

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1956 Session of 1993

INTRODUCED BY M. COHEN, CALTAGIRONE, PETRARCA, COY, VEON, BEBKO-JONES, MIHALICH, BELFANTI, ROBINSON, ULIANA AND TRELLO, JUNE 28, 1993

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 12, 1993

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the  
2 Pennsylvania Consolidated Statutes, further providing for the  
3 form and implementation of a power of attorney and for  
4 declarations governing life-sustaining treatment; and  
5 providing for anatomical gifts.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Section 5404(b) of Title 20 of the Pennsylvania  
9 Consolidated Statutes is amended to read:

10 § 5404. Declaration.

11 \* \* \*

12 (b) Form.--A declaration may but need not be in the  
13 following form and may include other specific directions,  
14 including, but not limited to, designation of another person to  
15 make the treatment decision for the declarant if the declarant  
16 is incompetent and is determined to be in a terminal condition  
17 or to be permanently unconscious.

18 DECLARATION

1 I, , being of sound mind, willfully and  
2 voluntarily make this declaration to be followed if I become  
3 incompetent. This declaration reflects my firm and settled  
4 commitment to refuse life-sustaining treatment under the  
5 circumstances indicated below.

6 I direct my attending physician to withhold or withdraw  
7 life-sustaining treatment that serves only to prolong the  
8 process of my dying, if I should be in a terminal condition  
9 or in a state of permanent unconsciousness.

10 I direct that treatment be limited to measures to keep me  
11 comfortable and to relieve pain, including any pain that  
12 might occur by withholding or withdrawing life-sustaining  
13 treatment.

14 In addition, if I am in the condition described above, I  
15 feel especially strong about the following forms of  
16 treatment:

17 I ( ) do ( ) do not want cardiac resuscitation.

18 I ( ) do ( ) do not want mechanical respiration.

19 I ( ) do ( ) do not want tube feeding or any other  
20 artificial or invasive form of nutrition (food) or hydration  
21 (water).

22 I ( ) do ( ) do not want blood or blood products.

23 I ( ) do ( ) do not want any form of surgery or invasive  
24 diagnostic tests.

25 I ( ) do ( ) do not want kidney dialysis.

26 I ( ) do ( ) do not want antibiotics.

27 I realize that if I do not specifically indicate my  
28 preference regarding any of the forms of treatment listed  
29 above, I may receive that form of treatment.

30 Other instructions:

1 I ( ) do ( ) do not want to designate another person as  
2 my surrogate to make medical treatment decisions for me if I  
3 should be incompetent and in a terminal condition or in a  
4 state of permanent unconsciousness. Name and address of  
5 surrogate (if applicable):

6 Name and address of substitute surrogate (if surrogate  
7 designated above is unable to serve):

8 I ( ) do ( ) do not want to make an anatomical gift of  
9 all or part of my body, subject to the following limitations,  
10 if any:

11 I made this declaration on the \_\_\_\_\_ day of (month,  
12 year).

13 Declarant's signature:

14 Declarant's address:

15 The declarant or the person on behalf of and at the  
16 direction of the declarant knowingly and voluntarily signed  
17 this writing by signature or mark in my presence.

18 Witness's signature:

19 Witness's address:

20 Witness's signature:

21 Witness's address:

22 \* \* \*

23 Section 2. Section 5602(a) of Title 20 is amended by adding  
24 a paragraph to read:

25 § 5602. Form of power of attorney.

26 (a) Specification of powers.--A principal may, by inclusion  
27 of the language quoted in any of the following paragraphs or by  
28 inclusion of other language showing a similar intent on the part  
29 of the principal, empower his attorney-in-fact to do any or all  
30 of the following, each of which is defined in section 5603

1 (relating to implementation of power of attorney):

2 \* \* \*

3 (23) "To make an anatomical gift of all or part of my  
4 body."

5 \* \* \*

6 Section 3. Section 5603 of Title 20 is amended by adding a  
7 subsection to read:

8 § 5603. Implementation of power of attorney.

9 \* \* \*

10 (u.1) Power to make anatomical gift.--A power "to make an  
11 anatomical gift of all or part of my body" shall mean that the  
12 attorney-in-fact may arrange and consent to procedures to make  
13 an anatomical gift in accordance with Chapter 86 (relating to  
14 anatomical gifts).

15 \* \* \*

16 Section 4. Chapter 86 of Title 20 is repealed.

17 Section 5. Title 20 is amended by adding a chapter to read:

18 CHAPTER 86

19 ANATOMICAL GIFTS

20 Subchapter

21 A. General Provisions

22 B. Express Anatomical Gifts

23 C. Corneal Transplants

24 SUBCHAPTER A

25 GENERAL PROVISIONS

26 Sec.

27 8601. Definitions.

28 § 8601. Definitions.

29 The following words and phrases when used in this chapter  
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Acute care general hospital." Any hospital which has an  
3 emergency room facility.

4 "Advisory committee." The Organ Donation Advisory Committee  
5 established under section ~~8624~~ 8622 (relating to Organ Donation <—  
6 Awareness Trust Fund).

7 "Bank or storage facility." A facility licensed, accredited  
8 or approved under the laws of any state for storage of human  
9 bodies or parts thereof.

10 "Board." The Humanity Gifts Registry.

11 "Decedent." A deceased individual, including a stillborn  
12 infant or fetus.

13 "Donor." An individual who makes a gift of all or part of  
14 his body.

15 "Fund." The Organ Donation Awareness Trust Fund established  
16 under section ~~8624~~ 8622 (relating to Organ Donation Awareness <—  
17 Trust Fund).

18 "Hospital." A hospital licensed, accredited or approved  
19 under the laws of any state, including a hospital operated by  
20 the Federal Government, a state or a subdivision thereof,  
21 although not required to be licensed under state laws.

22 "Organ procurement organization." An organization that meets  
23 the requirements of section 371 of the Public Health Service Act  
24 (58 Stat. 682, 42 U.S.C. § 273).

25 "Part." Organs, tissues, eyes, bones, arteries, blood, other  
26 fluids and any other portions of a human body.

27 "Person." An individual, corporation, government or  
28 governmental subdivision or agency, business trust, estate,  
29 trust, partnership, association or any other legal entity.

30 "Physician" or "surgeon." A physician or surgeon licensed or

1 authorized to practice under the laws of any state.

2 ~~"Registry." The transplant organ registry known as the~~ <—  
3 ~~Registry for Life established under section 8618 (relating to~~  
4 ~~transplant organ registry).~~

5 "State." Any state, district, commonwealth, territory,  
6 insular possession and any other area subject to the legislative  
7 authority of the United States of America.

8 SUBCHAPTER B

9 EXPRESS ANATOMICAL GIFTS

10 Sec.

11 8611. Persons who may execute anatomical gift.

12 8612. Persons who may become donees; purposes for which  
13 anatomical gifts may be made.

14 8613. Manner of executing anatomical gifts.

15 8614. Delivery of document of gift.

16 8615. Amendment or revocation of gift.

17 8616. Rights and duties at death.

18 8617. Requests for anatomical gifts.

19 ~~8618. Transplant organ registry.~~ <—

20 ~~8619. Use of tax form to indicate organ or tissue donation.~~

21 ~~8620~~ 8618. Voluntary contribution system.

22 ~~8621~~ 8619. Use of driver's license to indicate organ or <—  
23 tissue donation.

24 ~~8622~~ 8620. Police and emergency personnel responsibilities. <—

25 ~~8623~~ 8621. Organ Donation Awareness Trust Fund contributions. <—

26 ~~8624~~ 8622. Organ Donation Awareness Trust Fund. <—

27 ~~8625~~ 8623. Confidentiality requirement. <—

28 § 8611. Persons who may execute anatomical gift.

29 (a) General rule.--Any individual of sound mind and 18 years  
30 of age or more may give all or any part of his body for any

1 purpose specified in section 8612 (relating to persons who may  
2 become donees; purposes for which anatomical gifts may be made),  
3 the gift to take effect upon death. Any individual who is a  
4 minor and 16 years or age or older may effectuate a gift for any  
5 purpose specified in section 8612, provided parental or guardian  
6 consent is deemed given. Parental or guardian consent shall be  
7 noted on the minor's donor card, ~~donor~~ APPLICATION FOR THE ←  
8 DONOR'S LEARNER'S PERMIT OR driver's license or other document  
9 of gift. A gift of the whole body shall be invalid unless made  
10 in writing at least 15 days prior to the date of death.

11 (b) Others entitled to donate anatomy of decedent.--Any of  
12 the following persons, in order of priority stated, when persons  
13 in prior classes are not available at the time of death, and in  
14 the absence of actual notice of contrary indications by the  
15 decedent or actual notice of opposition by a member of the same  
16 or a prior class, may give all or any part of the decedent's  
17 body for any purpose specified in section 8612:

18 (1) The spouse.

19 (2) An adult son or daughter.

20 (3) Either parent.

21 (4) An adult brother or sister.

22 (5) A guardian of the person of the decedent at the time  
23 of his death.

24 (6) Any other person authorized or under obligation to  
25 dispose of the body.

26 (c) Donee not to accept in certain cases.--If the donee has  
27 actual notice of contrary indications by the decedent or that a  
28 gift by a member of a class is opposed by a member of the same  
29 or a prior class, the donee shall not accept the gift. The  
30 persons authorized by subsection (b) may make the gift after or

1 immediately before death.

2 (d) Examinations.--A gift of all or part of a body  
3 authorizes any examination necessary to assure medical  
4 acceptability of the gift for the purposes intended.

5 (e) Rights of donee paramount.--The rights of the donee  
6 created by the gift are paramount to the rights of others except  
7 as provided by section 8616(d) (relating to rights and duties at  
8 death).

9 § 8612. Persons who may become donees; purposes for which  
10 anatomical gifts may be made.

11 The following persons may become donees of gifts of bodies or  
12 parts thereof for any of the purposes stated:

13 (1) Any hospital, surgeon or physician for medical or  
14 dental education, research, advancement of medical or dental  
15 science, therapy or transplantation.

16 (2) Any accredited medical or dental school, college or  
17 university for education, research, advancement of medical or  
18 dental science or therapy.

19 (3) Any bank or storage facility for medical or dental  
20 education, research, advancement of medical or dental  
21 science, therapy or transplantation.

22 (4) Any specified individual for therapy or  
23 transplantation needed by him.

24 (5) The board.

25 § 8613. Manner of executing anatomical gifts.

26 (a) Gifts by will.--A gift of all or part of the body under  
27 section 8611(a) (relating to persons who may execute anatomical  
28 gift) may be made by will. The gift becomes effective upon the  
29 death of the testator without waiting for probate. If the will  
30 is not probated or if it is declared invalid for testamentary

1 purposes, the gift, to the extent that it has been acted upon in  
2 good faith, is nevertheless valid and effective.

3 (b) Gifts by other documents.--A gift of all or part of the  
4 body under section 8611(a) may also be made by document other  
5 than a will. The gift becomes effective upon the death of the  
6 donor. The document, which may be a card designed to be carried  
7 on the person, must be signed by the donor in the presence of  
8 two witnesses who must sign the document in his presence. If the  
9 donor is mentally competent to signify his desire to sign the  
10 document but is physically unable to do so, the document may be  
11 signed for him by another at his direction and in his presence  
12 in the presence of two witnesses who must sign the document in  
13 his presence. Delivery of the document of gift during the  
14 donor's lifetime is not necessary to make the gift valid.

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

25 (d) Designation of person to carry out procedures.--  
26 Notwithstanding section 8616(b) (relating to rights and duties  
27 at death), the donor may designate in his will, card or other  
28 document of gift the surgeon or physician to carry out the  
29 appropriate procedures. In the absence of a designation or if  
30 the designee is not available, the donee or other person

1 authorized to accept the gift may employ or authorize any  
2 surgeon or physician for the purpose, or, in the case of a gift  
3 of eyes, he may employ or authorize a person who is a funeral  
4 director licensed by the State Board of Funeral Directors, an  
5 eye bank technician or medical student, if the person has  
6 successfully completed a course in eye enucleation approved by  
7 the State Board of Medical Education and Licensure, or an eye  
8 bank technician or medical student trained under a program in  
9 the sterile technique for eye enucleation approved by the State  
10 Board of Medical Education and Licensure to enucleate eyes for  
11 an eye bank for the gift after certification of death by a  
12 physician. A qualified funeral director, eye bank technician or  
13 medical student acting in accordance with the terms of this  
14 subsection shall not have any liability, civil or criminal, for  
15 the eye enucleation.

16 (e) Consent not necessary.--If a donor card, donor driver's  
17 license, living will, durable power of attorney or other  
18 document of gift evidencing a gift of organs or tissue has been  
19 executed, consent of any person designated in section 8611(b) at  
20 the time of the donor's death or immediately thereafter is not  
21 necessary to render the gift valid and effective.

22 (f) Documentation of gifts by others.--Any gift by a person  
23 designated in section 8611(b) shall be made by a document signed  
24 by him or made by his telegraphic, recorded telephonic or other  
25 recorded message.

26 § 8614. Delivery of document of gift.

27 If the gift is made by the donor to a specified donee, the  
28 will, card or other document, or an executed copy thereof, may  
29 be delivered to the donee to expedite the appropriate procedures  
30 immediately after death. Delivery is not necessary to the

1 validity of the gift. The will, card or other document, or an  
2 executed copy thereof, may be deposited in any hospital, bank or  
3 storage facility that accepts it for safekeeping or for  
4 facilitation of procedures after death. On request of any  
5 interested party upon or after the donor's death, the person in  
6 possession shall produce the document for examination.

7 § 8615. Amendment or revocation of gift.

8 (a) Document delivered to donee.--If the will, card or other  
9 document, or executed copy thereof, has been delivered to a  
10 specified donee, the donor may amend or revoke the gift by any  
11 of the following:

12 (1) The execution and delivery to the donee of a signed  
13 statement.

14 (2) An oral statement made in the presence of two  
15 persons and communicated to the donee.

16 (3) A statement during a terminal illness or injury  
17 addressed to an attending physician and communicated to the  
18 donee.

19 (4) A signed card or document found on his person or in  
20 his effects.

21 (b) Document not delivered to donee.--Any document of gift  
22 which has not been delivered to the donee may be revoked by the  
23 donor in the manner set out in subsection (a) or by destruction,  
24 cancellation or mutilation of the document and all executed  
25 copies thereof.

26 (c) Gifts by will.--Any gift made by a will may also be  
27 amended or revoked in the manner provided for amendment or  
28 revocation of wills, or as provided in subsection (a).

29 § 8616. Rights and duties at death.

30 (a) Donees and relatives.--The donee may accept or reject

1 the gift. If the donee accepts a gift of the entire body, he  
2 shall, subject to the terms of the gift, authorize embalming and  
3 the use of the body in funeral services if the surviving spouse  
4 or next of kin as determined in section 8611(b) (relating to  
5 persons who may execute anatomical gift) requests embalming and  
6 use of the body for funeral services. If the gift is of a part  
7 of the body, the donee, upon the death of the donor and prior to  
8 embalming, shall cause the part to be removed without  
9 unnecessary mutilation. After removal of the part, custody of  
10 the remainder of the body vests in the surviving spouse, next of  
11 kin or other persons under obligation to dispose of the body.

12 (b) Physicians.--The time of death shall be determined by a  
13 physician who tends the donor at his death or, if none, the  
14 physician who certifies the death. The physician who certifies  
15 death or any of his professional partners or associates shall  
16 not participate in the procedures for removing or transplanting  
17 a part.

18 (c) Certain liability limited.--A person who acts in good  
19 faith in accordance with the terms of this subchapter or with  
20 the anatomical gift laws of another state or a foreign country  
21 is not liable for damages in any civil action or subject to  
22 prosecution in any criminal proceeding for his act.

23 (d) Law on autopsies applicable.--The provisions of this  
24 subchapter are subject to the laws of this Commonwealth  
25 prescribing powers and duties with respect to autopsies.

26 § 8617. Requests for anatomical gifts.

27 (a) Procedure.--On or before the occurrence of each death in  
28 an acute care general hospital, the hospital shall make contact  
29 with the regional organ procurement organization in order to  
30 determine the suitability for organ, tissue and eye donation for

1 any purpose specified under this subchapter. This contact and  
2 the disposition shall be noted on the patient's medical record.

3 (b) Limitation.--If the hospital administrator or his  
4 designee has received actual notice of opposition from any of  
5 the persons named in section 8611(b) (relating to persons who  
6 may execute anatomical gift) and the decedent was not in  
7 possession of a validly executed donor card, the gift of all or  
8 any part of the decedent's body shall not be requested.

9 (c) Donor card.--Notwithstanding any provision of law to the  
10 contrary, the intent of a decedent to participate in an organ  
11 donor program as evidenced by the possession of a validly  
12 executed donor card, donor driver's license, living will,  
13 durable power of attorney or other document of gift shall not be  
14 revoked by any member of any of the classes specified in section  
15 8611(b).

16 (d) Identification of potential donors.--Each acute care  
17 general hospital shall develop, with the concurrence of the  
18 hospital medical staff and an organ procurement organization, a  
19 protocol for identifying potential organ and tissue donors. It  
20 shall require that, at or near the time of every individual  
21 death, all acute care general hospitals contact by telephone  
22 their regional organ procurement organization to determine  
23 suitability for organ, tissue and eye donation of the individual  
24 in question. The person designated by the acute care general  
25 hospital to contact the organ procurement organization shall  
26 have the following information available prior to making the  
27 contact:

- 28 (1) The patient's name.
- 29 (2) The patient's age.
- 30 (3) The cause of death.

1           (4) Any past medical history available.

2 The organ procurement organization, in consultation with the  
3 patient's attending physician OR HIS DESIGNEE, shall determine ←  
4 the suitability for donation. If the organ procurement  
5 organization in consultation with the patient's attending  
6 physician or his designee determines that donation is not  
7 appropriate based on established medical criteria, this shall be  
8 noted by hospital personnel on the patient's record, and no  
9 further action is necessary. If the organ procurement  
10 organization in consultation with the patient's attending  
11 physician or his designee determines that the patient is a  
12 suitable candidate for anatomical donation, the acute care  
13 general hospital shall initiate a request by informing the  
14 persons and following the procedure designated under section  
15 8611(b) of the option to donate organs, tissues or eyes. The  
16 person initiating the request shall be an organ procurement  
17 organization representative or a designated requestor. The organ  
18 procurement organization representative or designated requestor  
19 shall ask persons pursuant to section 8611(b) whether the  
20 deceased was an organ donor. If the person designated under  
21 section 8611(b) does not know, then this person shall be  
22 informed of the option to donate organs and tissues. The  
23 protocol shall encourage discretion and sensitivity to family  
24 circumstances in all discussions regarding donations of tissue  
25 or organs. The protocol shall take into account the deceased  
26 individual's religious beliefs or nonsuitability for organ and  
27 tissue donation. In the event an organ and tissue procurement  
28 organization does not exist in a region, the hospital shall  
29 contact an organ or tissue procurement organization in an  
30 alternative region.

1 (e) Guidelines.--The Department of Health, in conjunction  
2 with organ procurement organizations, shall establish guidelines  
3 regarding efficient procedures facilitating the delivery of  
4 anatomical gift donations from receiving hospitals to potential  
5 recipients.

6 (f) Fines.--Each organ procurement organization shall be  
7 given the authority to conduct quarterly death record reviews at  
8 all acute care general hospitals located within its region to  
9 determine compliance by those hospitals with subsection (d). All  
10 reports of noncompliance shall be forwarded to the Secretary of  
11 Health for review. If the Secretary of Health finds that there  
12 has been noncompliance by a hospital, then the Secretary of  
13 Health shall have the authority to levy a fine of not more than  
14 \$500. Any funds generated from these fines shall be deposited  
15 into the fund established under section ~~8624~~ 8622 (relating to <—  
16 Organ Donation Awareness Trust Fund).

17 (g) Definitions.--As used in this section, the following  
18 words and phrases shall have the meanings given to them in this  
19 subsection:

20 "Designated requestor." A hospital employee completing a  
21 course offered by an organ procurement organization on how to  
22 approach potential donor families and request organ or tissue  
23 donation.

24 "Noncompliance." Any failure on the part of a hospital to  
25 contact an organ procurement organization as required under  
26 subsection (d).

27 ~~§ 8618. Transplant organ registry.~~ <—

28 ~~The card or other document indicative of an individual's~~  
29 ~~donor status, or an executed copy thereof, may be deposited in~~  
30 ~~the transplant organ registry to be known as the Registry for~~

1 ~~Life. The registry for Life shall be established and maintained~~  
2 ~~by the Department of Health. Upon registration of an~~  
3 ~~individual's donor status, the registry shall send confirmation~~  
4 ~~of that status to the individual. If an individual is registered~~  
5 ~~under section 8619 (relating to use of tax form to indicate~~  
6 ~~organ or tissue donation), then the registry shall send an~~  
7 ~~executable donor card and confirmation of the individual's donor~~  
8 ~~status. The registry shall be equipped at all times, that is, 24~~  
9 ~~hours a day, each day of the year, to furnish and shall furnish~~  
10 ~~to any qualified hospital, physician or organ procurement~~  
11 ~~organization, upon request, information relating to an~~  
12 ~~individual's donor status. The Department of Health shall~~  
13 ~~promulgate regulations necessary to implement the registry. The~~  
14 ~~Department of Health shall establish a single Statewide toll-~~  
15 ~~free telephone number to handle requests for registry~~  
16 ~~information.~~

17 ~~§ 8619. Use of tax form to indicate organ or tissue donation.~~

18 ~~Beginning as soon as practicable, but no later than one year~~  
19 ~~following the effective date of this section, the Department of~~  
20 ~~Revenue shall redesign the State individual income tax return~~  
21 ~~form to contain requests for information regarding consent of~~  
22 ~~the taxpayer and the taxpayer's spouse to organ and tissue~~  
23 ~~donation. A question as to whether the taxpayer or the spouse of~~  
24 ~~the taxpayer wishes to donate some or all of their organs and~~  
25 ~~tissue shall be set out on the form in the following manner:~~

26 ~~PLEASE CHECK THE FOLLOWING THAT APPLY:~~

27 ~~( ) I (TAXPAYER) WISH TO BE PLACED ON THE STATEWIDE~~  
28 ~~DONOR REGISTRY.~~

29 ~~( ) I (SPOUSE) WISH TO BE PLACED ON THE STATEWIDE~~  
30 ~~DONOR REGISTRY.~~

1 ~~Any affirmative response by the taxpayer or the taxpayer's~~  
2 ~~spouse shall be forwarded to the Department of Health for entry~~  
3 ~~in the registry. If the taxpayer or the taxpayer's spouse does~~  
4 ~~not respond to the questions regarding organ and tissue~~  
5 ~~donation, consent is deemed not given.~~

6 ~~§ 8620~~ § 8618. Voluntary contribution system. <—

7 (a) Voluntary designation.--The Department of Revenue shall  
8 provide a space on the face of the State individual income tax  
9 return form for the ~~1995 tax year~~ 1996 TAX YEAR AND 1999 TAX <—  
10 YEAR whereby an individual may voluntarily designate a  
11 contribution of any amount desired to the fund established in  
12 section ~~8624~~ 8622 (relating to Organ Donation Awareness Trust <—  
13 Fund).

14 (b) Deduction from refund.--The amount so designated by an  
15 individual on the State individual income tax return form shall  
16 be deducted from the tax refund to which the individual is  
17 entitled and shall not constitute a charge against the income  
18 tax revenues due the Commonwealth.

19 (c) Transfer of funds.--The Department of Revenue shall  
20 annually determine the total amount designated pursuant to this  
21 section and shall report that amount to the State Treasurer, who  
22 shall transfer that amount from the General Fund to the fund.

23 (d) Form instructions.--The Department of Revenue shall  
24 ~~provide~~, IN ALL TAXABLE YEARS FOLLOWING THE EFFECTIVE DATE OF <—  
25 THIS ACT, PROVIDE ON ITS FORMS OR in its instructions which  
26 accompany State individual income tax return forms+ <—

27 ~~(1) Adequate~~ ADEQUATE information concerning the Organ <—  
28 Donor Awareness Trust Fund which shall include the listing of  
29 an address, furnished to it by the advisory committee, to  
30 which contributions may be sent by those taxpayers wishing to

1 contribute to the fund but who do not receive refunds.

2 ~~(2) The single Statewide toll free telephone number to~~ <—  
3 ~~handle requests for Registry for Life information, furnished~~  
4 ~~to the Department of Revenue by the Department of Health,~~  
5 ~~including the statement "for further information on the~~  
6 ~~Registry for Life contact."~~

7 (e) Applicability.--This section shall apply to taxable  
8 years beginning on or after January 1, 1995.

9 § ~~8621~~ 8619. Use of driver's license to indicate organ or <—  
10 tissue donation.

11 Beginning as soon as practicable, but no later than JANUARY <—  
12 1, 1995, OR one year following the effective date of this  
13 section, WHICHEVER IS LATER, the Department of Transportation <—  
14 shall redesign the driver's license application and renewal <—  
15 forms to contain SYSTEM TO PROCESS requests for information <—  
16 regarding consent of the individual to organ and tissue  
17 donation. The following questions as to whether the individual  
18 wishes to donate some or all of his organs and tissue shall be  
19 set out on the forms OR SHALL BE ASKED as follows: <—

20 PLEASE CHECK THE FOLLOWING THAT APPLY:

21 ( ) I HEREBY CONSENT TO MAKE A GIFT OF MY ORGANS OR  
22 TISSUE UPON MY DEATH.

23 ~~( ) I WISH TO BE PLACED ON TO THE STATEWIDE DONOR~~ <—  
24 ~~REGISTRY.~~

25 Only an affirmative response of an individual shall be noted on  
26 the front of the driver's license and shall clearly indicate the  
27 individual's intent to donate his organs or tissue. A notation  
28 on an individual's driver's license that he intends to donate  
29 his organs and tissue is deemed sufficient to satisfy all  
30 requirements for consent to organ or tissue donation.

1 § ~~8622~~ 8620. Police and emergency personnel responsibilities. <—

2 Police and emergency personnel responding to the scene of an  
3 accident or trauma shall take reasonable steps to insure that  
4 the driver's license or personal identification card of the  
5 individual involved in the accident or trauma accompanies the  
6 individual to the hospital or other health care facility.

7 § ~~8623~~ 8621. Organ Donation Awareness Trust Fund contributions. <—

8 The Department of Transportation shall provide an applicant  
9 for an original or renewal driver's license, ~~commercial driver's~~ <—  
10 ~~license or motorcycle operator's license~~ the opportunity to make  
11 a contribution of \$1, ~~\$5 or other amount~~ to the fund. The <—  
12 contribution shall be added to the regular fee for an original  
13 or renewal driver's license, ~~commercial driver's license or~~ <—  
14 ~~motorcycle operator's license~~. One contribution may be made for  
15 each issuance or renewal of a license or any combination  
16 thereof. Contributions shall be used exclusively for the  
17 purposes set out in section ~~8624~~ 8622 (relating to Organ <—  
18 Donation Awareness Trust Fund). The Department of Transportation  
19 shall biannually determine the total amount designated under  
20 this section and shall report that amount to the State  
21 Treasurer, who shall transfer that amount from the General Fund  
22 to the Organ Donation Awareness Trust Fund.

23 § ~~8624~~ 8622. Organ Donation Awareness Trust Fund. <—

24 (a) Establishment.--All contributions received by the  
25 Department of Transportation under section ~~8623~~ 8621 (relating <—  
26 to Organ Donation Awareness Trust Fund contributions) and the  
27 Department of Revenue under section ~~8620~~ 8618 (relating to <—  
28 voluntary contribution system) AND THE DEPARTMENT OF HEALTH <—  
29 UNDER SECTION 8617(F) (RELATING TO FINES) shall be deposited  
30 into a special fund in the State Treasury to be known as the

1 Organ Donation Awareness Trust Fund, which is hereby  
2 established.

3 (b) Appropriation.--All moneys deposited in the fund and  
4 interest which accrues from those funds are appropriated on a  
5 continuing basis ~~to the departments and for the purposes set~~ <—  
6 ~~forth in this subsection. Moneys in the fund shall be paid by~~  
7 ~~the State Treasurer periodically to those departments authorized~~  
8 ~~under this subsection to expend them in amounts as may be~~  
9 ~~necessary to satisfy the funding needs of the departments.~~  
10 ~~Moneys in the fund shall be allocated as follows:~~ SUBJECT TO THE <—  
11 APPROVAL OF THE GOVERNOR TO COMPENSATE THE DEPARTMENT OF  
12 TRANSPORTATION, DEPARTMENT OF HEALTH, DEPARTMENT OF REVENUE AND  
13 DEPARTMENT OF PUBLIC WELFARE FOR ACTUAL COSTS RELATED TO  
14 IMPLEMENTATION OF THIS CHAPTER, INCLUDING ALL COSTS OF THE ORGAN  
15 DONATION ADVISORY COMMITTEE CREATED IN SUBSECTION (C). ANY  
16 REMAINING FUNDS ARE APPROPRIATED SUBJECT TO THE APPROVAL OF THE  
17 GOVERNOR FOR THE FOLLOWING PURPOSES:

18 (1) 10% MAY BE EXPENDED BY THE DEPARTMENT OF HEALTH FOR  
19 REASONABLE HOSPITAL AND OTHER MEDICAL EXPENSES, FUNERAL  
20 EXPENSES AND INCIDENTAL EXPENSES INCURRED BY THE DONOR OR  
21 DONOR'S FAMILY IN CONNECTION WITH MAKING AN ORGAN DONATION.  
22 SUCH EXPENDITURES SHALL BE PRORATED ON AN ANNUAL BASIS AMONG  
23 ALL THOSE INDIVIDUALS APPLYING TO THE DEPARTMENT OF HEALTH  
24 FOR SUCH DISBURSEMENT. ONLY THOSE PERSONS WHOSE ANNUAL FAMILY  
25 INCOME IS BELOW 100% OF THE FEDERAL POVERTY LEVEL SHALL BE  
26 ELIGIBLE TO RECEIVE FUNDS UNDER THIS PARAGRAPH. THE  
27 DEPARTMENT OF HEALTH, IN CONJUNCTION WITH THE ADVISORY  
28 COMMITTEE, SHALL DEVELOP PROCEDURES, INCLUDING THE  
29 DEVELOPMENT OF A PILOT PROGRAM, NECESSARY FOR EFFECTUATING  
30 THE PURPOSES OF THIS PARAGRAPH.

1           ~~(1) Up to~~ (2) 50% may be expended for grants to           <—  
2 certified organ procurement organizations for the development  
3 and implementation of organ donation awareness programs in  
4 this Commonwealth. THE DEPARTMENT OF HEALTH SHALL DEVELOP AND           <—  
5 ADMINISTER THIS GRANT PROGRAM, WHICH IS HEREBY ESTABLISHED.

6           ~~(2) Up to 25%~~ (3) 15% may be expended by the Department           <—  
7 of Health, IN COOPERATION WITH CERTIFIED ORGAN PROCUREMENT           <—  
8 ORGANIZATIONS, for the Project-Make-A-Choice program, which  
9 shall include INFORMATION PAMPHLETS DESIGNED BY THE           <—  
10 DEPARTMENT OF HEALTH RELATING TO ORGAN DONOR AWARENESS AND  
11 THE LAWS REGARDING ORGAN DONATION, public information and  
12 public education about contributing to the fund when  
13 obtaining or renewing a driver's license, ~~a commercial~~           <—  
14 ~~driver's license or a motorcycle operator's license~~ and when  
15 completing a State individual income tax return form. In           <—  
16 addition, ~~a maximum of 5% of this amount may be expended by~~  
17 ~~the Department of Health for administrative expenses,~~  
18 ~~including advisory committee expenses.~~

19           ~~(3) Up to~~ (4) 25% may be expended by the Department of           <—  
20 Education for the implementation of organ donation awareness  
21 programs in the secondary schools in this Commonwealth.

22       (c) Advisory committee.--The Organ Donation Advisory  
23 Committee is hereby established, with membership as follows:

24           (1) Two representatives of organ procurement  
25 organizations.

26           (2) Six members representative of organ recipients,  
27 families of recipients, organ donors and families of donors.

28           (3) Three representatives of acute care hospitals.

29 All members shall be appointed by the Governor with the advice  
30 and consent of a majority of the members elected to the Senate.

1 Appointments shall be made in a manner that provides  
2 representation of the northwest, north central, northeast,  
3 southwest, south central and southeast regions of this  
4 Commonwealth. Members shall serve five-year terms. The Governor  
5 may reappoint advisory committee members for successive terms.  
6 Members of the advisory committee shall remain in office until a  
7 successor is appointed and qualified. If vacancies occur prior  
8 to completion of a term the Governor shall appoint another  
9 member in accordance with this subsection to fill the unexpired  
10 term. The advisory committee shall meet at ~~least annually~~ <—  
11 BIANNUALLY to review progress in the area of organ and tissue <—  
12 donation in this Commonwealth, recommend education and awareness  
13 training programs, recommend priorities in expenditures from the  
14 fund and advise the Secretary of Health on matters relating to  
15 administration of the fund. The advisory committee shall  
16 recommend legislation as it deems necessary to fulfill the  
17 purposes of this chapter. The advisory committee shall submit a  
18 report concerning its activities and progress to the General  
19 Assembly within 30 days prior to the expiration of each  
20 legislative session. The Department of Health shall reimburse  
21 members of the advisory committee for all necessary and  
22 reasonable travel and other expenses incurred in the performance  
23 of their duties under this section.

24 (d) Reports.--The Department of Health and the Department of  
25 Education shall submit an annual report to the General Assembly  
26 on expenditures of fund moneys and any progress made in reducing  
27 the number of potential donors who were not identified.

28 § ~~8625~~ 8623. Confidentiality requirement. <—

29 The identity of the donor and of the recipient may not be  
30 communicated unless expressly authorized by the recipient and

1 next of kin of the decedent.

2 SUBCHAPTER C

3 CORNEAL TRANSPLANTS

4 Sec.

5 8641. Removal of corneal tissue permitted under certain  
6 circumstances.

7 8642. Limitation of liability.

8 § 8641. Removal of corneal tissue permitted under certain  
9 circumstances.

10 (a) General rule.--On a request from an authorized official  
11 of an eye bank for corneal tissue, a coronor or medical examiner  
12 may permit the removal of corneal tissue if all of the following  
13 apply:

14 (1) The decedent from whom the tissue is to be removed  
15 died under circumstances requiring an inquest.

16 (2) No objection by a person listed in section 8611  
17 (relating to persons who may execute anatomical gift) is  
18 known by the coronor or medical examiner.

19 (3) The removal of the corneal tissue will not interfere  
20 with the subsequent course of an investigation or autopsy or  
21 alter the decedent's postmortem facial appearance.

22 (b) Definition.--As used in this section, the term "eye  
23 bank" means a nonprofit corporation chartered under the laws of  
24 this Commonwealth to obtain, store and distribute donor eyes to  
25 be used by physicians or surgeons for corneal transplants,  
26 research or other medical purposes and the medical activities of  
27 which are directed by a physician or surgeon in this  
28 Commonwealth.

29 § 8642. Limitation of liability.

30 A person who acts in good faith in accordance with the

1 provisions of this subchapter shall not be subject to criminal  
2 or civil liability arising from any action taken under this  
3 subchapter. The immunity provided by this section shall not  
4 extend to persons if damages result from the gross negligence,  
5 recklessness or intentional misconduct of the person.

6 Section 6. ~~The Department of Public Welfare shall, within~~ <—  
7 ~~one year of the effective date of this act, establish and~~ <—  
8 UPON AVAILABILITY OF FUNDING ESTABLISHED UNDER SECTION 8622(B)(3)  
9 (RELATING TO APPROPRIATION), THE DEPARTMENT OF PUBLIC WELFARE  
10 SHALL ESTABLISH AND disseminate guidelines for mental health and  
11 mental retardation facilities to use in counseling clients and  
12 their guardians as to organ donor awareness under 20 Pa.C.S. Ch.  
13 86.

14 Section 7. ~~The~~ UPON AVAILABILITY OF FUNDING ESTABLISHED <—  
15 UNDER SECTION 8622(B)(3), THE Department of Education, in  
16 cooperation with the Department of Health and organ procurement  
17 organizations, shall establish a program that can be used for  
18 secondary education purposes, which shall include:

19 (1) Information about State law relating to anatomical  
20 gifts, including how to become an organ donor.

21 (2) General information about organ transplantation in  
22 the United States.

23 Section 8. This act shall take effect December 31, 1994, or  
24 immediately, whichever is later.