiving end of life care, direct financial payment may influence the family to withdraw care prematurely. If an individual’s death is linked to a payment toward the next of kin, who is the authority in end of life decisions, a blurred line appears between deciding to donate organs and withdrawing treatment, which should be separate processes (Arnold et al., 2002). If a direct payment method is enacted, a human organ will be viewed as a commodity that can be bought and sold.

Though there are policies in place to prohibit payment for organs, the Food and Drug Administration does not currently prohibit monetary compensation for some parts of blood donation (CPG Sec. 230.150). In a study with North American and western Europe blood donation centers and donors, it was found that paid donors who have economic need for compensation were less likely to be truthful about their medical history (e.g., exposure to Hepatitis; Arnold et al., 2002). As a result, blood donation has largely transitioned to a volunteer system, dropping the post transfusion infection rates.

There is a belief that financial incentives may exploit the lower socioeconomic class bracket (Shaikh & Bruce, 2016). Direct payment or tax benefits are incentives that could potentially cause exploitation. Through funeral reimbursement, all classes will have equal opportunity to benefit from the incentive.
CHAPTER IV

A CALL FOR LEGISLATION

Every other day, an Ohioan dies because of a lack of available organs for transplant (“The facts about organ and tissue donation,” 2010). Some individuals, desperate for another chance at life, have taken drastic measures to preserve their chances of survival. As a result of a serious supply and demand deficit, some have sought life in the organ black market. Federal regulation makes it illegal for “any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation” (Prohibition of Organ Purchases, 1984). This global black market undermines the very ideal that the NOTA enacted: a monetary value is assigned to a body part that should not be treated as a commodity. Organ donation is an altruistic act, which should be reflected and preserved through legislation.

Table 3 contains all bills introduced in the State of Ohio legislature that contain relevance to organ donation, education, or gratuity-based statements.
### Table 3

**Summary of Landmark Organ Donation Bills in Ohio**

<table>
<thead>
<tr>
<th>Bill Name</th>
<th>Outcome</th>
<th>Essence Points</th>
<th>Relevance</th>
<th>Ideas Used</th>
</tr>
</thead>
</table>
| House Bill 137    | Passed in House, tabled in Senate | -School health curriculum instruction on organ and tissue donation  
-The addition of education on the process of making an anatomical gift, with emphasis on the life-saving effects of donation | -There is no current regulation on organ donation education incorporation into high school curriculum  
-Donation decisions are made at the DMV, and many high school-aged students are applying for driver’s licenses. Education may assist them in making an informed decision. | -Education on organ donation must precede or used in conjunction with a legislation who’s goal is to increase organ supply |
| House Bill 51     | Passed, effective November 6th, 1969 | -Adopts the federal Uniform Anatomical Gift Act that was passed in 1968  
-Seeks to clarify issues associated with body and organ availability for transplantation | -Declares criteria necessary to become a donor  
-Defines who has rights to a dead body  
-Discusses permissible donees and purposes of the anatomical gift | -Hallmark bill for organ donation  
-First federal policy in place regarding donation  
-Defines criteria for becoming an organ donor |
- Defines the manner to execute an anatomical gift
- Defines whether a person can claim right to their body through a will
- Allows next of kin to decide to make an anatomical gift for the deceased
- Leaves determination of death up to physician, clearly states that it is not the purpose of the bill to define death

House Bill 21
118th Session
Passed, effective March 27th, 1991

- Gives authority and duties to procurement agencies
- Revision of the initial Uniform Anatomical Gift Act (UAGA)

- Eliminates provision under current law that specifies the choice to give expires with the expiration or cancellation of the license or identification in which the choice is specified (i.e., the expiration of a driver’s license)
- Allows for the next of kin to declare

- In the proposed gratuity legislation, the next of kin could be the one making the decision to donate and to accept the grant. This bill further strengthened the ease of next of kin agreeing to donation
donation via telephone call with agency
- Strengthens ties with hospitals and procurement agencies in regards to procurement protocol
- Strengthens anonymity in donation, prohibiting physician or donor to designated a donee
- Prohibits sale of body parts

Senate Bill 188
123rd Session
Passed, effective December 13th, 2000

- Strengthens the donor’s decision to donate
- Promotion of organ donation education
- Continues to ease the process of procurement for agencies involved

- Establishes that a valid declaration of a decision to donate prevails over the contrary wishes of a donor’s family
- Strengthens ties between coroner or funeral director to designate a procurement agency
- Requires the BMV to develop and maintain a donor registry
- Permits

- Education is essential to increasing donation rates. The allowance of organ donation education in public schools was vital to increasing rates, especially in high schools, since this is the age that individuals begin to think about donation
- The BMV is a vital resource to increasing donation rates
| House Bill 529 127th Session | Passed, effective April 7th, 2009 | -Enacts the Revised Uniform Anatomical Gift Act, which was federally passed in 2006 | -Specifies what happens when an anatomical gift is not used for research or transplantation | -Further strengthens and defines the prohibition of the sale of organs | -Further strengthens and defines the relationship between the coroner and procurement agency | -This bill further defines the roles and responsibilities of the coroner or funeral director and the procurement agency |

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**Contacts**

To obtain as much information as possible and to familiarize the author with health care policy, specifically related to organ donation, many legislators and health care leaders were contacted. Each contact had a connection to organ donation or to policy writing, and several provided useful information to further the author’s understanding of organ donation policy. Table 4 outlines the meaningful contacts.
Table 4

A Summary of Meaningful Contacts

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Relation to Organ Donation</th>
<th>Resources Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mike Czup</td>
<td>Director of Funeral and Coroner Services; Lifebanc of Northeast Ohio</td>
<td>-Lifebanc is the ‘Donate Life’ chapter of Northeast Ohio. Lifebanc is an organ procurement and promotion agency</td>
<td>-Information on how legislation such as this is needed in Ohio</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>-Experiences with individuals who cannot afford funerals, yet are organ donors</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>-How LifeBanc is working to increase donation rates</td>
</tr>
<tr>
<td>Representative Cheryl</td>
<td>Legislator; Ohio House of Representatives District</td>
<td>-Sponsor of a bill (House Bill 137) that would create mandatory curriculum for organ donation education in Ohio high school health classes</td>
<td>-Inspiration behind bill</td>
</tr>
<tr>
<td>Grossman</td>
<td></td>
<td></td>
<td>-Benefit of bill to organ donation and process behind demographic selection</td>
</tr>
<tr>
<td>(Aide: Elise Geig)</td>
<td></td>
<td></td>
<td>-Testimonies from individuals with ties to organ donation (donor recipients, families of donor recipients) who supported the bill during debate at the Ohio Statehouse</td>
</tr>
<tr>
<td>Representative Kristina</td>
<td>Legislator; Ohio House of Representatives District</td>
<td>-Representative of the district in which I reside</td>
<td>-Information on Ohio bills passed related to organ donation</td>
</tr>
<tr>
<td>Roegner</td>
<td></td>
<td>-Lives in my current town (Hudson, OH)</td>
<td>-HB 51-108th</td>
</tr>
<tr>
<td>(Aides: Brianna Miller,</td>
<td></td>
<td></td>
<td>-HB 21-118th</td>
</tr>
<tr>
<td>Bryan Gray, James</td>
<td></td>
<td></td>
<td>-SB 188-123rd</td>
</tr>
<tr>
<td>Shamblin)</td>
<td></td>
<td></td>
<td>-HB 529-127th</td>
</tr>
</tbody>
</table>
A Need for Gratuity Legislation

Though many support organ donation in Ohio, only a small percentage have followed through to become donors. In economics, incentives prove to alter the choices of individuals (Mankiw, 2007). A gratuity-based bill can aid in increasing organ donor rates by providing an end result that would benefit all individuals. Recently, there has been few, if any, proposals to help aid the medical need of organs. New legislation needs to be discussed to help address the need for organs.

Organ donation is an altruistic act that should be preserved through legislation. The reimbursement of funeral expenses is an incentive that can preserve the selfless act while encouraging the decision to donate. The NOTA prohibits “valuable consideration” in exchange for organs, thus outlawing the purchase and sale of organs. New legislation would propose a reimbursement of funeral expenses for organ donors who apply for a grant funded through a small increase in BMV fees.

The average funeral cost is $7,045, with a full traditional burial costing more and cremation costing much less (Marsden, 2013). Funeral planning can be a financial burden to an already grieving family. Funeral reimbursement, even partial reimbursement, can aid families who have already acquired medical bills from their loved one’s end-of-life care.

A choice between funeral expenses and a donation to a charity allows for families to carry on the legacy of their loved one in a different way. Funeral reimbursement and a donation to charity are the two incentives that do not benefit the donor (Arnold et al., 2002).
Foundation for a Proposal

In 2015, there were 439,178 license renewal customers totaling $26,779,426 in new revenue (Ohio BMV, 2015). License renewal fees are currently $25.75 in Ohio (Ohio BMV, 2015). An increase of only $0.25 on the renewal fee would create close to $6.7 million in new funds. If this revenue was earmarked for focusing on increasing donation rates through gratuity compensation, 950 funerals could be reimbursed based on average costs. In 2016, 360 individuals met the criteria to donate their organs upon death (OPTN, 2017). This is the highest donor rate since 1988, when the OPTN began collecting data. Based on the calculation of potential funds that would be allocated, every designated donor whose organs were actually procured could have their funeral costs covered.
CHAPTER V
A LEGISLATIVE PROPOSAL

Through allocating state funds, hundreds of organ donors will be thanked for their gift through funeral reimbursement or a donation to a charity of the family’s choice. A simple raise of license fees would begin to combat the organ shortage that affects Ohio so deeply.

Increasing Driver’s License Renewal Rates

This proposal would increase driver’s license renewal fees from $25.75 to $26.00. An increase of $0.25, based on calculations and driver population rates, will create $6.7 million in new funding. This amount would pay for the funerals of 950 individuals. In 2016, 150 individuals provided 435 organs that were successfully transplanted into patients on the waiting list (The Need - Nationwide to Stateside, 2015). This was an 11.1% increase from 2015. A total of 435 organs gave a second chance at life to 385 individuals from across the State of Ohio.

Regulating Funding

This proposal would make funds available to organ donors registered in the State of Ohio. A governing board can assist with regulating the funding in a just and fair manner, as well as educating others about fund availability and criteria. The board should consist of members of procurement agencies, funeral home directors, financial advisors, state legislators, and public committee members dedicated to promoting the
fund and donation awareness. All funds of the proposed legislation would go toward paying for the funerals of the donors, since an educational promotion currently exists. The two parties involved in the disbursement of funds would be the agency and board overseeing allocation and the funeral director where the funeral will take place. The Legislative Service Commission will make the final determinations for regulating the funding and all other proposed ideas. This commission is dedicated to translating ideas into legal conditions and terms. Interested applicants would apply for the fund that would cover $7,000 of the funeral and burial costs or up to a $7,000 donation to a charity that is dear to the donor. If the applicant does not require the full amount, they will not receive the remaining amount and the monies left would return to the overall fund. No funds will be transferred to the family, to prevent abuse of this grant. The allotted $7,000 will transfer directly to the funeral home to pay for the funeral and burial services, or to the charity in question. Families will be responsible for paying out of pocket for any amount over the designated $7,000 if the funeral reimbursement is chosen.

Ensuring fair allocation of the funds can be done through establishing criteria to apply for the grant. Individuals must have undergone an organ donation educational program, which includes driver’s education classes or a high school curriculum class that includes discussing how to become an educated organ donor. To encourage individuals to sign up to be donors, applicants must be a registered donor prior to death. The purpose of this proposal is to increase organ donation rates within the State of Ohio, so applicants must have a permanent residence in Ohio and the funeral and burial must take place in Ohio.
Informing the Public

Education must occur about the funds set up by this proposal. An underlying goal of this proposal is to create conversation centered around organ donation. With this proposal, families will be forced to talk about their wishes after death. This fund can be advertised similarly to other state campaigns (i.e. “Click it or ticket”) through highway billboards and signs. Pamphlets would be available at the BMV, which is where individuals typically register as donors.

Ensuring Success

This proposal is one small step that will help our society move forward in accepting organ donation. However, education is the key to ensure the success of this proposal and is the concept that will help to shape different methods that will increase donation rates. Proper education on organ donation and the transplantation process can help individuals feel as though they have made an educational decision about their gift after life.

The legislation proposes that an increase of donors will occur. Education combined with the legislative success will make organ donation more common, and will reduce stigma surrounding the act. Once donation becomes more widely accepted, the next step is to implement a presumed consent system. A presumed consent system involves individuals being automatically registered as organ donors, but individuals can opt out at any time. An implementation of this system without the education that this bill proposes could create backlash amongst the population, causing individuals to resist organ donation.
CHAPTER VI

ADDITIONAL WORK

This proposal is a preliminary step in what will be an extensive process. Ideally, this proposal will increase organ donation education while increasing donation rates. Countries with high rates of donation should be studied to determine what educational methods and resources can aid in increasing donation rates. Many organ donation decisions are left for the states to determine. By using global analysis, the State of Ohio can implement tactics that have historically proven to be successful. Much work needs to be done to create a policy that will address the medical need for organs.

A Global Evaluation

The organ shortage is an issue that affects the global population. In 2014, 119,873 solid organ transplants were performed worldwide, but this number only addresses less than 10% of the global need for organs (Global Observatory on Organ Donation and Transplantation, 2014). Each country holds unique policies, education, and consent systems to help combat the serious medical issue.

Organ donation education, policies, and rates differ greatly between countries across the world. It was found that there were significantly more deceased donors in countries with an opt-out consent system than those with an opt-in system. These data were collected across 10 years and studied 48 countries, with the rates in per-million population being $M = 14.24$ and $M = 9.98$, respectively (Shepherd, O’Carroll, & Ferguson, 2014). This proposes a strong correlation between consent and donation.
Spain leads the global organ donation rates and has an opt-out program that has been recognized for its strength and success. In 2015, Spain had approximately 90 successful deceased donor transplantations per million population (pmp) compared to the United States at 74 deceased transplantations pmp. In perspective, the United States population was at 318.9 million in 2014, and the Spanish population was 46.77 million (Population total, 2015). When population is taken into consideration, the gap between transplantation rates in Spain and the United States continues to widen significantly. In 2008, the Spanish organ transplantation network Organización Nacional de Trasplantes (ONT) devised the 40 Donors pmp Plan, which established three specific objectives:

(i) promote the early identification and referral of possible organ donors from outside the ICU [intensive care unit] to consider elective nontherapeutic intensive care and incorporate the option of organ donation into end-of-life care; (ii) foster the use of expanded and nonstandard risk donors; and (iii) develop the framework for the practice of DCD. Actions undertaken to yield a level of activity that has been achieved by the country as a whole . . . (Matesanz, Domínguez-Gil, Coll, Mahíllo, & Marazuela, 2017, p. 4)

Early identification of the deceased who could be deemed potential donors is one of the large steps that Spain has taken in relation to organ donation. When patients arrive with futile diagnosis, the process for potential organ procurement begins. This jump on the transplantation process is what allows Spain to transplant a significant number of organs each year. The following outlines a typical case with futile diagnoses:
When prognosis was ominous and further treatment was deemed futile by the responsible physician, the case was referred to the donor coordinator and organ donation was discussed with the relatives along with the need to initiate/continue intensive care with the aim of incorporating the option of organ donation into the patient's end-of-life care plans. This practice was a routine reflected in local protocols, well accepted and properly monitored. (Matesanz et al., 2017, p. 4)

The Spanish organ donation transplantation system is progressive. The country boasts one of the lowest mortality rates relevant to organ donation in the world; based on mortality counts, the majority of individuals are organ donors. The ONT has a medical team available around the clock for donor coordinators to get a second opinion on the viability of a deceased’s organs, and many hospitals have donor coordinators on site. Complete follow-up care is available to recipients of nonstandard risk organs (i.e., from an individual who had a history of malignancy or active infection), which has assisted in increasing safety in transplantation (Matesanz et al., 2017).

**Domestic Work**

Though presumed consent systems see a 20-30% increase in donation rates, it is unlikely that a presumed consent system alone is the solution to the U.S.’s organ donation woes. Public opinion polls have shown that most Americans support donation and want to be donors. A Health and Human Services study done in 2012 showed that an exceptional 94.9% of Americans supported donation, but only 60.1% were registered as donors (USHHS, 2013). This gap between support and action must be studied to determine what keeps Americans from registering. One large step to close that gap is
education on the organ donation process. When making decisions, especially one with the weight of organ donation, individuals need to be informed enough to make an educated decision.

Presumed consent would offer a conversation change in relation to organ donation. A second chance at life for an individual through transplant cannot happen without the grief of another family, and

A presumed consent policy also changes the way doctors talk to families about organ donation, shifting the conversation from, “This is a terrible time to ask this, but have you thought about organ donation?” to “Most people want to do this—is there any reason your daughter wouldn’t want to?” (Leins, 2016)

However, the U.S. has a far way to come before a presumed consent system could be successful.

At this point, a strong opt-in system would be more beneficial to individuals. With presumed consent, organ donation education is able to lag and fall behind because individuals do not need to be convinced to decide to donate; they only need to be convinced enough to stay a donor. Education also allows for families to have the conversation about their wishes for donation. This initial conversation is the first essential step to creating a greater understanding of organ donation and, thus, increase rates. When an individual’s wishes are known, this makes the decision to donate much easier at a time that the family is in great grief. Organ donation allows for a loved one’s legacy to continue through the gift of life.
State Work

Organ donation is often a state issue, so Ohio has ample opportunity to become pioneers in the realm of organ donation. The strength of the healthcare systems within the state and past proposed bills lay a solid foundation for Ohio leaders to begin to combat this medical issue that affects Ohio communities. Global and domestic tactics can be utilized to create an organ donation system that comprises of education, legislation and interdisciplinary collaboration.

Organ donation education needs to occur in conjunction with this proposal. There has already been proposed legislation to increase organ donation education in the State of Ohio. House Bill 137 proposed refining the required high school curriculum to include organ donation education in health classes. The first opportunity to register as a donor occurs when an individual receives his or her first driver’s license, usually at 16 years of age. Organ donation in schools would allow for first-time drivers to make an educated decision on organ donation, especially since these individuals are at a time of life where they are generally not thinking about death. This education may also create conversations that occur at home, bringing the topic of organ donation into the homes of these students. Through this, families have the opportunity to discuss organ donation and make their wishes known to their loved ones. House Bill 137 needs to be revised to provide the first step to increasing organ donation education in the state.

One of the largest pieces that contributes to the success of Spain’s organ donation system is the presence of donation coordinators in the hospitals. This allows for medical professionals to have 24/7 access to a source that can provide second opinions on the
viability of organs, have conversations with grieving families, and provide education on organ donation to families and patients within the hospital. The availability of coordinators can increase the availability of organs in Ohio while also being a resource to families who are trying to make an educated decision about their loved one’s organs.

**Proposal Work**

As an initial proposal, there is great work that needs to occur to make it appropriate to become a bill ready for debate. This proposal represents the initial draft of a proposed organ donation legislation based on gratuity concepts. Draft language needs created and refined to reflect the appropriate standards for a legislative bill. Criteria needs to be determined for who can apply for the $7,000 grant that this proposal creates. A sliding scale may need to be created, based on income, so that the maximum number of individuals can benefit from this proposal. Continuing education on organ donation is necessary to ensure this proposal’s success.
CHAPTER VII

CONCLUSION

Historically, many states have not attempted organ donation legislation that is unique to the state. However, the stagnation in organ donation rates creates a call for new legislation that will not only increase rates, but will preserve the altruistic and emotional act that is the decision to donate. The success of this proposal can only occur when combined with reform of the education system to include organ donation education within schools. Education is key to increasing rates, since a large majority of Americans and Ohioans are supportive of organ donation, but the registration rates are not reflective of this. House Bill 137 provides opportunity to bring the conversation on the decision to donate within the school walls. This conversation will hopefully translate into conversations on family’s wishes, which can begin to break down the discomfort of the topic. Through the implementation of this proposal, donors can be thanked for their selfless gift, organ donation can become more widely respected, and new systems for donation education and transplantation can occur.
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