

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 100 Session of 2011

INTRODUCED BY PETRARCA, CALTAGIRONE, CLYMER, COHEN, D. COSTA,  
DeLUCA, FLECK, FRANKEL, GEIST, GEORGE, HALUSKA, JOSEPHS,  
KORTZ, KULA, LONGIETTI, MUSTIO, M. O'BRIEN, PYLE, SAYLOR,  
SWANGER, VULAKOVICH AND WAGNER, JANUARY 26, 2011

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 26, 2011

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the  
2 Pennsylvania Consolidated Statutes, extensively revising  
3 provisions on anatomical gifts in the areas of  
4 authorizations, procedure, amendment, revocation, refusal,  
5 receipt, for rights and duties of hospitals and organ  
6 procurement organizations, prohibitions, limited immunity,  
7 the Governor Robert P. Casey Memorial Organ and Tissue  
8 Donation Awareness Trust Fund, and providing for  
9 contributions to the fund; and making editorial changes.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Section 305(a) of Title 20 of the Pennsylvania  
13 Consolidated Statutes is amended to read:

14 § 305. Right to dispose of a decedent's remains.

15 (a) General rule.--The determination of the final  
16 disposition of a decedent's remains shall be as set forth in  
17 this section unless otherwise specifically provided by waiver  
18 and agreement of the person entitled to make such determination  
19 under this section, subject to the provisions of a valid will  
20 executed by the decedent and [section 8611(a) (relating to

1 persons who may execute anatomical gift)] sections 8612  
2 (relating to anatomical gift before donor's death) and 8617  
3 (relating to anatomical gift after donor's death).

4 \* \* \*

5 Section 2. Chapter 86 of Title 20 is repealed:

6 [CHAPTER 86  
7 ANATOMICAL GIFTS

8 Subchapter

9 A. General Provisions

10 B. Express Anatomical Gifts

11 C. Corneal Transplants

12 SUBCHAPTER A

13 GENERAL PROVISIONS

14 Sec.

15 8601. Definitions.

16 § 8601. Definitions.

17 The following words and phrases when used in this chapter  
18 shall have the meanings given to them in this section unless the  
19 context clearly indicates otherwise:

20 "Acute care general hospital." Any hospital which has an  
21 emergency room facility.

22 "Advisory committee." The Organ Donation Advisory Committee  
23 established under section 8622 (relating to The Governor Robert  
24 P. Casey Memorial Organ and Tissue Donation Awareness Trust  
25 Fund).

26 "Bank or storage facility." A facility licensed, accredited  
27 or approved under the laws of any state for storage of human  
28 bodies or parts thereof.

29 "Board." The Humanity Gifts Registry.

30 "Decedent." A deceased individual, including a stillborn

1 infant or fetus.

2 "Donor." An individual who makes a gift of all or part of  
3 his body.

4 "Fund." The Governor Robert P. Casey Memorial Organ and  
5 Tissue Donation Awareness Trust Fund established under section  
6 8622 (relating to The Governor Robert P. Casey Memorial Organ  
7 and Tissue Donation Awareness Trust Fund).

8 "Hospital." An institution licensed in this Commonwealth  
9 having an organized medical staff established for the purpose of  
10 providing to inpatients, by or under the supervision of  
11 physicians, diagnostic and therapeutic services for the care of  
12 persons who are injured, disabled, pregnant, diseased, sick or  
13 mentally ill or rehabilitation services for the rehabilitation  
14 of persons who are injured, disabled, pregnant, diseased, sick  
15 or mentally ill. The term includes facilities for the diagnosis  
16 and treatment of disorders within the scope of specific medical  
17 specialties. The term does not include facilities caring  
18 exclusively for the mentally ill.

19 "Organ procurement organization." An organization that meets  
20 the requirements of section 371 of the Public Health Service Act  
21 (58 Stat. 682, 42 U.S.C. § 273).

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

24 "Person." An individual, corporation, government or  
25 governmental subdivision or agency, business trust, estate,  
26 trust, partnership, association or any other legal entity.

27 "Physician" or "surgeon." A physician or surgeon licensed or  
28 authorized to practice under the laws of any state.

29 "State." Any state, district, commonwealth, territory,  
30 insular possession and any other area subject to the legislative

1 authority of the United States of America.

2 "Unlawful competition." Conduct declared unlawful under  
3 section 3 of the act of December 17, 1968 (P.L.1224, No.387),  
4 known as the Unfair Trade Practices and Consumer Protection Law.

5 SUBCHAPTER B

6 EXPRESS ANATOMICAL GIFTS

7 Sec.

8 8611. Persons who may execute anatomical gift.

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

11 8613. Manner of executing anatomical gifts.

12 8614. Delivery of document of gift.

13 8615. Amendment or revocation of gift.

14 8616. Rights and duties at death.

15 8617. Requests for anatomical gifts.

16 8619. Use of driver's license or identification card to  
17 indicate organ or tissue donation.

18 8620. Police and emergency personnel responsibilities.

19 8621. The Governor Robert P. Casey Memorial Organ and Tissue  
20 Donation Awareness Trust Fund contributions.

21 8622. The Governor Robert P. Casey Memorial Organ and Tissue  
22 Donation Awareness Trust Fund.

23 8623. Confidentiality requirement.

24 8624. Prohibited activities.

25 § 8611. Persons who may execute anatomical gift.

26 (a) General rule.--Any individual of sound mind and 18 years  
27 of age or more may give all or any part of his body for any  
28 purpose specified in section 8612 (relating to persons who may  
29 become donees; purposes for which anatomical gifts may be made),  
30 the gift to take effect upon death. Any agent acting under a

1 power of attorney which authorizes the agent to make anatomical  
2 gifts may effectuate a gift for any purpose specified in section  
3 8612. Any individual who is a minor and 16 years of age or older  
4 may effectuate a gift for any purpose specified in section 8612,  
5 provided parental or guardian consent is deemed given. Parental  
6 or guardian consent shall be noted on the minor's donor card,  
7 application for the donor's learner's permit or driver's license  
8 or other document of gift. A gift of the whole body shall be  
9 invalid unless made in writing at least 15 days prior to the  
10 date of death or consent is obtained from the legal next of kin.  
11 Where there are adult children of the deceased who are not  
12 children of the surviving spouse, their consent shall also be  
13 required for a gift of the whole body for anatomical study.

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

21 (1) The spouse.

22 (2) An adult son or daughter.

23 (3) Either parent.

24 (4) An adult brother or sister.

25 (5) A guardian of the person of the decedent at the time  
26 of his death.

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

29 (c) Donee not to accept in certain cases.--If the donee has  
30 actual notice of contrary indications by the decedent or that a

1 gift by a member of a class is opposed by a member of the same  
2 or a prior class, the donee shall not accept the gift. The  
3 persons authorized by subsection (b) may make the gift after or  
4 immediately before death.

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

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

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

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

16 (1) Any hospital, surgeon or physician for medical or  
17 dental education, research, advancement of medical or dental  
18 science, therapy or transplantation.

19 (2) Any accredited medical or dental school, college or  
20 university for education, research, advancement of medical or  
21 dental science or therapy.

22 (3) Any bank or storage facility for medical or dental  
23 education, research, advancement of medical or dental  
24 science, therapy or transplantation.

25 (4) Any specified individual for therapy or  
26 transplantation needed by him.

27 (5) The board.

28 § 8613. Manner of executing anatomical gifts.

29 (a) Gifts by will.--A gift of all or part of the body under  
30 section 8611(a) (relating to persons who may execute anatomical

1 gift) may be made by will. The gift becomes effective upon the  
2 death of the testator without waiting for probate. If the will  
3 is not probated or if it is declared invalid for testamentary  
4 purposes, the gift, to the extent that it has been acted upon in  
5 good faith, is nevertheless valid and effective.

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

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

28 (d) Designation of person to carry out procedures.--  
29 Notwithstanding section 8616(b) (relating to rights and duties  
30 at death), the donor may designate in his will, card or other

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

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

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

29 § 8614. Delivery of document of gift.

30 If the gift is made by the donor to a specified donee, the



1 will, card or other document or an executed copy thereof may be  
2 delivered to the donee to expedite the appropriate procedures  
3 immediately after death. Delivery is not necessary to the  
4 validity of the gift. The will, card or other document or an  
5 executed copy thereof may be deposited in any hospital, bank or  
6 storage facility that accepts it for safekeeping or for  
7 facilitation of procedures after death. On request of any  
8 interested party upon or after the donor's death, the person in  
9 possession shall produce the document for examination.

10 § 8615. Amendment or revocation of gift.

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

15 (1) The execution and delivery to the donee of a signed  
16 statement.

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

19 (3) A statement during a terminal illness or injury  
20 addressed to an attending physician and communicated to the  
21 donee.

22 (4) A signed card or document found on his person or in  
23 his effects.

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

29 (c) Gifts by will.--Any gift made by a will may also be  
30 amended or revoked in the manner provided for amendment or

1 revocation of wills or as provided in subsection (a).

2 § 8616. Rights and duties at death.

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

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

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

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

29 § 8617. Requests for anatomical gifts.

30 (a) Procedure.--On or before the occurrence of each death in

1 an acute care general hospital, the hospital shall make contact  
2 with the regional organ procurement organization in order to  
3 determine the suitability for organ, tissue and eye donation for  
4 any purpose specified under this subchapter. This contact and  
5 the disposition shall be noted on the patient's medical record.

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

12 (c) Donor card.--Notwithstanding any provision of law to the  
13 contrary, the intent of a decedent to participate in an organ  
14 donor program as evidenced by the possession of a validly  
15 executed donor card, donor driver's license, living will,  
16 durable power of attorney or other document of gift shall not be  
17 revoked by any member of any of the classes specified in section  
18 8611(b).

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

- (1) The patient's identifier number.
- (2) The patient's age.
- (3) The cause of death.
- (4) Any past medical history available.

The organ procurement organization, in consultation with the patient's attending physician or his designee, shall determine the suitability for donation. If the organ procurement organization in consultation with the patient's attending physician or his designee determines that donation is not appropriate based on established medical criteria, this shall be noted by hospital personnel on the patient's record, and no further action is necessary. If the organ procurement organization in consultation with the patient's attending physician or his designee determines that the patient is a suitable candidate for anatomical donation, the acute care general hospital shall initiate a request by informing the persons and following the procedure designated under section 8611(b) of the option to donate organs, tissues or eyes. The person initiating the request shall be an organ procurement organization representative or a designated requestor. The organ procurement organization representative or designated requestor shall ask persons pursuant to section 8611(b) whether the deceased was an organ donor. If the person designated under section 8611(b) does not know, then this person shall be informed of the option to donate organs and tissues. The protocol shall encourage discretion and sensitivity to family circumstances in all discussions regarding donations of tissue or organs. The protocol shall take into account the deceased individual's religious beliefs or nonsuitability for organ and tissue donation.

1 (e) Tissue procurement.--

2 (1) The first priority use for all tissue shall be  
3 transplantation.

4 (2) Upon Department of Health approval of guidelines  
5 pursuant to subsection (f)(1)(ii), all acute care general  
6 hospitals shall select at least one tissue procurement  
7 provider. A hospital shall notify the regional organ  
8 procurement organization of its choice of tissue procurement  
9 providers. If a hospital chooses more than one tissue  
10 procurement provider, it may specify a rotation of referrals  
11 by the organ procurement organization to the designated  
12 tissue procurement providers.

13 (3) Until the Department of Health has approved  
14 guidelines pursuant to subsection (f)(1)(ii), tissue  
15 referrals at each hospital shall be rotated in a proportion  
16 equal to the average rate of donors recovered among the  
17 tissue procurement providers at that hospital during the two-  
18 year period ending August 31, 1994.

19 (4) The regional organ procurement organization, with  
20 the assistance of tissue procurement providers, shall submit  
21 an annual report to the General Assembly on the following:

22 (i) The number of tissue donors.

23 (ii) The number of tissue procurements for  
24 transplantation.

25 (iii) The number of tissue procurements recovered  
26 for research by each tissue procurement provider  
27 operating in this Commonwealth.

28 (f) Guidelines.--

29 (1) The Department of Health, in consultation with organ  
30 procurement organizations, tissue procurement providers and

1 the Hospital Association of Pennsylvania, donor recipients  
2 and family appointed pursuant to section 8622(c)(3) (relating  
3 to The Governor Robert P. Casey Memorial Organ and Tissue  
4 Donation Awareness Trust Fund) shall, within six months of  
5 the effective date of this chapter, do all of the following:

6 (i) Establish guidelines regarding efficient  
7 procedures facilitating the delivery of anatomical gift  
8 donations from receiving hospitals to procurement  
9 providers.

10 (ii) Develop guidelines to assist hospitals in the  
11 selection and designation of tissue procurement  
12 providers.

13 (2) Each organ procurement organization and each tissue  
14 procurement provider operating within this Commonwealth  
15 shall, within six months of the effective date of this  
16 chapter, file with the Department of Health, for public  
17 review, its operating protocols.

18 (g) Death record review.--

19 (1) The Department of Health shall make annual death  
20 record reviews at acute care general hospitals to determine  
21 their compliance with subsection (d).

22 (2) To conduct a review of an acute care general  
23 hospital, the following apply:

24 (i) The Department of Health shall select to carry  
25 out the review the Commonwealth-licensed organ  
26 procurement organization designated by the Health Care  
27 Financing Administration for the region within which the  
28 acute care general hospital is located. For an organ  
29 procurement organization to be selected under this  
30 subparagraph, the organization must not operate nor have

an ownership interest in an entity which provides all of the functions of a tissue procurement provider.

(ii) If there is no valid selection under subparagraph (i) or if the organization selected under subparagraph (i) is unwilling to carry out the review, the department shall select to carry out the review any other Commonwealth-licensed organ procurement organization. For an organ procurement organization to be selected under this subparagraph, the organization must not operate nor have an ownership interest in an entity which provides all of the functions of a tissue procurement provider.

(iii) If there is no valid selection under subparagraph (ii) or if the organization selected under subparagraph (ii) is unwilling to carry out the review, the department shall carry out the review using trained department personnel.

(3) There shall be no cost assessed against a hospital for a review under this subsection.

(4) If the department finds, on the basis of a review under this subsection, that a hospital is not in compliance with subsection (d), the department may impose an administrative fine of up to \$500 for each instance of noncompliance. A fine under this paragraph is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action). Fines collected under this paragraph shall be deposited into the fund.

(h) Definitions.--As used in this section, the following

1 words and phrases shall have the meanings given to them in this  
2 subsection:

3 "Designated requestor." A hospital employee completing a  
4 course offered by an organ procurement organization on how to  
5 approach potential donor families and request organ or tissue  
6 donation.

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

10 § 8619. Use of driver's license or identification card to  
11 indicate organ or tissue donation.

12 (a) General rule.--Beginning as soon as practicable, but no  
13 later than January 1, 1995, or one year following the effective  
14 date of this section, whichever is later, the Department of  
15 Transportation shall redesign the driver's license and  
16 identification card application system to process requests for  
17 information regarding consent of the individual to organ or  
18 tissue donation. The following question shall be asked:

19 Do you wish to have the organ donor designation printed  
20 on your driver's license?

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

28 (b) Electronic access.--The organ procurement organizations  
29 designated by the Federal Government in the Commonwealth of  
30 Pennsylvania as part of the nationwide organ procurement network



1 may be given 24-hour-a-day electronic access to information  
2 necessary to confirm an individual's organ donor status through  
3 the Department of Transportation's driver licensing database.  
4 Necessary information shall include the individual's name,  
5 address, date of birth, driver's license number and organ donor  
6 status. Notwithstanding 75 Pa.C.S. § 6114 (relating to  
7 limitation on sale, publication and disclosure of records), the  
8 Department of Transportation is authorized to provide the organ  
9 procurement organizations, after a written agreement between the  
10 Department of Transportation and the organ procurement  
11 organizations is first obtained, with the foregoing information.  
12 The organ procurement organization shall not use such  
13 information for any purpose other than to confirm an  
14 individual's organ donor status at or near or after an  
15 individual's death. The organ procurement organizations shall  
16 not be assessed the fee for such information prescribed by 75  
17 Pa.C.S. § 1955(a) (relating to information concerning drivers  
18 and vehicles).

19 § 8620. Police and emergency personnel responsibilities.

20 Police and emergency personnel responding to the scene of an  
21 accident or trauma shall take reasonable steps to insure that  
22 the driver's license or personal identification card, donor card  
23 or other document of gift and medical alert bracelet, if any, of  
24 the individual involved in the accident or trauma accompanies  
25 the individual to the hospital or other health care facility.  
26 The hospital or other health care facility shall, within five  
27 days, if practicable, return the driver's license or  
28 identification card to the Department of Transportation,  
29 accompanied by a form prescribed by the Department of  
30 Transportation, if the individual involved in the accident is

1 deceased.

2 § 8621. The Governor Robert P. Casey Memorial Organ and Tissue  
3 Donation Awareness Trust Fund contributions.

4 (a) Driver's license.--Beginning as soon as practicable, but  
5 no later than January 1, 1995, the Department of Transportation  
6 shall provide an applicant for an original or renewal driver's  
7 license or identification card the opportunity to make a  
8 contribution of \$1 to the fund. The contribution shall be added  
9 to the regular fee for an original or renewal driver's license  
10 or identification card. One contribution may be made for each  
11 issuance or renewal of a license or identification card.  
12 Contributions shall be used exclusively for the purposes set out  
13 in section 8622 (relating to The Governor Robert P. Casey  
14 Memorial Organ and Tissue Donation Awareness Trust Fund). The  
15 Department of Transportation shall monthly determine the total  
16 amount designated under this section and shall report that  
17 amount to the State Treasurer, who shall transfer that amount to  
18 The Governor Robert P. Casey Memorial Organ and Tissue Donation  
19 Awareness Trust Fund.

20 (b) Vehicle registration.--The Department of Transportation  
21 shall provide an applicant for a renewal vehicle registration  
22 the opportunity to make a contribution of \$1 to The Governor  
23 Robert P. Casey Memorial Organ and Tissue Donation Awareness  
24 Trust Fund. The contribution shall be added to the regular fee  
25 for a renewal of a vehicle registration. One contribution may be  
26 made for each renewal vehicle registration. Contributions shall  
27 be used exclusively for the purposes described in section 8622.  
28 The Department of Transportation shall monthly determine the  
29 total amount designated under this section and shall report that  
30 amount to the State Treasurer, who shall transfer that amount to

1 The Governor Robert P. Casey Memorial Organ and Tissue Donation  
2 Awareness Trust Fund. The Governor Robert P. Casey Memorial  
3 Organ and Tissue Donation Awareness Trust Fund shall reimburse  
4 the department for the initial costs incurred in the development  
5 and implementation of the contribution program under this  
6 subsection. The General Fund shall reimburse the Department of  
7 Transportation for the actual annual operating costs of the  
8 program for vehicle registrations as described in this  
9 subsection subject to the following limits: For the first fiscal  
10 year during which this subsection is effective, the General Fund  
11 shall reimburse the Department of Transportation for the actual  
12 operating costs of the program in this subsection up to a  
13 maximum of \$100,000. For each fiscal year thereafter, the  
14 General Fund shall reimburse the Department of Transportation  
15 for the actual operating costs of the program in this subsection  
16 in an amount not to exceed the prior year's actual operating  
17 costs on a full fiscal year basis plus 3%. The amounts approved  
18 by the Governor as necessary are hereby appropriated from the  
19 General Fund for this purpose.

20 § 8622. The Governor Robert P. Casey Memorial Organ and Tissue  
21 Donation Awareness Trust Fund.

22 (a) Establishment.--All contributions received by the  
23 Department of Transportation under section 8621 (relating to The  
24 Governor Robert P. Casey Memorial Organ and Tissue Donation  
25 Awareness Trust Fund contributions) and the Department of  
26 Revenue under section 8618 (relating to voluntary contribution  
27 system) and the Department of Health under section 8617  
28 (relating to requests for anatomical gifts) shall be deposited  
29 into a special fund in the State Treasury to be known as The  
30 Governor Robert P. Casey Memorial Organ and Tissue Donation

1 Awareness Trust Fund, which is hereby established.

2 (b) Appropriation.--All moneys deposited in the fund and  
3 interest which accrues from those funds are appropriated on a  
4 continuing basis subject to the approval of the Governor to  
5 compensate the Department of Transportation, the Department of  
6 Health and the Department of Revenue for actual costs related to  
7 implementation of this chapter, including all costs of the Organ  
8 Donation Advisory Committee created in subsection (c). Any  
9 remaining funds are appropriated subject to the approval of the  
10 Governor for the following purposes:

11 (1) 10% of the total fund may be expended annually by  
12 the Department of Health for reasonable hospital and other  
13 medical expenses, funeral expenses and incidental expenses  
14 incurred by the donor or donor's family in connection with  
15 making a vital organ donation. Such expenditures shall not  
16 exceed \$3,000 per donor and shall only be made directly to  
17 the funeral home, hospital or other service provider related  
18 to the donation. No part of the fund shall be transferred  
19 directly to the donor's family, next of kin or estate. The  
20 advisory committee shall develop procedures, including the  
21 development of a pilot program, necessary for effectuating  
22 the purposes of this paragraph.

23 (2) 50% may be expended for grants to certified organ  
24 procurement organizations for the development and  
25 implementation of organ donation awareness programs in this  
26 Commonwealth. The Department of Health shall develop and  
27 administer this grant program, which is hereby established.

28 (3) 15% may be expended by the Department of Health, in  
29 cooperation with certified organ procurement organizations,  
30 for the Project-Make-A-Choice program, which shall include

1 information pamphlets designed by the Department of Health  
2 relating to organ donor awareness and the laws regarding  
3 organ donation, public information and public education about  
4 contributing to the fund when obtaining or renewing a  
5 driver's license and when completing a State individual  
6 income tax return form.

7 (4) 25% may be expended by the Department of Education  
8 for the implementation of organ donation awareness programs  
9 in the secondary schools in this Commonwealth.

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

12 (1) Two representatives of organ procurement  
13 organizations.

14 (2) Two representatives of tissue procurement providers.

15 (3) Six members representative of organ, tissue and eye  
16 recipients, families of recipients and families of donors.

17 (4) Three representatives of acute care hospitals.

18 (5) One representative of the Department of Health.

19 (6) One representative of eye banks.

20 All members shall be appointed by the Governor. Appointments  
21 shall be made in a manner that provides representation of the  
22 northwest, north central, northeast, southwest, south central  
23 and southeast regions of this Commonwealth. Members shall serve  
24 five-year terms. The Governor may reappoint advisory committee  
25 members for successive terms. Members of the advisory committee  
26 shall remain in office until a successor is appointed and  
27 qualified. If vacancies occur prior to completion of a term, the  
28 Governor shall appoint another member in accordance with this  
29 subsection to fill the unexpired term. The advisory committee  
30 shall meet at least biannually to review progress in the area of

1 organ and tissue donation in this Commonwealth, recommend  
2 education and awareness training programs, recommend priorities  
3 in expenditures from the fund and advise the Secretary of Health  
4 on matters relating to administration of the fund. The advisory  
5 committee shall recommend legislation as it deems necessary to  
6 fulfill the purposes of this chapter. The advisory committee  
7 shall submit a report concerning its activities and progress to  
8 the General Assembly within 30 days prior to the expiration of  
9 each legislative session. The Department of Health shall  
10 reimburse members of the advisory committee for all necessary  
11 and reasonable travel and other expenses incurred in the  
12 performance of their duties under this section.

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

17 (e) Definition.--As used in this section, the term "vital  
18 organ" means a heart, lung, liver, kidney, pancreas, small  
19 bowel, large bowel or stomach for the purpose of  
20 transplantation.

21 § 8623. Confidentiality requirement.

22 The identity of the donor and of the recipient may not be  
23 communicated unless expressly authorized by the recipient and  
24 next of kin of the decedent.

25 § 8624. Prohibited activities.

26 (a) Affiliates.--No organ procurement organization selected  
27 by the Department of Health under section 8617(g) (relating to  
28 requests for anatomical gifts) to conduct annual death reviews  
29 may use that review authority or any powers or privileges  
30 granted thereby to coerce or attempt to coerce a hospital to

1 select the organization or any tissue procurement provider  
2 contractually affiliated with the organization as a designated  
3 tissue procurement provider under section 8617(e).

4 (b) Unfair acts.--No organ procurement organization or  
5 tissue procurement provider may disparage the services or  
6 business of other procurement providers by false or misleading  
7 representations of fact, engage in any other fraudulent conduct  
8 to influence the selection by a hospital of a qualified tissue  
9 procurement provider nor engage in unlawful competition or  
10 discrimination. This subsection is not intended to restrict or  
11 preclude any organ procurement organization or tissue  
12 procurement provider from marketing or promoting its services in  
13 the normal course of business.

#### 14 SUBCHAPTER C

#### 15 CORNEAL TRANSPLANTS

16 Sec.

17 8641. Removal of corneal tissue permitted under certain  
18 circumstances.

19 8642. Limitation of liability.

20 § 8641. Removal of corneal tissue permitted under certain  
21 circumstances.

22 (a) General rule.--On a request from an authorized official  
23 of an eye bank for corneal tissue, a coroner or medical examiner  
24 may permit the removal of corneal tissue if all of the following  
25 apply:

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

28 (2) The coroner or medical examiner has made a  
29 reasonable effort to contact persons listed in section 8611  
30 (relating to persons who may execute anatomical gift).

1 (3) No objection by a person listed in section 8611 is  
2 known by the coroner or medical examiner.

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

6 (b) Definition.--As used in this section, the term "eye  
7 bank" means a nonprofit corporation chartered under the laws of  
8 this Commonwealth to obtain, store and distribute donor eyes to  
9 be used by physicians or surgeons for corneal transplants,  
10 research or other medical purposes and the medical activities of  
11 which are directed by a physician or surgeon in this  
12 Commonwealth.

13 § 8642. Limitation of liability.

14 A person who acts in good faith in accordance with the  
15 provisions of this subchapter shall not be subject to criminal  
16 or civil liability arising from any action taken under this  
17 subchapter. The immunity provided by this section shall not  
18 extend to persons if damages result from the gross negligence,  
19 recklessness or intentional misconduct of the person.]

20 Section 3. Title 20 is amended by adding a chapter to read:

21 CHAPTER 86

22 ANATOMICAL GIFTS

23 Subchapter

24 A. General Provisions

25 B. Revised Uniform Anatomical Gift Act

26 C. Administration

27 SUBCHAPTER A

28 GENERAL PROVISIONS

29 Sec.

30 8601. Short titles.



1 8602. Declaration of policy.

2 8603. Definitions.

3 § 8601. Short titles.

4 (a) Chapter.--This chapter shall be known and may be cited  
5 as the Donate Life PA Act.

6 (b) Subchapter B.--Subchapter B shall be known and may be  
7 cited as the Revised Uniform Anatomical Gift Act.

8 § 8602. Declaration of policy.

9 The General Assembly finds and declares as follows:

10 (1) It is the policy of the Commonwealth to encourage  
11 organ and tissue donation.

12 (2) It serves the public interest to:

13 (i) highlight the importance of making anatomical  
14 gifts through educational and other outreach initiatives;

15 (ii) encourage the making of anatomical gifts and to  
16 establish various instruments through which anatomical  
17 gifts may be made;

18 (iii) honor and respect the autonomy interest of  
19 individuals to make or not to make an anatomical gift;  
20 and

21 (iv) preserve the current system for anatomical  
22 gifts, which is built around altruism, by requiring a  
23 positive affirmation of an intent to make an anatomical  
24 gift and by prohibiting the sale and purchase of organs  
25 and tissues.

26 (3) This chapter is intended to:

27 (i) recognize that there is a balance between the  
28 right of an individual to make decisions regarding the  
29 disposition of the individual's anatomical parts  
30 following the individual's death and the dire need for

1       organs and tissues to save and prolong life;

2       (ii) adhere to the significant policy determination  
3       in paragraph (1) and in similar laws in other states; and

4       (iii) recognize that, in any balancing situation,  
5       the balance is to be struck in favor of donation and the  
6       numerous potential recipients of anatomical gifts.

7       (4) Recognize the important role of state agencies in  
8       advancing anatomical gifts.

9   § 8603. Definitions.

10   The following words and phrases when used in this chapter  
11   shall have the meanings given to them in this section unless the  
12   context clearly indicates otherwise:

13   "Adult." An individual who is at least 18 years of age.

14   "Advance health care directive." As defined in section 5422  
15   (relating to definitions).

16   "Advisory committee." The Organ and Tissue Donation Advisory  
17   Committee established in section 8634 (relating to fund).

18   "Agent." Any of the following:

19       (1) An individual authorized to make health care  
20       decisions on another's behalf:

21           (i) by a power of attorney for health care; or

22           (ii) under Subch. C of Ch. 54 (relating to health  
23           care agents and representatives).

24       (2) An individual expressly authorized to make an  
25       anatomical gift on another's behalf by any other record  
26       signed by the individual giving the authorization.

27   "Anatomical gift." A donation of all or part of a human body  
28   to take effect after the donor's death for the purpose of  
29   transplantation, therapy, research or education.

30   "Board." The Humanity Gifts Registry established in section

1 1 of the act of June 13, 1883 (P.L.119, No.106), entitled, "An  
2 act for the promotion of medical science by the distribution and  
3 use of unclaimed human bodies for scientific purposes through a  
4 board created for that purpose and to prevent unauthorized uses  
5 and traffic in human bodies."

6 "Decedent." A deceased individual whose body or part is or  
7 may be the source of an anatomical gift. The term includes a  
8 stillborn infant and, subject to restrictions imposed by other  
9 laws, a fetus.

10 "Designated organ procurement organization." An organ  
11 procurement organization designated under section 1138(b) of the  
12 Social Security Act (49 Stat. 620, 42 U.S.C. § 1320b-8(b)) to  
13 serve in this Commonwealth.

14 "Designated requester." A hospital employee who has  
15 successfully completed a course offered or approved by the  
16 applicable designated organ procurement organization serving  
17 that hospital.

18 "Disinterested witness." A witness other than:

19 (1) the spouse, child, parent, sibling, grandchild,  
20 grandparent or guardian of a donor; or

21 (2) another adult who exhibited special care and concern  
22 for the donor.

23 The term does not include a recipient under section 8619  
24 (relating to persons that may receive anatomical gift; purpose  
25 of anatomical gift).

26 "Document of gift." A donor card or other record used to  
27 make an anatomical gift. The term includes a statement or symbol  
28 on a driver's license or identification card or in a donor  
29 registry.

30 "Donate Life PA Registry." The registry established in

section 8635 (relating to promotion of organ and tissue donation; Donate Life PA Registry established).

"Donor." An individual whose body or part is the subject of an anatomical gift.

"Donor registry." A database which contains records of anatomical gifts. The term includes the Donate Life PA Registry.

"Driver's license." A document allowing an individual to operate a motor vehicle issued under 75 Pa.C.S. Ch. 15 (relating to licensing of drivers).

"Eye bank." A person that is licensed, accredited or regulated under Federal or state law to engage in the recovery, screening, testing, processing, storage or distribution of human eyes or portions of human eyes.

"Fund." The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund established in section 8634 (relating to fund).

"Guardian." A person appointed by a court to make decisions regarding the support, care, education, health or welfare of an individual. The term does not include a guardian ad litem.

"Hospital." A facility:

(1) licensed as a hospital under the law of a state; or

(2) operated as a hospital by the United States, a state or a political subdivision of a state.

"Identification card." A document issued under 75 Pa.C.S. § 1510(b) (relating to issuance and content of driver's license).

"Know." To have actual knowledge.

"Minor." An individual who is under 18 years of age.

"Organ procurement organization." A person designated by the Secretary of Health and Human Services as an organ procurement organization.

1 "Parent." The term does not include an individual whose  
2 parental rights have been terminated.

3 "Part." Any organ, eye or tissue of a human being. The term  
4 does not include the whole body.

5 "Person." A legal or commercial entity. The term includes  
6 any corporation, partnership, limited liability company,  
7 business trust or other association; a government entity,  
8 including the Commonwealth; any estate, trust or foundation; or  
9 a natural person.

10 "Person authorized or obligated to dispose of a decedent's  
11 body." Any of the following:

12 (1) A public official.

13 (2) A coroner or medical examiner.

14 (3) A warden or director of a correctional facility.

15 (4) An administrator or authorized official of a social  
16 service agency.

17 (5) An individual or official of an entity that is:

18 (i) authorized to make decisions with respect to the  
19 disposition, transportation, transfer, burial or  
20 cremation of a decedent;

21 (ii) under an obligation to make decisions with  
22 respect to the disposition, transportation, transfer,  
23 burial or cremation of a decedent; or

24 (iii) voluntarily assumes responsibility for  
25 decisions with respect to the disposition,  
26 transportation, transfer, burial or cremation of a  
27 decedent.

28 "Physician." Includes an individual authorized to practice  
29 medicine or osteopathy under the law of another state.

30 "Procurement organization." Any eye bank, organ procurement

organization or tissue bank.

"Program coordinator." The Organ and Tissue Donation Awareness Program Coordinator established in section 8634(f).

"Prospective donor." An individual who:

(1) is dead or near death; and

(2) has been determined by a procurement organization to have a part which could be medically suitable for transplantation, therapy, research or education.

The term does not include an individual who has made a refusal.

"Reasonably available." Able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

"Recipient." An individual into whose body a decedent's part has been or is intended to be transplanted.

"Record." Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Refusal." A record under section 8615 (relating to refusal to make anatomical gift; effect of refusal).

"Sign." With the present intent to authenticate or adopt a record, to:

(1) execute or adopt a tangible symbol; or

(2) attach to or logically associate with the record any electronic symbol, sound or process.

"State." A state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

"Technician." An individual determined to be qualified to

1 remove or process parts by an appropriate organization that is  
2 licensed, accredited or regulated under applicable Federal or  
3 state law. The term includes an enucleator.

4 "Tissue." A portion of the human body other than an organ or  
5 an eye. The term does not include blood unless it is needed to  
6 facilitate the use of other parts or is donated for the purpose  
7 of research or education.

8 "Tissue bank." A person that is licensed, accredited or  
9 regulated under Federal or state law to engage in the recovery,  
10 screening, testing, processing, storage or distribution of  
11 tissue.

12 "Transplant hospital." A hospital that furnishes organ  
13 transplants and other medical and surgical specialty services  
14 required for the care of transplant patients.

15 SUBCHAPTER B

16 REVISED UNIFORM ANATOMICAL

17 GIFT ACT

18 Sec.

19 8611. Applicability.

20 8612. Anatomical gift before donor's death.

21 8613. Manner of making anatomical gift before donor's death.

22 8614. Amending or revoking anatomical gift before donor's  
23 death.

24 8615. Refusal to make anatomical gift; effect of refusal.

25 8616. Preclusive effect of anatomical gift, amendment or  
26 revocation.

27 8617. Anatomical gift after donor's death.

28 8618. Manner of making, amending or revoking anatomical gift.

29 8619. Persons that may receive anatomical gift; purpose of  
30 anatomical gift.

1 8620. Search and notification.  
2 8621. Delivery of document of gift not required; right to  
3 examine.  
4 8622. Rights and duties of procurement organization and others.  
5 8623. Coordination of procurement and use.  
6 8624. Sale or purchase of parts prohibited.  
7 8625. Other prohibited acts.  
8 8626. Immunity.  
9 8627. Law governing validity; choice of law as to execution of  
10 document of gift; presumption of validity.  
11 8628. Effect of anatomical gift on advance health care  
12 directive.  
13 8629. Facilitation of anatomical gift from decedent whose death  
14 is under investigation.  
15 8630. Consent or authorization not necessary.  
16 § 8611. Applicability.  
17 This chapter applies to an anatomical gift and any amendment  
18 to, revocation of or refusal to make an anatomical gift,  
19 whenever made.  
20 § 8612. Anatomical gift before donor's death.  
21 Subject to section 8616 (relating to preclusive effect of  
22 anatomical gift, amendment or revocation), an anatomical gift of  
23 a donor's body or part may be made during the life of the donor  
24 for the purpose of transplantation, therapy, research or  
25 education under section 8613 (relating to manner of making  
26 anatomical gift before donor's death) by any of the following:  
27 (1) The donor if either of the following subparagraphs  
28 apply:  
29 (i) The donor is an adult.  
30 (ii) The donor is a minor to whom all of the



following clauses apply:

(A) The donor is at least 16 years of age.

(B) The donor's parent or guardian has  
authorized the gift.

(2) An agent of the donor. This paragraph does not apply  
if the power of attorney, advance health care directive or  
other record prohibits the agent from making an anatomical  
gift.

(3) A parent of the donor if the donor is a minor.

(4) The donor's guardian.

§ 8613. Manner of making anatomical gift before donor's death.

(a) Donor.--A donor may make an anatomical gift in any of  
the following manners:

(1) By authorizing a statement or symbol indicating that  
the donor has made an anatomical gift to be imprinted on the  
donor's driver's license or identification card.

(2) By making a statement in the donor's will.

(3) During a terminal illness or while injured, by any  
form of communication addressed to at least two adults, at  
least one of whom is a disinterested witness.

(4) By a donor card or other record signed by the donor.  
If the donor is physically unable to sign a record, the  
record may be signed by another individual at the direction  
of the donor and must:

(i) be witnessed by at least two adults, at least  
one of whom is a disinterested witness, who have signed  
at the request of the donor; and

(ii) state that it has been witnessed and signed  
under subparagraph (i).

(5) By authorizing that a statement or symbol indicating

1 that the donor has made an anatomical gift be included on a  
2 donor registry.

3 (b) Person other than donor.--A person authorized to make an  
4 anatomical gift under section 8612 (relating to anatomical gift  
5 before donor's death) shall make a gift in any of the following  
6 manners:

7 (1) By a donor card or other record signed by the  
8 person.

9 (2) If the person is physically unable to sign a record,  
10 the record may be signed by another individual at the  
11 direction of the person and must:

12 (i) be witnessed by at least two adults, at least  
13 one of whom is a disinterested witness, who have signed  
14 at the request of the donor; and

15 (ii) state that it has been witnessed and signed  
16 under subparagraph (i).

17 (c) Invalidation of underlying document.--Revocation,  
18 suspension, expiration or cancellation of a driver's license or  
19 identification card upon which an anatomical gift is indicated  
20 does not invalidate the gift.

21 (d) Legal status of will.--An anatomical gift made by will  
22 takes effect upon the donor's death whether or not the will is  
23 probated. Invalidation of the will after the donor's death does  
24 not invalidate the gift.

25 § 8614. Amending or revoking anatomical gift before donor's  
26 death.

27 (a) Documentation.--Subject to section 8616 (relating to  
28 preclusive effect of anatomical gift, amendment or revocation),  
29 a donor or other person authorized to make an anatomical gift  
30 under section 8612 (relating to anatomical gift before donor's

death) may amend or revoke an anatomical gift in any of the following manners:

(1) By a record signed by the one of the following:

(i) The donor.

(ii) The other person.

(iii) An individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign. A record under this subparagraph must:

(A) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(B) state that it has been signed and witnessed under clause (A).

(2) A later-executed document of gift which amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(b) Destruction or cancellation.--Subject to section 8616, a donor or other person authorized to make an anatomical gift under section 8612 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(c) Terminal illness or incapacity.--A donor may amend or revoke an anatomical gift which was not made in a will by a form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(d) Wills.--A donor who makes an anatomical gift in a will

may amend or revoke the gift in the manner provided for  
amendment or revocation of wills or as provided in subsection  
(a).

§ 8615. Refusal to make anatomical gift; effect of refusal.

(a) Documentation.--An individual authorized to make a gift  
as a donor under section 8612 (relating to anatomical gift  
before donor's death) may refuse to make an anatomical gift of  
the individual's body or part in any of the following manners:

(1) By a record signed by any of the following:

(i) The individual.

(ii) A person acting at the direction of the  
individual if the individual is physically unable to  
sign. A record under this subparagraph must:

(A) be witnessed by at least two adults, at  
least one of whom is a disinterested witness, who  
have signed at the request of the individual who is  
making the refusal; and

(B) state that it has been signed and witnessed  
under clause (A).

(2) The individual's will. This paragraph applies  
regardless of whether the will is admitted to probate or  
invalidated after the individual's death.

(3) A form of communication made by the individual  
during the individual's terminal illness or incapacitation  
addressed to at least two adults, at least one of whom is a  
disinterested witness.

(b) Revocation.--An individual who has made a refusal may  
amend or revoke the refusal:

(1) in the manner provided in subsection (a) for making  
a refusal;

1       (2) by subsequently making an anatomical gift under  
2       section 8613 (relating to manner of making anatomical gift  
3       before donor's death) which is inconsistent with the refusal;  
4       or

5       (3) by destroying or canceling the record evidencing the  
6       refusal, or the portion of the record used to make the  
7       refusal, with the intent to revoke the refusal.

8       (c) Effect on other persons.--Except as otherwise provided  
9       in section 8616 (relating to preclusive effect of anatomical  
10       gift, amendment or revocation), in the absence of an express,  
11       contrary indication by the individual set forth in the refusal,  
12       an individual's unrevoked refusal to make an anatomical gift of  
13       the individual's body or part bars all other persons from making  
14       an anatomical gift of the individual's body or part.

15       § 8616. Preclusive effect of anatomical gift, amendment or  
16       revocation.

17       (a) Bar.--Subject to subsection (f), in the absence of an  
18       express, contrary indication by the donor, a person other than  
19       the donor is barred from making, amending or revoking an  
20       anatomical gift of a donor's body or part if the donor made an  
21       anatomical gift of the donor's body or part under section 8613  
22       (relating to manner of making anatomical gift before donor's  
23       death) or an amendment to an anatomical gift of the donor's body  
24       or part under section 8614 (relating to amending or revoking  
25       anatomical gift before donor's death).

26       (b) Revocation versus refusal.--A donor's revocation of an  
27       anatomical gift of the donor's body or part under section 8614  
28       is not a refusal and does not bar another person specified in  
29       section 8612 (relating to anatomical gift before donor's death)  
30       or 8617 (relating to anatomical gift after donor's death) from

1 making an anatomical gift of the donor's body or part under  
2 section 8613 or 8618 (relating to manner of making, amending or  
3 revoking anatomical gift).

4 (c) Multiple persons.--If a person other than the donor  
5 makes an unrevoked anatomical gift of the donor's body or part  
6 under section 8613 or an amendment to an anatomical gift of the  
7 donor's body or part under section 8614, another person may not  
8 make, amend or revoke the gift of the donor's body or part under  
9 section 8618.

10 (d) No bar.--A revocation of an anatomical gift of a donor's  
11 body or part under section 8614 by a person other than the donor  
12 does not bar another person from making an anatomical gift of  
13 the body or part under section 8613 or 8618.

14 (e) Multiple body parts.--In the absence of an express,  
15 contrary indication by the donor or other person authorized to  
16 make an anatomical gift under section 8612, an anatomical gift  
17 of a part is neither a refusal to give another part nor a  
18 limitation on the making of an anatomical gift of another part  
19 at a later time by the donor or another person.

20 (f) Limitation.--In the absence of an express, contrary  
21 indication by the donor or other person authorized to make an  
22 anatomical gift under section 8612, an anatomical gift of a part  
23 for one or more of the purposes set forth in section 8612 is not  
24 a limitation on the making of an anatomical gift of the part for  
25 any of the other purposes by the donor or any other person under  
26 section 8613 or 8618.

27 § 8617. Anatomical gift after donor's death.

28 (a) Authorization.--Subject to subsections (b) and (c) and  
29 unless barred by section 8615 (relating to refusal to make  
30 anatomical gift; effect of refusal) or 8616 (relating to

preclusive effect of anatomical gift, amendment or revocation),  
an anatomical gift for the purposes of transplantation, therapy,  
research or education may be made by any member of the following  
classes that is reasonably available, in the order of priority  
listed:

(1) An agent of the decedent at the time of death who  
could have made an anatomical gift under section 8612(2)  
(relating to anatomical gift before donor's death)  
immediately before the decedent's death.

(2) The spouse of the decedent.

(3) An adult child of the decedent.

(4) A parent of the decedent.

(5) An adult sibling of the decedent.

(6) An adult who is related to the decedent by blood,  
marriage or adoption.

(7) A person that exhibited special care and concern for  
the decedent.

(8) A person acting as the guardian of the person of the  
decedent at the time of death.

(9) A hospital administrator, who shall make a gift of a  
decedent's body or part unless there is an express, contrary  
indication by the decedent.

(10) A person authorized or obligated to dispose of the  
decedent's body.

(b) Multiple persons authorized.--If there is more than one  
member of a class listed in subsection (a) (1), (3), (4), (5),  
(6), (7), (8) or (10) entitled to make an anatomical gift, an  
anatomical gift may be made by a member of the class unless that  
member or a person to whom the gift may pass under section 8619  
(relating to persons that may receive anatomical gift; purpose

of anatomical gift) knows of an objection by another member of  
the class. If an objection is known, the gift may be made only  
by a vote of 50% of the class that are reasonably available.  
Nothing in this subsection shall be construed to require that  
all members of a class authorize the making of the gift or  
participate in the decision to make the gift. Known objections  
by persons not reasonably available do not bar persons that are  
reasonably available from making an anatomical gift, regardless  
of whether the objections are held by persons in a prior class  
or the same class.

(c) Priority.--A person may not make an anatomical gift if,  
at the time of the decedent's death, a person in a prior class  
under subsection (a) is reasonably available to make or to  
object to the making of an anatomical gift.

§ 8618. Manner of making, amending or revoking anatomical gift.

(a) Making anatomical gift.--A person authorized to make an  
anatomical gift under section 8617 (relating to anatomical gift  
after donor's death) may make an anatomical gift by:

(1) a document of gift signed by the person making the  
gift; or

(2) that person's oral communication which is:

(i) electronically recorded; or

(ii) contemporaneously reduced to a record and  
signed by the individual receiving the oral  
communication.

(b) Amendment or revocation.--Subject to subsection (c), an  
anatomical gift by a person authorized under section 8617 may be  
amended or revoked orally or in a record by any member of a  
prior class that is reasonably available. If more than one  
member of the prior class is reasonably available, the gift made



1 by a person authorized under section 8617 may be:

2 (1) amended only if a majority of the reasonably  
3 available members agree to the amending of the gift; and

4 (2) revoked only if a majority of the reasonably  
5 available members agree to the revoking of the gift.

6 (c) Effectiveness.--A revocation under subsection (b) is  
7 effective only if, before an incision has been made to remove a  
8 part from the donor's body or before invasive procedures have  
9 begun to prepare the recipient, the applicable procurement  
10 organization, transplant hospital or physician or technician  
11 knows of the revocation. A procurement organization, transplant  
12 hospital or physician or technician with knowledge of a  
13 revocation shall make a good faith effort to communicate that  
14 information to the other parties involved in order to stop the  
15 anatomical recovery process.

16 § 8619. Persons that may receive anatomical gift; purpose of  
17 anatomical gift.

18 (a) Recipients.--An anatomical gift may be made to any of  
19 the following persons named in the document of gift:

20 (1) If for research or education, a hospital; accredited  
21 medical school, dental school, college or university; the  
22 board; organ procurement organization; or other appropriate  
23 person as authorized by law.

24 (2) Subject to subsection (b), an individual designated  
25 by the person making the anatomical gift if the individual is  
26 the recipient of the part.

27 (3) An eye bank or tissue bank.

28 (b) Transplantation not possible.--If an anatomical gift to  
29 an individual under subsection (a)(2) cannot be transplanted  
30 into the individual, the part passes in accordance with

1 subsections (f) and (g) in the absence of an express, contrary  
2 indication by the person making the anatomical gift.

3 (c) Multiple purposes.--If there is more than one purpose of  
4 an anatomical gift set forth in the document of gift but the  
5 purposes are not set forth in any priority, the gift shall be  
6 used for transplantation or therapy, if suitable. If the gift  
7 cannot be used for transplantation or therapy, the gift may be  
8 used for research or education.

9 (d) Unknown recipient and purpose.--Subject to section  
10 8616(f) (relating to preclusive effect of anatomical gift,  
11 amendment or revocation):

12 (1) If an anatomical gift of one or more specific parts  
13 is made in a document of gift which does not name a person  
14 described in subsection (a) and does not identify the purpose  
15 of the gift, the gift may be used only for transplantation or  
16 therapy, and the gift shall pass under subsection (f).

17 (2) If an anatomical gift of an entire body is made for  
18 research or education and does not name a person described  
19 under subsection (a) or the person described cannot make use  
20 of the gift, the gift shall pass to the board.

21 (e) General intent.--Subject to section 8616(f), if a  
22 document of gift specifies only a general intent to make an  
23 anatomical gift by words such as "donor," "organ donor" or "body  
24 donor" or by a symbol or statement of similar import, the gift  
25 may be used only for transplantation or therapy, and the gift  
26 passes in accordance with subsection (f).

27 (f) Default.--For the purposes of subsections (b), (d) and  
28 (e), the following rules apply:

29 (1) If the part is an eye, the gift passes to the  
30 appropriate eye bank.

1       (2) If the part is tissue, the gift passes to the  
2       appropriate tissue bank.

3       (3) If the part is an organ, the gift passes to the  
4       appropriate organ procurement organization as custodian of  
5       the organ.

6       (g) Organs for transplant.--An anatomical gift of an organ  
7       for transplantation or therapy, other than an anatomical gift  
8       under subsection (a)(2), passes to the appropriate organ  
9       procurement organization as custodian of the organ.

10      (h) Failure of anatomical gift.--

11           (1) This subsection applies if:

12               (i) an anatomical gift does not pass under  
13               subsections (a), (b), (c), (d), (e), (f) and (g); or

14               (ii) the decedent's body or part is not used for  
15               transplantation, therapy, research or education.

16           (2) In a situation described in paragraph (1), custody  
17       of the body or part passes to the person under obligation to  
18       dispose of the body or part.

19      (i) Prohibition.--

20           (1) A person may not accept an anatomical gift if the  
21       person knows that:

22               (i) the gift was not effectively made under section  
23               8613 (relating to manner of making anatomical gift before  
24               donor's death) or 8618 (relating to manner of making,  
25               amending or revoking anatomical gift); or

26               (ii) the decedent made a refusal under section 8615  
27               (relating to refusal to make anatomical gift; effect of  
28               refusal) which was not revoked.

29           (2) For purposes of this subsection, if a person knows  
30       that an anatomical gift was made on a document of gift, the

1 person is deemed to know of any amendment or revocation of  
2 the gift or a refusal to make an anatomical gift on the same  
3 document of gift.

4 (j) Allocation of organs.--Except as otherwise provided in  
5 subsection (a)(2), nothing in this chapter affects the  
6 allocation of organs for transplantation or therapy.

7 § 8620. Search and notification.

8 (a) Persons required to search.--Upon the request of an  
9 organ procurement organization, the following persons shall make  
10 a reasonable search of an individual who the person reasonably  
11 believes is dead or near death for a document of gift or other  
12 information identifying the individual as a donor or as an  
13 individual who made a refusal:

14 (1) A law enforcement officer, firefighter, paramedic,  
15 emergency responder or other emergency rescuer who finds the  
16 individual or the coroner or medical examiner having  
17 jurisdiction over the body.

18 (2) If no other source of the information is immediately  
19 available, a hospital, as soon as practical after the  
20 individual's arrival at the hospital, using its normal  
21 procedures for locating next-of-kin or other responsible  
22 persons.

23 (b) Procedure.--If a document of gift or a refusal to make  
24 an anatomical gift is located by the search required by  
25 subsection (a), the person responsible for conducting the search  
26 shall make the document of gift or refusal immediately available  
27 to the organ procurement organization.

28 (c) Nature of duty.--A person is not subject to criminal or  
29 civil liability for failing to discharge the duties imposed by  
30 this section but may be subject to administrative sanctions.

1 § 8621. Delivery of document of gift not required; right to  
2 examine.

3 (a) Delivery.--A document of gift need not be delivered  
4 during the donor's lifetime to be effective.

5 (b) Examination.--Upon or after an individual's death, a  
6 person in possession of a document of gift or a refusal to make  
7 an anatomical gift with respect to the individual shall allow  
8 examination and copying of the document of gift or refusal by:

9 (1) a person authorized to make or object to the making  
10 of an anatomical gift with respect to the individual; or

11 (2) a person to whom the gift could pass under section  
12 8619 (relating to persons that may receive anatomical gift;  
13 purpose of anatomical gift).

14 § 8622. Rights and duties of procurement organization and  
15 others.

16 (a) Procedure.--

17 (1) A hospital located in this Commonwealth shall notify  
18 the applicable designated organ procurement organization or a  
19 third party designated by that organization of an individual  
20 whose death is imminent or who has died in the hospital.

21 Notification shall be made in a timely manner to ensure that  
22 examination, evaluation and ascertainment of donor status as  
23 set forth in subsection (d) can be completed within a time  
24 frame compatible with the donation of organs and tissues for  
25 transplant. The notification shall be made without regard to  
26 whether the person has executed an advance directive for  
27 health care.

28 (2) The following apply to coroners and medical  
29 examiners:

30 (i) Except as set forth in subparagraph (ii), upon

1 receiving notification of a person's death, a coroner or  
2 medical examiner shall notify the applicable designated  
3 organ procurement organization. Notification shall be  
4 made in a timely manner to ensure that examination,  
5 evaluation and ascertainment of donor status as set forth  
6 in subsection (d) can be completed within a time frame  
7 compatible with the recovery of organs and tissues for  
8 transplant.

9 (ii) Notification under this paragraph shall not be  
10 made if:

11 (A) the decedent was admitted to the hospital at  
12 or around the time of death; or

13 (B) the notification to the coroner or medical  
14 examiner occurred more than 18 hours following the  
15 estimated time of the decedent's death.

16 (b) Referrals.--If an organ procurement organization  
17 receives a referral of an individual who is dead or near death,  
18 the organ procurement organization shall make a reasonable  
19 search of the records of the Donate Life PA Registry or the  
20 applicable state donor registry that it knows exists for the  
21 geographic area in which the individual resided or resides in  
22 order to ascertain whether the individual has made an anatomical  
23 gift.

24 (c) Document of gift.--

25 (1) If the referred patient has a document of gift,  
26 including registration with the Donate Life PA Registry, the  
27 procurement organization representative or the designated  
28 requester shall attempt to notify a person listed in section  
29 8617 (relating to anatomical gift after donor's death) of the  
30 gift.

1       (2) If no document of gift is known to the procurement  
2 organization representative or the designated requester, one  
3 of these two individuals shall ask the persons listed in  
4 section 8617 whether the decedent had a validly executed  
5 document of gift. If there is no evidence of an anatomical  
6 gift or refusal by the decedent, the procurement organization  
7 representative or the designated requester shall notify a  
8 person listed in section 8617 of the option to donate organs  
9 or tissues.

10       (3) The person in charge of the hospital or that  
11 person's designated representative shall indicate in the  
12 medical record of the decedent:

13           (i) whether or not a document of gift is known to  
14 exist or whether a gift was made; and

15           (ii) the name of the person granting or refusing the  
16 gift and that person's relationship to the decedent.

17 (d) Testing.--

18       (1) This subsection applies if:

19           (i) a hospital refers an individual who is dead or  
20 whose death is imminent to an organ procurement  
21 organization; and

22           (ii) the organ procurement organization determines,  
23 based upon a medical record review, that the individual  
24 may be a prospective donor.

25       (2) If the requirements of paragraph (1) are met, the  
26 following apply:

27           (i) The organ procurement organization may conduct a  
28 blood or tissue test or minimally invasive examination,  
29 which is reasonably necessary to evaluate the medical  
30 suitability of a part that is or may be the subject of an

1 anatomical gift. Specific consent to testing or  
2 examination under this subparagraph is not required. The  
3 results of tests and examinations under this subparagraph  
4 shall be used or disclosed only:

5 (A) to evaluate medical suitability for donation  
6 and to facilitate the donation process; and

7 (B) as required or permitted by law.

8 (ii) The hospital may not withdraw or withhold any  
9 measures which are necessary to maintain the medical  
10 suitability of the part until the organ procurement  
11 organization has:

12 (A) had the opportunity to advise the applicable  
13 persons as set forth in section 8617 of the option to  
14 make an anatomical gift; or

15 (B) has ascertained that the individual  
16 expressed a contrary intent.

17 (e) Testing after death.--After a donor's death, a person to  
18 whom an anatomical gift may pass under section 8619 (relating to  
19 persons that may receive anatomical gift; purpose of anatomical  
20 gift) may conduct a test or examination which is reasonably  
21 necessary to evaluate the medical suitability of the body or  
22 part for its intended purpose.

23 (f) Scope.--An examination conducted under this section may  
24 include an examination of medical and dental records.

25 (g) Recipients.--

26 (1) Subject to the provisions of this chapter, the  
27 rights of the person to whom a part passes under section 8619  
28 are superior to the rights of all others with respect to the  
29 part. The person may accept or reject an anatomical gift in  
30 whole or in part.



1       (2) Subject to the terms of the document of gift and  
2 this chapter, a person that accepts an anatomical gift of an  
3 entire body may allow embalming, burial or cremation and use  
4 of remains in a funeral service. If the gift is of a part,  
5 the person to whom the part passes under section 8619, upon  
6 the death of the donor and before embalming, burial or  
7 cremation, shall cause the part to be removed without  
8 unnecessary mutilation.

9       (h) Physicians.--

10       (1) Neither the physician who attends the decedent at  
11 death nor the physician who determines the time of the  
12 decedent's death may participate in the procedures for  
13 removing or transplanting a part from the decedent.

14       (2) A physician or technician may remove a donated part  
15 from the body of a donor that the physician or technician is  
16 qualified to remove.

17       (i) Death record review.--

18       (1) The Department of Health shall make annual death  
19 record reviews at acute care general hospitals to determine  
20 their compliance with this chapter.

21       (2) To conduct a review of an acute care general  
22 hospital, the following apply:

23               (i) The department may select to carry out the  
24 review the Commonwealth-licensed organ procurement  
25 organization designated by the Health Care Financing  
26 Administration for the region within which the acute care  
27 general hospital is located. For an organ procurement  
28 organization to be selected under this subparagraph, the  
29 organization must not operate nor have an ownership  
30 interest in an entity which provides all of the functions

1 of a tissue procurement provider.

2 (ii) If there is no valid selection under  
3 subparagraph (i) or if the organization selected under  
4 subparagraph (i) is unwilling to carry out the review,  
5 the department shall select to carry out the review any  
6 other Commonwealth-licensed organ procurement  
7 organization. For an organ procurement organization to be  
8 selected under this subparagraph, the organization must  
9 not operate nor have an ownership interest in an entity  
10 which provides all of the functions of a tissue  
11 procurement provider.

12 (iii) If there is no valid selection under  
13 subparagraph (ii) or if the organization selected under  
14 subparagraph (ii) is unwilling to carry out the review,  
15 the department shall carry out the review using trained  
16 department personnel.

17 (3) There shall be no cost assessed against a hospital  
18 for a review under this subsection.

19 (4) If the department finds, on the basis of a review  
20 under this subsection, that a hospital is not in compliance  
21 with subsection (d), the department may impose an  
22 administrative fine of up to \$500 for each instance of  
23 noncompliance. A fine under this paragraph is subject to 2  
24 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of  
25 Commonwealth agencies) and Ch. 7 Subch. A (relating to  
26 judicial review of Commonwealth agency action). Fines  
27 collected under this paragraph shall be deposited into the  
28 fund.

29 § 8623. Coordination of procurement and use.

30 (a) Arrangements.--A hospital may enter into agreements or

affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

(b) Facilitation.--A person, including a coroner and a medical examiner, that seeks to facilitate the making of an anatomical gift for the purposes of transplantation or therapy from a decedent who was not a hospital patient at the time of death shall notify the applicable designated organ procurement organization at or around the time of the person's death in order to allow that organization to evaluate the potential donation and, if applicable, coordinate the donation process.

§ 8624. Sale or purchase of parts prohibited.

(a) Prohibition.--

(1) Except as set forth in subsection (b), a person may not, for valuable consideration, knowingly purchase or sell a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death.

(2) A person that violates paragraph (1) commits a felony of the third degree.

(b) Exception.--Nothing in this section is intended to prohibit a person from charging a reasonable amount for:

(1) evaluation, removal, processing, preservation, quality control, storage, allocation, transportation, implantation or disposal of a part; or

(2) training or education associated with activity under paragraph (1).

§ 8625. Other prohibited acts.

(a) Offense.--A person may not, in order to obtain a financial gain, intentionally falsify, forge, conceal, deface or obliterate a document of gift, an amendment or a revocation of a

1 document of gift or a refusal.

2 (b) Grading.--A person that violates subsection (a) commits  
3 a felony of the third degree.

4 § 8626. Immunity.

5 (a) General rule.--A person that acts in accordance with  
6 this chapter or with the applicable anatomical gift law of  
7 another state or attempts in good faith to do so is not liable  
8 for the act in a civil action, a criminal prosecution or an  
9 administrative proceeding.

10 (b) Donors.--Neither the person making an anatomical gift  
11 nor the donor's estate is liable for injury or damage which  
12 results from the making or use of the anatomical gift.

13 (c) Determination.--In determining whether an anatomical  
14 gift has been made, amended or revoked under this chapter, a  
15 person may rely upon representations of an individual listed in  
16 section 8617(a) (relating to anatomical gift after donor's  
17 death) relating to the individual's relationship to the donor or  
18 prospective donor unless the person knows that the  
19 representation is untrue.

20 § 8627. Law governing validity; choice of law as to execution  
21 of document of gift; presumption of validity.

22 (a) Validity.--A document of gift is valid if executed in  
23 accordance with:

24 (1) this chapter;

25 (2) the law of the state or country where it was  
26 executed; or

27 (3) the law of the state or country where, at the time  
28 of execution of the document of gift, the person making the  
29 anatomical gift:

30 (i) is domiciled;

1           (ii) has a place of residence; or

2           (iii) is a citizen.

3       (b) Choice of law.--If a document of gift is valid under  
4 this section, the law of this Commonwealth governs the  
5 interpretation of the document of gift.

6       (c) Presumption.--A person may presume that a document of  
7 gift or amendment of an anatomical gift is valid unless that  
8 person knows that it was not validly executed or was revoked.

9       § 8628. Effect of anatomical gift on advance health care  
10           directive.

11       (a) Scope.--This section applies if all of the following  
12 apply:

13           (1) A hospital patient who is a prospective donor has:

14               (i) executed an advance directive for health care;

15               or

16               (ii) otherwise specified by record the circumstances  
17 under which the patient would want life support to be  
18 withheld or withdrawn.

19           (2) The terms of the advance directive for health care  
20 or other record are in conflict with the option of making an  
21 anatomical gift by precluding the administration of measures  
22 necessary to ensure the medical suitability of a part for  
23 transplantation or therapy.

24       (b) Requirements.--In a situation described in subsection  
25 (a), all of the following apply:

26           (1) The patient shall consult with the patient's  
27 attending physician or the attending physician's designee  
28 about the donor option and all other relevant factors in end-  
29 of-life decision making and make a determination concerning  
30 the withholding or withdrawing of treatment pursuant to

1 existing law.

2 (2) If the patient is incapable of resolving the  
3 conflict, any of the following shall act for the patient to  
4 resolve the conflict:

5 (i) Subject to subparagraph (ii), an agent acting  
6 pursuant to the patient's advance directive for health  
7 care or other record.

8 (ii) If no agent has been designated by the patient  
9 or if the agent is not reasonably available, a person  
10 authorized by law other than this chapter to make  
11 decisions on behalf of the patient with regard to the  
12 patient's health care.

13 (c) Resolution.--The parties specified in subsection (b)  
14 shall seek to resolve the conflict as expeditiously as possible.  
15 Information relevant to the resolution of the conflict shall be  
16 obtained from the appropriate organ procurement organization and  
17 any other person authorized to make an anatomical gift for the  
18 patient under section 8617 (relating to anatomical gift after  
19 donor's death).

20 (d) Measures.--Measures necessary to ensure the medical  
21 suitability of the part shall not be withheld or withdrawn from  
22 the patient prior to resolution of the conflict if the  
23 withholding or withdrawing is not contraindicated by the  
24 requirements of providing appropriate end-of-life care.

25 § 8629. Facilitation of anatomical gift from decedent whose  
26 death is under investigation.

27 (a) Request by procurement organization.--Upon request of a  
28 procurement organization, a coroner or medical examiner shall  
29 release to the procurement organization the name, contact  
30 information and available medical and social history of a

decedent whose death is under investigation. If the decedent's body or part is medically suitable for transplantation, therapy, research or education, the coroner or medical examiner shall release postmortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the postmortem examination results or other information received from the coroner or medical examiner to support the purposes of the donation.

(b) Notice.--Notwithstanding any provision of this chapter or any other law to the contrary, if a coroner or medical examiner has notice, by an advance health care directive, will, card or other document or as otherwise provided in this chapter, that a deceased person whose death is under investigation is a donor, the coroner or medical examiner shall perform an examination, autopsy or analysis of tissues or organs only in a manner and within a time period compatible with the preservation of the tissues or organs for the purpose of transplantation.

(c) Removal.--If the examination, autopsy or analysis has not been undertaken under subsection (b), all of the following apply:

(1) A physician or technician authorized to remove an anatomical gift from a donor may remove the donated part from the body of a donor whose death is under investigation for acceptance by a person authorized to become a donee.

(2) The coroner or medical examiner shall be invited to be present during removal of the anatomical gift if, in the judgment of the coroner or medical examiner, those tissues or organs may be involved in the cause of death. While in attendance, if the coroner or medical examiner determines that the tissues or organs are involved in the cause of

1 death, the coroner or medical examiner may request a biopsy  
2 of those tissues or organs or deny removal of the anatomical  
3 gift. The coroner or medical examiner shall explain in  
4 writing the reasons for determining that those tissues or  
5 organs may be involved in the cause of death and the basis  
6 for denying removal of the anatomical gift and shall include  
7 the written explanation in the records maintained under  
8 subsection (d).

9 (d) Report.--The physician or technician recovering a part  
10 from a donor under this section shall file with the coroner or  
11 medical examiner a report detailing the condition of the part of  
12 the body that is the anatomical gift. If appropriate, the report  
13 shall include a biopsy or medically approved sample from the  
14 anatomical gift. The report shall become part of the report of  
15 the coroner or medical examiner. The designated organ  
16 procurement organization shall pay the reasonable costs for the  
17 professional services of the coroner or medical examiner  
18 associated with attending the recovery.

19 § 8630. Consent or authorization not necessary.

20 If a donor card, donor driver's license, donor registry or  
21 other record evidencing an anatomical gift has been made,  
22 consent or authorization of a person designated in section 8617  
23 (relating to anatomical gift after donor's death) at the time of  
24 the donor's death or immediately thereafter is not necessary to  
25 render the gift valid and effective.

## 26 SUBCHAPTER C

## 27 ADMINISTRATION

28 Sec.

29 8631. Use of driver's license or identification card to  
30 indicate organ and tissue donation.



1 8632. Jurisdiction and standing.

2 8633. Fund contributions.

3 8634. Fund.

4 8635. Promotion of organ and tissue donation; Donate Life PA

5 Registry established.

6 8636. Collaboration between departments and organ procurement

7 organizations.

8 8637. Information relative to organ and tissue donation.

9 8638. Requirements for physician training relative to organ and

10 tissue donation and recovery.

11 8639. Requirements for professional nurse training relative to

12 organ and tissue donation and recovery.

13 8640. Prohibition on disclosure of identity of donor or

14 recipient.

15 8641. Prohibited activities.

16 8642. Uniformity of application and construction.

17 8643. Relation to Electronic Signatures in Global and National

18 Commerce Act.

19 § 8631. Use of driver's license or identification card to

20 indicate organ and tissue donation.

21 (a) Processing of requests.--

22 (1) The Department of Transportation shall process  
23 requests for information regarding consent of the individual  
24 to organ or tissue donation.

25 (2) The following question shall be asked on the request  
26 form:

27 Do you wish to have the organ donor designation  
28 printed on your driver's license?

29 (3) Only an affirmative response of an individual shall  
30 be noted on the front of the driver's license or

identification card and shall clearly indicate the individual's intent to donate his organs and tissue.

(4) An "organ donor" notation on an individual's driver's license or identification card shall be included in the Donate Life PA Registry and shall be deemed sufficient to satisfy all requirements for consent to organ and tissue donation.

(b) Recording.--The department shall electronically record and store all "organ donor" designations and identification information. The designation and identification information shall be referred to as the Donate Life PA Registry.

(c) Access.--Notwithstanding 75 Pa.C.S. § 6114 (relating to limitation on sale, publication and disclosure of records), if the department and an organ procurement organization enter into an access agreement, the organ procurement organization shall be given 24-hour-a-day electronic access to information necessary to confirm an individual's organ donor status through the department's driver licensing and personal identification card database. Necessary information shall include the individual's name, address, date of birth, driver's license number and organ donor status. The organ procurement organization shall not be assessed the fee for the information prescribed by 75 Pa.C.S. § 1955(a) (relating to information concerning drivers and vehicles).

§ 8632. Jurisdiction and standing.

(a) Jurisdiction.--The court of common pleas of the county in which the death of the donor occurs has jurisdiction to hear and resolve disputes concerning the interpretation and application of this chapter and the authority to enter an order or injunction necessary to effect the purposes or provisions of

1 this chapter.

2 (b) Standing.--An organ procurement organization shall have  
3 standing and shall be deemed an indispensable party to seek an  
4 order or interpretation or to effect a remedy available under  
5 this chapter for itself or a potential organ or tissue  
6 recipient.

7 § 8633. Fund contributions.

8 (a) Vehicle licensing and registration.--

9 (1) This subsection applies to an applicant for any of  
10 the following:

11 (i) An original or renewal driver's license.

12 (ii) An identification card.

13 (iii) An original or a renewal vehicle registration.

14 (2) The Department of Transportation shall provide an  
15 applicant under paragraph (1) the opportunity to make a  
16 contribution to the fund. The contribution must be in whole  
17 dollars. The contribution shall be added to the regular fee  
18 for an original or a renewal driver's license, identification  
19 card or vehicle registration. One contribution may be made  
20 for each issuance or renewal.

21 (b) Use.--Contributions shall be used exclusively for the  
22 purposes set forth in section 8634 (relating to fund).

23 (c) Administration.--

24 (1) Each month, the department shall determine the total  
25 amount designated under this subsection and shall report that  
26 amount to the State Treasurer.

27 (2) The State Treasurer shall transfer that amount to  
28 the fund.

29 (d) Reimbursement.--

30 (1) The State Treasurer shall reimburse the department

1 from the General Fund for the actual annual operating costs  
2 of the program for vehicle registrations in an amount equal  
3 to the lesser of the following subparagraphs:

4 (i) Actual operating costs of the program.

5 (ii) The sum of:

6 (A) the prior year's actual operating costs on a  
7 full fiscal year basis; and

8 (B) three percent of the amount under clause

9 (A).

10 (2) The amount approved by the Governor as necessary to  
11 carry out paragraph (1) is appropriated from the General Fund  
12 for this purpose.

13 (e) Internet website.--Within one year of the effective date  
14 of this section, the official Internet website of the department  
15 shall provide links through which individuals may make voluntary  
16 contributions of at least \$1 to the fund, electronically and by  
17 paper. The links shall be provided at least in connection with  
18 the issuance of driver's licenses, personal identification cards  
19 and registration of motor vehicles.

20 § 8634. Fund.

21 (a) Establishment.--The Governor Robert P. Casey Memorial  
22 Organ and Tissue Donation Awareness Trust Fund is established as  
23 a separate fund in the State Treasury.

24 (b) Source.--The following are the sources of the fund:

25 (1) Contributions received by the Department of  
26 Transportation under section 8633 (relating to fund  
27 contributions).

28 (2) Contributions received by the Department of Revenue  
29 under section 315.4 of the act of March 4, 1971 (P.L.6,  
30 No.2), known as the Tax Reform Code of 1971.

1       (3) Return on the money in the fund.

2       (4) Appropriations.

3       (c) Use.--The fund shall be used for actual cost of  
4 administration, subject to approval of the Governor. The  
5 remaining money may be used for the following purposes:

6       (1) Ten percent of the money in the fund may be expended  
7 annually by the Department of Health for reasonable hospital  
8 and other medical expenses, funeral expenses and incidental  
9 expenses incurred by the donor or the donor's family in  
10 connection with making an organ or tissue donation, along  
11 with programming, to provide support services to organ and  
12 tissue donors and their families, such as bereavement  
13 counseling services. An expenditure may, under this  
14 paragraph, not exceed \$3,000 per donor and shall only be made  
15 directly to the funeral home, hospital or other service  
16 provider related to the donation. The advisory committee  
17 shall develop procedures, including the development of a  
18 pilot program, necessary for effectuating the purposes of  
19 this paragraph.

20       (2) Fifty percent of the money in the fund may be  
21 expended for grants to certified organ procurement  
22 organizations for the development and implementation of organ  
23 donation awareness programs in this Commonwealth. The  
24 Department of Health shall develop and administer this grant  
25 program.

26       (3) Fifteen percent may be expended by the Department of  
27 Health, in cooperation with designated organ procurement  
28 organizations, for the Project-Make-A-Choice program. This  
29 program includes information pamphlets designed by the  
30 Department of Health relating to organ and tissue donor

1 awareness and the laws regarding organ and tissue donation,  
2 public information and public education about contributing to  
3 the fund when obtaining or renewing a driver's license,  
4 vehicle registration or personal identification card and when  
5 completing a State individual income tax return form.

6 (4) Twenty-five percent may be expended by the  
7 Department of Education in conjunction with the designated  
8 organ procurement organizations for the implementation of  
9 organ and tissue donation awareness programs in the secondary  
10 schools in this Commonwealth.

11 (d) Nonlapse.--The money in the fund is continuously  
12 appropriated into the fund. This appropriation shall not lapse  
13 at the end of any fiscal year.

14 (e) Advisory committee.--

15 (1) The Organ and Tissue Donation Advisory Committee is  
16 established, with membership as follows:

17 (i) The Secretary of Education or a designee.

18 (ii) The Secretary of Health or a designee.

19 (iii) The Secretary of Transportation or a designee.

20 (iv) One representative from each designated organ  
21 procurement organization.

22 (v) Two representatives of tissue procurement  
23 providers.

24 (vi) Six members representative of:

25 (A) organ, tissue and eye recipients;

26 (B) families of recipients;

27 (C) donors; and

28 (D) families of donors.

29 (vii) Two representatives of acute care hospitals  
30 which are:

1                   (A) licensed in this Commonwealth; and  
2                   (B) Member of the Statewide association  
3                   representing the interests of hospitals throughout  
4                   this Commonwealth.  
5                   (viii) One representative of eye banks.  
6                   (ix) One representative of community health  
7                   organizations.  
8                   (2) A member under paragraph (1)(i), (ii) and (iii)  
9                   shall serve ex officio.  
10                   (3) For a member under paragraph (1)(iv), (v), (vi),  
11                   (vii), (viii) and (ix), the following apply:  
12                   (i) Members shall be appointed in a manner which  
13                   reflects geographic diversity. Input on the selection of  
14                   the representatives under paragraph (1)(vii) shall be  
15                   sought from the Statewide association referred to in  
16                   paragraph (i)(vii)(B).  
17                   (ii) The member shall serve a five-year term.  
18                   (iii) The Governor may reappoint an advisory  
19                   committee member for successive terms.  
20                   (iv) A member shall remain in office until a  
21                   successor is appointed and qualified.  
22                   (v) If a vacancy occurs prior to completion of a  
23                   term, the Governor shall appoint a member to fill the  
24                   unexpired term in the same manner as the vacating member  
25                   was appointed.  
26                   (4) The advisory committee shall meet at least  
27                   biannually to do all of the following:  
28                   (i) Review progress in the area of organ and tissue  
29                   donation in this Commonwealth.  
30                   (ii) Recommend education and awareness training

1 programs.

2 (iii) Recommend priorities in expenditures from the  
3 fund.

4 (iv) Advise the Secretary of Health on matters  
5 relating to administration of the fund.

6 (v) Recommend legislation as necessary to fulfill  
7 the purposes of this chapter.

8 (5) The advisory committee shall submit a report  
9 concerning its activities and progress to the Secretary of  
10 the Senate and the Chief Clerk of the House of  
11 Representatives by October 31 of each even-numbered year.

12 (6) The Department of Health shall reimburse members of  
13 the advisory committee for necessary and reasonable travel  
14 and other expenses incurred in the performance of their  
15 duties under this subsection.

16 (f) Lead Commonwealth agency.--

17 (1) The Department of Health shall be the lead  
18 Commonwealth agency responsible for promoting organ and  
19 tissue donation in the Commonwealth and shall coordinate  
20 activities among other collaborating Commonwealth agencies.

21 (2) Within the Department of Health there is established  
22 a full-time position of Organ and Tissue Donation Awareness  
23 Program Coordinator.

24 (i) The program coordinator shall be financially  
25 supported by the fund.

26 (ii) The program coordinator has the following  
27 powers and duties:

28 (A) Assist in administration of the fund.

29 (B) Serve as a full-time liaison to the advisory  
30 committee and assist the advisory committee in



1 program development, projects, funding proposals and  
2 priorities.

3 (C) Serve as liaison with other Commonwealth  
4 agencies. This clause includes working with the  
5 Department of Transportation to ensure that drivers'  
6 license centers promote organ and tissue donation and  
7 comply with agreed-upon arrangements to display  
8 information and materials.

9 (D) Assist designated organ procurement  
10 organizations in their collaborations with other  
11 Commonwealth agencies.

12 (g) Commonwealth agency report.--The Department of Health,  
13 the Department of Education and the Department of Transportation  
14 shall submit an annual report to the Secretary of the Senate and  
15 the Chief Clerk of the House of Representatives on expenditures  
16 of fund money and progress made in providing programming,  
17 education and in increasing the number of donor designations.  
18 § 8635. Promotion of organ and tissue donation; Donate Life PA  
19 Registry established.

20 (a) Promotion.--The Department of Transportation shall  
21 ensure access by residents of this Commonwealth to an Internet-  
22 based interface which promotes organ and tissue donation and  
23 enables residents 18 years of age or older to register as donors  
24 and have their decisions immediately integrated into the current  
25 database maintained by the department. The database shall  
26 include only affirmative donation decisions.

27 (b) Donate Life PA Registry.--

28 (1) Within one year of the effective date of this  
29 section, the department shall establish a system which allows  
30 individuals who have been issued a driver's license or

identification card to add their donor designation to the  
Donate Life PA Registry by submitting a form to the  
department.

(2) Registration shall be provided at no cost to the  
registrant.

(c) Name.--The database and Internet-based interface  
established in this section shall be known as the Donate Life PA  
Registry.

(d) Form and content.--The form and content of the Internet-  
based interface shall be maintained in collaboration with the  
designated organ procurement organizations.

(e) Effect.--

(1) Donor information entered into the Donate Life PA  
Registry shall supersede prior conflicting information:

(i) provided to the Donate Life PA Registry;

(ii) on the individual's driver's license or  
identification card;

(iii) on an advance health care directive;

(iv) submitted under section 8613 (relating to  
manner of making anatomical gift before donor's death) or  
8615 (relating to refusal to make anatomical gift; effect  
of refusal); or

(v) submitted under any other statutory provision.

(2) Registration by a donor shall constitute sufficient  
authorization to donate organs and tissues for  
transplantation and therapy. Authorization of another person  
shall not be necessary to effectuate the anatomical gift.

(f) Technology.--An information technology system adopted by  
the Department of Transportation after the effective date of  
this section shall continue to accommodate the inclusion of

donor designation information into the database and the ongoing  
operation of the Donate Life PA Registry.  
§ 8636. Collaboration between departments and organ procurement  
organizations.

(a) Mandatory.--

(1) For purposes of the ongoing development and  
implementation of the Donate Life PA Registry, the Department  
of Transportation shall collaborate with the designated organ  
procurement organizations in applying for Federal or private  
grants recommended by the organ procurement organizations.

(2) The Department of Transportation, in consultation  
with designated organ procurement organizations, shall  
establish an annual education program for employees of the  
Department of Transportation. The program shall focus on:

(i) benefits associated with organ and tissue  
donations;

(ii) scope and operation of the Commonwealth's donor  
program; and

(iii) how the employees can:

(A) effectively inform the public about the  
donor program; and

(B) best assist those wishing to participate in  
the donor program, including use of the Donate Life  
PA Registry.

(b) Discretionary.--Commonwealth agencies may collaborate  
with the designated organ procurement organizations in applying  
for Federal or private grants recommended by the organ  
procurement organizations.

§ 8637. Information relative to organ and tissue donation.

(a) Curriculum.--The Department of Education, in

consultation with the designated organ procurement organizations, shall review the State curriculum framework to ensure that information about organ donation is included in the standards for students in grades 9 through 12 beginning with the 2011-2012 school year.

(b) Goals.--The goals of the standards are to:

(1) Emphasize the benefits of organ and tissue donation to the health and well-being of society generally and to individuals whose lives are saved by organ and tissue donations so that students will be motivated to make an affirmative decision to register as a donor when they become adults.

(2) Fully address myths and misunderstandings regarding organ and tissue donation.

(3) Explain the options available to minors and adults, including the option of designating oneself as an organ and tissue donor.

(c) Materials.--The Department of Education shall make related instructional materials available to nonpublic schools educating students in grades 9 through 12. The General Assembly encourages nonpublic schools to use the instructional materials. Nothing in this subsection shall be construed to require nonpublic schools to use the instructional materials.

(d) Institutions of higher education.--

(1) Beginning with the 2011-2012 school year, each public institution of higher education in this Commonwealth shall provide, in collaboration with the designated organ procurement organizations, information to its students, either through student health services or as part of the curriculum, which:

1           (i) emphasizes the benefits to the health and well-  
2           being of society and the lives that are saved through  
3           organ and tissue donations; and

4           (ii) instills knowledge which will enable  
5           individuals to make informed decisions about registering  
6           to become an organ and tissue donor.

7           (2) Beginning with the 2011-2012 school year, each  
8           private institution of higher education in this Commonwealth  
9           is encouraged to provide, in collaboration with the  
10           designated organ procurement organizations, information to  
11           its students, either through student health services or as  
12           part of the curriculum, which:

13           (i) emphasizes the benefits to the health and well-  
14           being of society and the lives that are saved through  
15           organ and tissue donations; and

16           (ii) instills knowledge which will enable  
17           individuals to make informed decisions about registering  
18           to become an organ and tissue donor.

19   § 8638. Requirements for physician training relative to organ  
20           and tissue donation and recovery.

21   (a) Regulations.--The State Board of Medicine and the State  
22   Board of Osteopathic Medicine shall, in collaboration with the  
23   designated organ procurement organizations, promulgate  
24   regulations stating the following requirements for physician  
25   training:

26           (1) The curriculum in each college of medicine in this  
27           Commonwealth shall include two hours of instruction in organ  
28           and tissue donation and recovery designed to address clinical  
29           aspects of the donation and recovery process.

30           (2) Successful completion of organ and tissue donation

1 and recovery instruction under paragraph (1) shall be  
2 required as a condition of receiving a diploma from a college  
3 of medicine in this Commonwealth.

4 (3) A college of medicine which includes instruction in  
5 organ and tissue donation and recovery under paragraph (1) in  
6 its curricula shall offer this training for continuing  
7 education credit.

8 (b) Statement of policy.--The State Board of Medicine and  
9 the State Board of Osteopathic Medicine shall issue a statement  
10 of policy encouraging physicians who, prior to the effective  
11 date of this section, were not required to receive and did not  
12 receive instruction in organ and tissue donation and recovery as  
13 part of a medical school curriculum to complete the training  
14 within three years after the effective date of this section. The  
15 training may be completed through an online, credit-based course  
16 developed by or for the designated organ procurement  
17 organizations, in collaboration with representative professional  
18 medical organizations in this Commonwealth.

19 § 8639. Requirements for professional nurse training relative  
20 to organ and tissue donation and recovery.

21 The State Board of Nursing, in collaboration with the  
22 designated organ procurement organizations, shall promulgate  
23 regulations stating the following requirements for professional  
24 nurse training:

25 (1) The curriculum in each educational program of  
26 professional nursing in this Commonwealth shall include two  
27 hours of instruction in organ and tissue donation and  
28 recovery designed to address clinical aspects of the donation  
29 and recovery process.

30 (2) Completion of organ and tissue donation and recovery

1 instruction under paragraph (1) shall be required as a  
2 condition of receiving a degree or diploma, as applicable, in  
3 professional nursing from a nursing program in this  
4 Commonwealth.

5 (3) A nursing program which includes instruction in  
6 organ and tissue donation and recovery under paragraph (1) in  
7 its curricula shall offer that training for continuing  
8 education credit.

9 (4) The State Board of Nursing shall issue a statement  
10 of policy encouraging nurses who, prior to the effective date  
11 of this section, were not required to receive and did not  
12 receive instruction in organ and tissue donation and recovery  
13 as part of a nursing school curriculum to complete the  
14 training within three years after the effective date of this  
15 section. The training may be completed through an online,  
16 credit-based course developed by or for the designated organ  
17 procurement organizations, in collaboration with the  
18 representative professional nursing association.

19 § 8640. Prohibition on disclosure of identity of donor or  
20 recipient.

21 The identity of a donor or a recipient may not be  
22 communicated unless expressly authorized by:

- 23 (1) the recipient;  
24 (2) if the donor is alive, the donor; and  
25 (3) if the donor is deceased, the next-of-kin of the  
26 donor.

27 § 8641. Prohibited activities.

28 (a) Procurement organizations.--

- 29 (1) A procurement organization may not do any of the  
30 following:

1           (i) Disparage the services or business of another  
2           procurement organization by false or misleading  
3           representations of fact.

4           (ii) Engage in fraudulent conduct to influence the  
5           selection by a hospital of a tissue bank or eye bank.

6           (iii) Engage in unlawful competition or  
7           discrimination.

8           (2) This subsection is not intended to restrict or  
9           preclude an organ procurement organization from marketing or  
10           promoting its services in the normal course of business.

11          (b) Funeral establishments.--

12           (1) Except as set forth in paragraph (2), a funeral  
13           director or a funeral establishment may not:

14                   (i) remove body parts from a corpse;

15                   (ii) permit others to remove body parts from a  
16                   corpse; or

17                   (iii) use funeral establishment facilities to remove  
18                   body parts from a corpse.

19           (2) Paragraph (1) does not apply in the following  
20           circumstances:

21                   (i) Removal is permissible if it is:

22                           (A) necessary to perform embalming or other  
23                           services in preparation for burial or cremation; and

24                           (B) authorized in writing by a family member,  
25                           guardian or other person responsible for disposition  
26                           of the body.

27                   (ii) Notwithstanding any other provision of law, if  
28                   a donation is authorized under this chapter, a designated  
29                   organ procurement organization and a Pennsylvania  
30                   nonprofit eye bank accredited by the Eye Bank Association



1 of America may recover donated ocular tissue, including  
2 the whole eye, cornea and sclera, and associated blood  
3 specimens at a funeral establishment.

4 (3) If a funeral director is notified by a person  
5 authorized to make donations under this chapter that the  
6 person wishes to donate body parts from a corpse within the  
7 funeral director's custody, the funeral director shall  
8 immediately notify the organ procurement organization  
9 designated to serve that region.

10 § 8642. Uniformity of application and construction.

11 In applying and construing the provisions of this chapter,  
12 consideration shall be given to the need to promote uniformity  
13 of the law with respect to its subject matter among those states  
14 which enact a uniform act.

15 § 8643. Relation to Electronic Signatures in Global and  
16 National Commerce Act.

17 This chapter modifies, limits and supersedes the Electronic  
18 Signatures in Global and National Commerce Act (Public Law  
19 106-229, 15 U.S.C. § 7001 et seq.) but does not modify, limit or  
20 supersede section 101(c) of the Electronic Signatures in Global  
21 and National Commerce Act or authorize electronic delivery of  
22 any of the notices described in section 103(b) of the Electronic  
23 Signatures in Global and National Commerce Act.

24 Section 4. The addition of 20 Pa.C.S. Ch. 86 is a  
25 continuation of former Ch. 86 of Title 20. Except as otherwise  
26 provided in 20 Pa.C.S. Ch. 86, all activities initiated under  
27 former Ch. 86 of Title 20 shall continue and remain in full  
28 force and effect and may be completed under 20 Pa.C.S. Ch. 86.  
29 Orders, regulations, rules and decisions which were made under  
30 former Ch. 86 of Title 20 and which are in effect on the

1 effective date of section 1 {repeal of former Ch. 86} shall  
2 remain in full force and effect until revoked, vacated or  
3 modified under 20 Pa.C.S. Ch. 86.

4 Section 5. This act shall take effect in 60 days.