

## AMENDMENTS TO SENATE BILL NO. 180

Sponsor: REPRESENTATIVE PETRARCA

Printer's No. 1532

1 Amend Bill, page 1, lines 26 through 30; page 2, lines 1  
2 through 23; by striking out all of said lines on said pages and  
3 inserting

4 Amending Title 20 (Decedents, Estates and Fiduciaries) of the  
5 Pennsylvania Consolidated Statutes, in health care, further  
6 providing for example; in anatomical gifts, further providing  
7 for definitions, for persons who may execute anatomical gift,  
8 for persons who may become donees and purposes for which  
9 anatomical gifts may be made, for manner of executing  
10 anatomical gifts, for amendment or revocation of gift, for  
11 rights and duties at death, for requests for anatomical  
12 gifts, for use of driver's license or identification card to  
13 indicate organ or tissue donation, for The Governor Robert P.  
14 Casey Memorial Organ and Tissue Donation Awareness Trust Fund  
15 contributions, for The Governor Robert P. Casey Memorial  
16 Organ and Tissue Donation Awareness Trust Fund, for  
17 confidentiality requirement and for prohibited activities,  
18 providing for promotion of organ and tissue donation,  
19 establishing the Donate Life PA Registry and providing for  
20 facilitation of anatomical gift from decedent whose death is  
21 under investigation, for collaboration among departments and  
22 organ procurement organizations, for information relative to  
23 organ and tissue donation, for requirements for physician and  
24 nurse training relative to organ and tissue donation and  
25 recovery, for Department of Transportation, for Department of  
26 Corrections, for uniformity of application and construction  
27 and for relation to Electronic Signatures in Global and  
28 National Commerce Act; and repealing provisions relating to  
29 corneal transplants.

30 Amend Bill, page 50, lines 20 through 30; pages 51 through  
31 138, lines 1 through 30; by striking out all of said lines on  
32 said pages and inserting

33 Section 1. Section 5471 of Title 20 of the Pennsylvania  
34 Consolidated Statutes is amended to read:

1 § 5471. Example.

2 The following is an example of a document that combines a  
3 living will and health care power of attorney:

4 DURABLE HEALTH CARE POWER OF ATTORNEY  
5 AND HEALTH CARE TREATMENT INSTRUCTIONS  
6 (LIVING WILL)

7 PART I

8 INTRODUCTORY REMARKS ON  
9 HEALTH CARE DECISION MAKING

10 You have the right to decide the type of health care you  
11 want.

12 Should you become unable to understand, make or  
13 communicate decisions about medical care, your wishes for  
14 medical treatment are most likely to be followed if you  
15 express those wishes in advance by:

16 (1) naming a health care agent to decide treatment  
17 for you; and

18 (2) giving health care treatment instructions to  
19 your health care agent or health care provider.

20 An advance health care directive is a written set of  
21 instructions expressing your wishes for medical treatment. It  
22 may contain a health care power of attorney, where you name a  
23 person called a "health care agent" to decide treatment for  
24 you, and a living will, where you tell your health care agent  
25 and health care providers your choices regarding the  
26 initiation, continuation, withholding or withdrawal of life-  
27 sustaining treatment and other specific directions.

28 You may limit your health care agent's involvement in  
29 deciding your medical treatment so that your health care  
30 agent will speak for you only when you are unable to speak  
31 for yourself or you may give your health care agent the power  
32 to speak for you immediately. This combined form gives your  
33 health care agent the power to speak for you only when you  
34 are unable to speak for yourself. A living will cannot be  
35 followed unless your attending physician determines that you  
36 lack the ability to understand, make or communicate health  
37 care decisions for yourself and you are either permanently  
38 unconscious or you have an end-stage medical condition, which  
39 is a condition that will result in death despite the  
40 introduction or continuation of medical treatment. You, and  
41 not your health care agent, remain responsible for the cost  
42 of your medical care.

43 If you do not write down your wishes about your health  
44 care in advance, and if later you become unable to  
45 understand, make or communicate these decisions, those wishes  
46 may not be honored because they may remain unknown to others.

47 A health care provider who refuses to honor your wishes  
48 about health care must tell you of its refusal and help to  
49 transfer you to a health care provider who will honor your  
50 wishes.

51 You should give a copy of your advance health care

1 directive (a living will, health care power of attorney or a  
2 document containing both) to your health care agent, your  
3 physicians, family members and others whom you expect would  
4 likely attend to your needs if you become unable to  
5 understand, make or communicate decisions about medical care.  
6 If your health care wishes change, tell your physician and  
7 write a new advance health care directive to replace your old  
8 one. It is important in selecting a health care agent that  
9 you choose a person you trust who is likely to be available  
10 in a medical situation where you cannot make decisions for  
11 yourself. You should inform that person that you have  
12 appointed him or her as your health care agent and discuss  
13 your beliefs and values with him or her so that your health  
14 care agent will understand your health care objectives.

15 You may wish to consult with knowledgeable, trusted  
16 individuals such as family members, your physician or clergy  
17 when considering an expression of your values and health care  
18 wishes. You are free to create your own advance health care  
19 directive to convey your wishes regarding medical treatment.  
20 The following form is an example of an advance health care  
21 directive that combines a health care power of attorney with  
22 a living will.

#### 23 NOTES ABOUT THE USE OF THIS FORM

24 If you decide to use this form or create your own advance  
25 health care directive, you should consult with your physician  
26 and your attorney to make sure that your wishes are clearly  
27 expressed and comply with the law.

28 If you decide to use this form but disagree with any of  
29 its statements, you may cross out those statements.

30 You may add comments to this form or use your own form to  
31 help your physician or health care agent decide your medical  
32 care.

33 This form is designed to give your health care agent  
34 broad powers to make health care decisions for you whenever  
35 you cannot make them for yourself. It is also designed to  
36 express a desire to limit or authorize care if you have an  
37 end-stage medical condition or are permanently unconscious.  
38 If you do not desire to give your health care agent broad  
39 powers, or you do not wish to limit your care if you have an  
40 end-stage medical condition or are permanently unconscious,  
41 you may wish to use a different form or create your own. YOU  
42 SHOULD ALSO USE A DIFFERENT FORM IF YOU WISH TO EXPRESS YOUR  
43 PREFERENCES IN MORE DETAIL THAN THIS FORM ALLOWS OR IF YOU  
44 WISH FOR YOUR HEALTH CARE AGENT TO BE ABLE TO SPEAK FOR YOU  
45 IMMEDIATELY. In these situations, it is particularly  
46 important that you consult with your attorney and physician  
47 to make sure that your wishes are clearly expressed.

48 This form allows you to tell your health care agent your  
49 goals if you have an end-stage medical condition or other  
50 extreme and irreversible medical condition, such as advanced  
51 Alzheimer's disease. Do you want medical care applied

1 aggressively in these situations or would you consider such  
2 aggressive medical care burdensome and undesirable?

3 You may choose whether you want your health care agent to  
4 be bound by your instructions or whether you want your health  
5 care agent to be able to decide at the time what course of  
6 treatment the health care agent thinks most fully reflects  
7 your wishes and values.

8 If you are a woman and diagnosed as being pregnant at the  
9 time a health care decision would otherwise be made pursuant  
10 to this form, the laws of this Commonwealth prohibit  
11 implementation of that decision if it directs that life-  
12 sustaining treatment, including nutrition and hydration, be  
13 withheld or withdrawn from you, unless your attending  
14 physician and an obstetrician who have examined you certify  
15 in your medical record that the life-sustaining treatment:

16 (1) will not maintain you in such a way as to permit the  
17 continuing development and live birth of the unborn child;

18 (2) will be physically harmful to you; or

19 (3) will cause pain to you that cannot be alleviated by  
20 medication.

21 A physician is not required to perform a pregnancy test on  
22 you unless the physician has reason to believe that you may  
23 be pregnant.

24 Pennsylvania law protects your health care agent and  
25 health care providers from any legal liability for following  
26 in good faith your wishes as expressed in the form or by your  
27 health care agent's direction. It does not otherwise change  
28 professional standards or excuse negligence in the way your  
29 wishes are carried out. If you have any questions about the  
30 law, consult an attorney for guidance.

31 This form and explanation is not intended to take the  
32 place of specific legal or medical advice for which you  
33 should rely upon your own attorney and physician.

#### 34 PART II

#### 35 DURABLE HEALTH CARE POWER OF ATTORNEY

36 I, ....., of .....  
37 County, Pennsylvania, appoint the person named below to be my  
38 health care agent to make health and personal care decisions  
39 for me.

40 Effective immediately and continuously until my death or  
41 revocation by a writing signed by me or someone authorized to  
42 make health care treatment decisions for me, I authorize all  
43 health care providers or other covered entities to disclose  
44 to my health care agent, upon my agent's request, any  
45 information, oral or written, regarding my physical or mental  
46 health, including, but not limited to, medical and hospital  
47 records and what is otherwise private, privileged, protected  
48 or personal health information, such as health information as  
49 defined and described in the Health Insurance Portability and  
50 Accountability Act of 1996 (Public Law 104-191, 110 Stat.  
51 1936), the regulations promulgated thereunder and any other

1 State or local laws and rules. Information disclosed by a  
2 health care provider or other covered entity may be  
3 redisclosed and may no longer be subject to the privacy rules  
4 provided by 45 C.F.R. Pt. 164.

5 The remainder of this document will take effect when and  
6 only when I lack the ability to understand, make or  
7 communicate a choice regarding a health or personal care  
8 decision as verified by my attending physician. My health  
9 care agent may not delegate the authority to make decisions.

10 MY HEALTH CARE AGENT HAS ALL OF THE FOLLOWING POWERS  
11 SUBJECT TO THE HEALTH CARE TREATMENT INSTRUCTIONS THAT FOLLOW  
12 IN PART III (CROSS OUT ANY POWERS YOU DO NOT WANT TO GIVE  
13 YOUR HEALTH CARE AGENT):

14 1. To authorize, withhold or withdraw medical care and  
15 surgical procedures.

16 2. To authorize, withhold or withdraw nutrition (food)  
17 or hydration (water) medically supplied by tube through my  
18 nose, stomach, intestines, arteries or veins.

19 3. To authorize my admission to or discharge from a  
20 medical, nursing, residential or similar facility and to make  
21 agreements for my care and health insurance for my care,  
22 including hospice and/or palliative care.

23 4. To hire and fire medical, social service and other  
24 support personnel responsible for my care.

25 5. To take any legal action necessary to do what I have  
26 directed.

27 6. To request that a physician responsible for my care  
28 issue a do-not-resuscitate (DNR) order, including an out-of-  
29 hospital DNR order, and sign any required documents and  
30 consents.

31 APPOINTMENT OF HEALTH CARE AGENT

32 I appoint the following health care agent:

33 Health Care Agent:.....  
34 (Name and relationship)

35 Address:.....

36 .....

37 Telephone Number: Home..... Work.....

38 E-mail:.....

39 IF YOU DO NOT NAME A HEALTH CARE AGENT, HEALTH CARE PROVIDERS  
40 WILL ASK YOUR FAMILY OR AN ADULT WHO KNOWS YOUR PREFERENCES  
41 AND VALUES FOR HELP IN DETERMINING YOUR WISHES FOR TREATMENT.  
42 NOTE THAT YOU MAY NOT APPOINT YOUR DOCTOR OR OTHER HEALTH  
43 CARE PROVIDER AS YOUR HEALTH CARE AGENT UNLESS RELATED TO YOU  
44 BY BLOOD, MARRIAGE OR ADOPTION.

45 If my health care agent is not readily available or if my  
46 health care agent is my spouse and an action for divorce  
47 is filed by either of us after the date of this document,  
48 I appoint the person or persons named below in the order  
49 named. (It is helpful, but not required, to name  
50 alternative health care agents.)

51 First Alternative Health Care Agent:.....

1 (Name and relationship)  
2 Address:.....  
3 .....  
4 Telephone Number: Home..... Work.....  
5 E-mail:.....  
6 Second Alternative Health Care Agent:.....  
7 (Name and relationship)  
8 Address:.....  
9 .....  
10 Telephone Number: Home..... Work.....  
11 E-mail:.....  
12 GUIDANCE FOR HEALTH CARE AGENT (OPTIONAL) GOALS  
13 If I have an end-stage medical condition or other extreme  
14 irreversible medical condition, my goals in making medical  
15 decisions are as follows (insert your personal priorities  
16 such as comfort, care, preservation of mental function,  
17 etc.):.....  
18 .....  
19 .....  
20 .....  
21 SEVERE BRAIN DAMAGE OR BRAIN DISEASE  
22 If I should suffer from severe and irreversible brain  
23 damage or brain disease with no realistic hope of significant  
24 recovery, I would consider such a condition intolerable and  
25 the application of aggressive medical care to be burdensome.  
26 I therefore request that my health care agent respond to any  
27 intervening (other and separate) life-threatening conditions  
28 in the same manner as directed for an end-stage medical  
29 condition or state of permanent unconsciousness as I have  
30 indicated below.  
31 Initials.....I agree  
32 Initials.....I disagree  
33 PART III  
34 HEALTH CARE TREATMENT INSTRUCTIONS IN THE EVENT  
35 OF END-STAGE MEDICAL CONDITION  
36 OR PERMANENT UNCONSCIOUSNESS  
37 (LIVING WILL)  
38 The following health care treatment instructions exercise  
39 my right to make my own health care decisions. These  
40 instructions are intended to provide clear and convincing  
41 evidence of my wishes to be followed when I lack the capacity  
42 to understand, make or communicate my treatment decisions:  
43 IF I HAVE AN END-STAGE MEDICAL CONDITION (WHICH WILL  
44 RESULT IN MY DEATH, DESPITE THE INTRODUCTION OR CONTINUATION  
45 OF MEDICAL TREATMENT) OR AM PERMANENTLY UNCONSCIOUS SUCH AS  
46 AN IRREVERSIBLE COMA OR AN IRREVERSIBLE VEGETATIVE STATE AND  
47 THERE IS NO REALISTIC HOPE OF SIGNIFICANT RECOVERY, ALL OF  
48 THE FOLLOWING APPLY (CROSS OUT ANY TREATMENT INSTRUCTIONS  
49 WITH WHICH YOU DO NOT AGREE):  
50 1. I direct that I be given health care treatment to  
51 relieve pain or provide comfort even if such treatment might

1 shorten my life, suppress my appetite or my breathing, or be  
2 habit forming.

3 2. I direct that all life prolonging procedures be  
4 withheld or withdrawn. (You may wish to consult with your  
5 physician and attorney about your wish to withdraw life  
6 prolonging measures in order to determine whether your  
7 designated choices regarding end-of-life care are compatible  
8 with anatomical donation. In order to donate an organ, your  
9 body may need to be maintained on artificial support after  
10 you have been declared dead in order to facilitate anatomical  
11 donation.)

12 3. I specifically do not want any of the following as  
13 life prolonging procedures: (If you wish to receive any of  
14 these treatments, write "I do want" after the treatment)

15 heart-lung resuscitation (CPR).....  
16 mechanical ventilator (breathing machine).....  
17 dialysis (kidney machine).....  
18 surgery.....  
19 chemotherapy.....  
20 radiation treatment.....  
21 antibiotics.....

22 Please indicate whether you want nutrition (food) or  
23 hydration (water) medically supplied by a tube into your  
24 nose, stomach, intestine, arteries, or veins if you have an  
25 end-stage medical condition or are permanently unconscious  
26 and there is no realistic hope of significant recovery.  
27 (Initial only one statement.)

28 TUBE FEEDINGS

29 .....I want tube feedings to be given

30 OR

31 NO TUBE FEEDINGS

32 .....I do not want tube feedings to be given.

33 HEALTH CARE AGENT'S USE OF INSTRUCTIONS

34 (INITIAL ONE OPTION ONLY).

35 .....My health care agent must follow these  
36 instructions.

37 OR

38 .....These instructions are only guidance.

39 My health care agent shall have final say and may  
40 override any of my instructions. (Indicate any  
41 exceptions).....

42 .....

43 If I did not appoint a health care agent, these  
44 instructions shall be followed.

45 LEGAL PROTECTION

46 Pennsylvania law protects my health care agent and health  
47 care providers from any legal liability for their good faith  
48 actions in following my wishes as expressed in this form or  
49 in complying with my health care agent's direction. On behalf  
50 of myself, my executors and heirs, I further hold my health  
51 care agent and my health care providers harmless and

indemnify them against any claim for their good faith actions in recognizing my health care agent's authority or in following my treatment instructions.

ANATOMICAL DONATION

(If you wish to be an organ donor, it may be necessary to maintain your body on artificial support in order to facilitate anatomical donation.)

ORGAN DONATION (INITIAL ONE OPTION ONLY.)

.....I consent to donate my organs and tissues at the time of my death for the purpose of transplant, medical study or education. (Insert any limitations you desire on donation of specific organs or tissues or uses for donation of organs and tissues.)

OR

.....I do not consent to donate my organs [or], tissues [at the time of my death.] or any other part of my body. This provision shall also serve as a revocation of any prior decision I have made to donate organs, tissues or any part of my body in a prior document, including a driver's license, will, power of attorney or other document.

SIGNATURE.....

Having carefully read this document, I have signed it this.....day of....., 20..., revoking all previous health care powers of attorney and health care treatment instructions.

.....  
(SIGN FULL NAME HERE FOR HEALTH CARE POWER OF ATTORNEY AND HEALTH CARE TREATMENT INSTRUCTIONS)

WITNESS:.....

WITNESS:.....

Two witnesses at least 18 years of age are required by Pennsylvania law and should witness your signature in each other's presence. A person who signs this document on behalf of and at the direction of a principal may not be a witness. (It is preferable if the witnesses are not your heirs, nor your creditors, nor employed by any of your health care providers.)

NOTARIZATION (OPTIONAL)

(Notarization of document is not required by Pennsylvania law, but if the document is both witnessed and notarized, it is more likely to be honored by the laws of some other states.)

On this.....day of ....., 20..., before me personally appeared the aforesaid declarant and principal, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and



1 affixed my official seal in the County of....., State  
2 of..... the day and year first above written.

3 .....

4 Notary Public My commission expires

5 Section 1.1. The definitions of "advisory committee," "bank  
6 or storage facility," "decedent" and "organ procurement  
7 organization" in section 8601 of Title 20 are amended and the  
8 section is amended by adding definitions to read:

9 § 8601. 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 \* \* \*

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

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

17 "Advisory committee." The Organ and Tissue Donation Advisory  
18 Committee established under section 8622 (relating to The  
19 Governor Robert P. Casey Memorial Organ and Tissue Donation  
20 Awareness Trust Fund).

21 "Agent." Any of the following:

22 (1) A health care agent authorized to make health care  
23 decisions on a principal's behalf under Subchapter C of  
24 Chapter 54 (relating to health care agents and  
25 representatives).

26 (2) An individual expressly authorized to make an  
27 anatomical gift on a principal's behalf by any other record  
28 signed by the principal.

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

32 ["Bank or storage facility." A facility licensed, accredited  
33 or approved under the laws of any state for storage of human  
34 bodies or parts thereof.]

35 \* \* \*

36 "Decedent." [A deceased individual, including a stillborn  
37 infant or fetus.] A deceased individual whose body or part is or  
38 may be the source of an anatomical gift. The term includes a  
39 stillborn infant and, subject to restrictions imposed by other  
40 laws, a fetus. The term does not include a blastocyst, embryo or  
41 fetus that is the subject of an induced abortion.

42 "Document of gift." A donor card or other record used to  
43 make, amend or revoke an anatomical gift. The term includes a  
44 statement or symbol on a driver's license or identification card  
45 or in a donor registry.

46 "Donate Life PA Registry." That subset of persons in the  
47 Department of Transportation's driver's license and photo  
48 identification card database who have elected to include the  
49 donor designation on their record. This term shall not refer to  
50 a separate database.

51 \* \* \*

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

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

7 \* \* \*

8 "Hospital administrator." Any individual appointed by a  
9 hospital's governing body to act on its behalf in the overall  
10 management of the hospital. The term includes a designee of the  
11 individual who is authorized by the hospital to exercise  
12 supervisory authority.

13 "Know." To have actual knowledge. When the word "known" is  
14 used as an adjective to modify a term, the meaning is that there  
15 is actual knowledge about the modified term.

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

17 "Organ." A human organ as defined in 42 CFR 121.2 (relating  
18 to definitions).

19 "Organ procurement organization." An organization [that  
20 meets the requirements of section 371 of the Public Health  
21 Service Act (58 Stat. 682, 42 U.S.C. § 273)] designated for the  
22 region by the Secretary of Health and the Secretary of Human  
23 Services as an organ procurement organization.

24 \* \* \*

25 "Person authorized or obligated to dispose of a decedent's  
26 body." Any of the following, without regard to order of  
27 priority:

28 (1) A coroner or medical examiner having jurisdiction  
29 over the decedent's body.

30 (2) A warden or director of a correctional facility  
31 where the decedent was incarcerated.

32 (3) A hospital administrator of the hospital where the  
33 decedent's death was pronounced.

34 (4) Any other person authorized or under obligation to  
35 dispose of the decedent's body.

36 \* \* \*

37 "Procurement organization." An organ procurement  
38 organization, eye bank or tissue bank.

39 "Program coordinator." The Organ and Tissue Donation  
40 Awareness Program Coordinator established in section 8622  
41 (relating to The Governor Robert P. Casey Memorial Organ and  
42 Tissue Donation Awareness Trust Fund).

43 "Prospective donor." A person who is dead or whose death is  
44 imminent and has been determined by an organ procurement  
45 organization to have a part that could be medically suitable for  
46 transplantation, therapy, research or education.

47 "Reasonably available." Able to be contacted by a  
48 procurement organization with reasonable effort and willing and  
49 able to exercise the decision to refuse or to authorize  
50 anatomical donation in a timely manner consistent with existing  
51 medical criteria necessary to make an anatomical gift.

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

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

6 "Recovery procedure." The process of removing cells, tissues  
7 and organs from a donor.

8 "Refusal." A writing or record signed by an individual  
9 expressly refusing to make any anatomical gifts of their body or  
10 part.

11 \* \* \*

12 "Tissue." A portion of the human body other than an organ or  
13 an eye. The term does not include blood, unless the blood is  
14 donated for the purpose of research or education.

15 "Tissue bank." A person that is licensed, accredited or  
16 regulated under Federal or State law to engage in the recovery,  
17 screening, testing, processing, storage or distribution of  
18 tissue.

19 \* \* \*

20 Section 2. Sections 8611(a), (b) and (c) of Title 20 are  
21 amended and the section is amended by adding subsections to  
22 read:

23 § 8611. Persons who may execute anatomical gift.

24 (a) General rule.--Any individual of sound mind and 18 years  
25 of age or more may give all or any part of his body for any  
26 purpose specified in section 8612 (relating to persons who may  
27 become donees; purposes for which anatomical gifts may be made),  
28 the gift to take effect upon death. [Any agent acting under a  
29 power of attorney which authorizes the agent to make anatomical  
30 gifts may effectuate a gift for any purpose specified in section  
31 8612.] Any individual who is a minor and 16 years of age or  
32 older may effectuate a gift for any purpose specified in section  
33 8612, provided parental or guardian consent is deemed given.  
34 Parental or guardian consent shall be noted on the minor's donor  
35 card, application for the donor's learner's permit or driver's  
36 license or other document of gift. A gift of the whole body  
37 shall be invalid unless made in writing at least 15 days prior  
38 to the date of death or consent is obtained from the legal next  
39 of kin. Where there are adult children of the deceased who are  
40 not children of the surviving spouse, their consent shall also  
41 be required for a gift of the whole body for anatomical study.

42 (b) [Others entitled] Entitled to donate anatomy of  
43 decedent.--[Any] Subject to subsection (b.1), any of the  
44 following persons who are reasonably available, in order of  
45 priority stated, when persons in prior classes are not  
46 reasonably available at the time of death, and in the absence of  
47 [actual notice of contrary indications] known objections by the  
48 decedent or [actual notice of opposition] by a member of [the  
49 same or] a prior class, may give all or any part of the  
50 decedent's body for any purpose specified in section 8612:

51 [(1) The spouse.

1 (2) An adult son or daughter.  
2 (3) Either parent.  
3 (4) An adult brother or sister.  
4 (5) A guardian of the person of the decedent at the time  
5 of his death.

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

8 (1) An agent of the decedent at the time of death.

9 (2) The spouse of the decedent, unless an action for  
10 divorce is pending.

11 (3) An adult child of the decedent.

12 (4) A parent of the decedent.

13 (5) An adult sibling of the decedent.

14 (6) An adult grandchild of the decedent.

15 (7) A grandparent of the decedent.

16 (8) Any other person related to the decedent by blood,  
17 marriage or adoption.

18 (9) A guardian of the person of the decedent.

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

21 (b.1) Anatomical gifts prohibited in certain  
22 circumstances.--An anatomical gift may not be made by a person  
23 set forth in subsection (b) if, before an incision has been made  
24 to remove a part from the prospective donor's body or before  
25 invasive procedures have begun to prepare an intended recipient,  
26 any of the following apply:

27 (1) The district attorney notifies the organ procurement  
28 organization that the person is a suspect or a person of  
29 interest in causing the disease, illness, injury or condition  
30 of the decedent.

31 (2) The district attorney or a law enforcement officer  
32 notifies the organ procurement organization that the person  
33 is the subject of a protection from abuse order, an order  
34 issued under 42 Pa.C.S. Ch. 62A (relating to protection of  
35 victims of sexual violence or intimidation) or a similar  
36 order from a court that was issued to the decedent.

37 (3) The district attorney or a law enforcement officer  
38 notifies the organ procurement organization that the person  
39 has been arrested or detained in connection with the  
40 condition of the decedent.

41 (b.2) Documentation required.--The organ procurement  
42 organization shall document the steps taken to contact any of  
43 the persons in subsection (b). Such documentation shall be  
44 maintained by the organ procurement organization for a minimum  
45 of six years.

46 (b.3) No obligation to make gift.--A person described in  
47 subsection (b) (2), (3), (4), (5), (6), (7), (8), (9) or (10) may  
48 not have a legal obligation to consent to making a gift of the  
49 decedent's body or part of the body.

50 (c) Donee not to accept in certain cases.--[If the]

51 (1) The donee may not accept a gift under any of the

1 following circumstances:

2 (i) The donee [has actual notice of contrary  
3 indications] knows of an objection by the decedent [or].

4 (ii) The donee knows that a gift by a member of a  
5 class is opposed by a reasonably available member of [the  
6 same or] a prior class[, the donee shall not accept the  
7 gift].

8 (iii) The donee knows that a gift by a member of a  
9 class is opposed by at least 50% of the reasonably  
10 available members of the same class.

11 (2) The persons authorized by subsection (b) may make  
12 the gift after or immediately before death.

13 \* \* \*

14 Section 3. Section 8612 of Title 20 is amended to read:

15 § 8612. Persons who may become donees; purposes for which  
16 anatomical gifts may be made.

17 [The following persons may become donees of gifts of bodies  
18 or parts thereof for any of the purposes stated:

19 (1) Any hospital, surgeon or physician for medical or  
20 dental education, research, advancement of medical or dental  
21 science, therapy or transplantation.

22 (2) Any accredited medical or dental school, college or  
23 university for education, research, advancement of medical or  
24 dental science or therapy.

25 (3) Any bank or storage facility for medical or dental  
26 education, research, advancement of medical or dental  
27 science, therapy or transplantation.

28 (4) Any specified individual for therapy or  
29 transplantation needed by him.

30 (5) The board.]

31 (a) Donees.--An anatomical gift may be made to any of the  
32 following persons named in the document of gift:

33 (1) If for research or education, any of the following:

34 (i) A hospital.

35 (ii) An accredited medical school, dental school,  
36 college or university.

37 (iii) The board.

38 (iv) An organ procurement organization.

39 (v) Any other appropriate person as permitted by  
40 law.

41 (2) Subject to subsection (b), an individual designated  
42 by the person making the anatomical gift if the individual is  
43 the recipient of the part.

44 (3) An eye bank or tissue bank.

45 (4) An organ procurement organization.

46 (b) Directed donation.--If an anatomical gift to an  
47 individual under subsection (a)(2) cannot be transplanted into  
48 the individual, the part shall pass in accordance with  
49 subsection (c) if authorized by the person making the anatomical  
50 gift.

51 (c) Organ for transplant or therapy.--An anatomical gift of

1 an organ for transplantation or therapy, other than an  
2 anatomical gift under subsection (a)(2), shall pass to the organ  
3 procurement organization.

4 (d) Default.--If the intended purpose or recipient of an  
5 anatomical gift is not known, the following shall apply:

6 (1) If the part is an eye, the gift shall pass to the  
7 appropriate eye bank.

8 (2) If the part is tissue, the gift shall pass to the  
9 appropriate tissue bank.

10 (3) If the part is an organ, the gift shall pass to the  
11 appropriate organ procurement organization.

12 (4) If the gift is of the decedent's entire body, the  
13 gift shall pass to the board.

14 (e) Multiple purposes.--If there is more than one purpose of  
15 an anatomical gift set forth in the document of gift but the  
16 purposes are not set forth in any priority, the gift shall be  
17 used for transplantation or therapy, if suitable and enumerated  
18 in the document of gift, and shall pass to the appropriate organ  
19 procurement organization. If the gift cannot be used for  
20 transplantation or therapy, the gift may be used for other  
21 lawful purposes enumerated in the document of gift.

22 (f) Unspecified purpose.--If an anatomical gift is made in a  
23 document of gift that does not name a person described in  
24 subsection (a) and does not identify the purpose of the gift,  
25 the gift may be used only for transplantation or therapy, and  
26 the gift shall pass in accordance with subsection (d).

27 (g) Effect of gift.--An anatomical gift of a part is neither  
28 a refusal to give another part nor a limitation on the making of  
29 an anatomical gift of another part or making an anatomical gift  
30 for another purpose at a later time by the donor or another  
31 person.

32 Section 4. Sections 8613(b), (d) and (e) and 8615 heading of  
33 Title 20 are amended and the sections are amended by adding  
34 subsections to read:

35 § 8613. Manner of executing anatomical gifts.

36 \* \* \*

37 (b) Gifts by other documents.--[A gift of all or part of the  
38 body under section 8611(a) may also be made by document other  
39 than a will.] An anatomical gift may be made by other document,  
40 including by authorizing a statement or symbol indicating that  
41 the donor has made an anatomical gift, which shall be recorded  
42 in a donor registry or on the donor's driver's license or  
43 identification card. The gift becomes effective upon the death  
44 of the donor. The document, which may be a card designed to be  
45 carried on the person, must be signed by the donor [in the  
46 presence of two witnesses who must sign the document in his  
47 presence]. If the donor is mentally competent to signify his  
48 desire to sign the document but is physically unable to do so,  
49 the document may be signed for him by another at his direction  
50 and in his presence in the presence of two witnesses who must  
51 sign the document in his presence. Delivery of the document of

1 gift during the donor's lifetime is not necessary to make the  
2 gift valid. If an anatomical gift is indicated on a driver's  
3 license or an identification card, the anatomical gift is not  
4 invalidated by revocation, suspension, expiration or  
5 cancellation of:

6 (1) the driver's license under 75 Pa.C.S. Ch. 15  
7 (relating to licensing of drivers); or

8 (2) the identification card by the Department of  
9 Transportation.

10 \* \* \*

11 [(d) Designation of person to carry out procedures.--  
12 Notwithstanding section 8616(b) (relating to rights and duties  
13 at death), the donor may designate in his will, card or other  
14 document of gift the surgeon or physician to carry out the  
15 appropriate procedures. In the absence of a designation or if  
16 the designee is not available, the donee or other person  
17 authorized to accept the gift may employ or authorize any  
18 surgeon or physician for the purpose, or, in the case of a gift  
19 of eyes, he may employ or authorize a person who is a funeral  
20 director licensed by the State Board of Funeral Directors, an  
21 eye bank technician or medical student, if the person has  
22 successfully completed a course in eye enucleation approved by  
23 the State Board of Medical Education and Licensure, or an eye  
24 bank technician or medical student trained under a program in  
25 the sterile technique for eye enucleation approved by the State  
26 Board of Medical Education and Licensure to enucleate eyes for  
27 an eye bank for the gift after certification of death by a  
28 physician. A qualified funeral director, eye bank technician or  
29 medical student acting in accordance with the terms of this  
30 subsection shall not have any liability, civil or criminal, for  
31 the eye enucleation.]

32 (d.1) Reliance.--A person may rely on a document of gift or  
33 amendment thereto as being valid unless that person knows that  
34 it was not validly executed or was revoked.

35 (e) Consent not necessary.--[If a donor card, donor driver's  
36 license, living will, durable power of attorney or other  
37 document of gift evidencing a gift of organs or tissue has been  
38 executed,]

39 (1) Subject to paragraph (2), a donor's gift of all or  
40 any part of the individual's body, including a designation in  
41 a registry on a driver's license or identification card,  
42 donor card, advance health care directive, will or other  
43 document of gift, may not be revoked by the next-of-kin or  
44 other persons identified in section 8611(b). The consent of  
45 any person [designated in section 8611(b)] at the time of the  
46 donor's death or immediately thereafter is not necessary to  
47 render the gift valid and effective.

48 (2) An agent, only if expressly authorized in writing in  
49 a power of attorney, advance directive, health care power of  
50 attorney or other document to override the decedent's  
51 instructions on the making of an anatomical gift, may revoke

1 the decedent's gift.

2 \* \* \*

3 (g) Validity.--A document of gift is valid if executed in  
4 accordance with:

5 (1) this chapter;

6 (2) the law of the state or country where it was  
7 executed; or

8 (3) the law of the state or country where, at the time  
9 of execution of the document of gift, the person making the  
10 anatomical gift:

11 (i) is domiciled;

12 (ii) has a place of residence; or

13 (iii) is a citizen.

14 (h) Choice of law.--If a document of gift is valid under  
15 this section, the law of this Commonwealth governs  
16 interpretation of the document.

17 (i) Rights and protections for an individual with a  
18 disability.--

19 (1) An individual who is in need of an anatomical gift  
20 shall not be deemed ineligible to receive an anatomical gift  
21 solely because of the individual's physical or mental  
22 disability, except to the extent that the physical or mental  
23 disability has been found by a physician or surgeon following  
24 an individualized evaluation of the individual to be  
25 medically significant to the provision of the anatomical  
26 gift. If an individual has the necessary support system to  
27 assist the individual in complying with posttransplant  
28 medical requirements, an individual's inability to  
29 independently comply with the posttransplant medical  
30 requirements shall not be deemed to be medically significant.

31 (2) As used in this section, the term "disability" shall  
32 have the same meaning as in the Americans with Disabilities  
33 Act of 1990 (Public Law 101-336, 104 Stat. 327).

34 § 8615. Amendment [or], revocation or refusal of gift.

35 \* \* \*

36 (d) Revocation by other authorized person.--Subject to  
37 subsection (e), an anatomical gift by a person authorized under  
38 section 8611(b) (relating to persons who may execute anatomical  
39 gift) may be amended or revoked orally or in a record by that  
40 person or by a majority of the reasonably available members of a  
41 prior class.

42 (e) Effectiveness of revocation.--A revocation made under  
43 this chapter shall take effect if, before an incision has been  
44 made to remove a part from the donor's body or before invasive  
45 procedures have begun to prepare the recipient, the applicable  
46 organ procurement organization, transplant hospital or physician  
47 or technician knows of the revocation.

48 (f) Revocation not a refusal.--A revocation made under this  
49 chapter shall not be considered a known objection or refusal to  
50 make a gift of one's body or a part of one's body nor a  
51 prohibition against a person described in section 8611(b) making



1 such gift.

2 (g) Refusal.--An individual's unrevoked refusal to make an  
3 anatomical gift of the individual's body or part bars all other  
4 persons from making an anatomical gift of the individual's body  
5 or part.

6 Section 5. Sections 8616(b), (c) and (d), 8617, 8619, 8621,  
7 8622, 8623 and 8624 of Title 20 are amended to read:

8 § 8616. Rights and duties at death.

9 \* \* \*

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

16 (c) Certain liability limited.--[A] The following shall  
17 apply:

18 (1) Except as provided under paragraph (2), a person who  
19 acts in good faith in accordance with the terms of this  
20 subchapter or with the anatomical gift laws of another state  
21 or a foreign country [is not] shall not be liable for damages  
22 in any civil action or subject to prosecution in any criminal  
23 proceeding for [his] the person's act.

24 (2) The immunity from civil liability provided under  
25 paragraph (1) shall not extend to an act or omission  
26 resulting from gross negligence, recklessness or intentional  
27 misconduct of the person.

28 (3) Neither a person making an anatomical gift nor a  
29 donor's estate shall be liable for injury or damage that  
30 results from the making or use of the anatomical gift. In  
31 determining whether an anatomical gift has been made, amended  
32 or revoked under this chapter, a person may rely upon a  
33 representation of an individual listed under section 8611(b)  
34 regarding the individual's relationship to the donor or  
35 prospective donor unless the person knows that the  
36 representation is untrue.

37 (d) Law on autopsies applicable.--[The] Subject to sections  
38 8617 (relating to requests for anatomical gifts) and 8626  
39 (relating to facilitation of anatomical gift from decedent whose  
40 death is under investigation), the provisions of this subchapter  
41 are subject to the laws of this Commonwealth prescribing powers  
42 and duties with respect to autopsies. Notwithstanding 18 Pa.C.S.  
43 Ch. 91 (relating to criminal history record information), an  
44 organ procurement organization is authorized to obtain a copy of  
45 an autopsy report in a timely fashion upon request and payment  
46 of reasonable copying fees.

47 § 8617. Requests for anatomical gifts.

48 [(a) Procedure.--On or before the occurrence of each death  
49 in an acute care general hospital, the hospital shall make  
50 contact with the regional organ procurement organization in  
51 order to determine the suitability for organ, tissue and eye

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

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

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

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

29 (1) The patient's identifier number.

30 (2) The patient's age.

31 (3) The cause of death.

32 (4) Any past medical history available.

33 The organ procurement organization, in consultation with the  
34 patient's attending physician or his designee, shall determine  
35 the suitability for donation. If the organ procurement  
36 organization in consultation with the patient's attending  
37 physician or his designee determines that donation is not  
38 appropriate based on established medical criteria, this shall be  
39 noted by hospital personnel on the patient's record, and no  
40 further action is necessary. If the organ procurement  
41 organization in consultation with the patient's attending  
42 physician or his designee determines that the patient is a  
43 suitable candidate for anatomical donation, the acute care  
44 general hospital shall initiate a request by informing the  
45 persons and following the procedure designated under section  
46 8611(b) of the option to donate organs, tissues or eyes. The  
47 person initiating the request shall be an organ procurement  
48 organization representative or a designated requestor. The organ  
49 procurement organization representative or designated requestor  
50 shall ask persons pursuant to section 8611(b) whether the  
51 deceased was an organ donor. If the person designated under

1 section 8611(b) does not know, then this person shall be  
2 informed of the option to donate organs and tissues. The  
3 protocol shall encourage discretion and sensitivity to family  
4 circumstances in all discussions regarding donations of tissue  
5 or organs. The protocol shall take into account the deceased  
6 individual's religious beliefs or nonsuitability for organ and  
7 tissue donation.

8 (e) Tissue procurement.--

9 (1) The first priority use for all tissue shall be  
10 transplantation.

11 (2) Upon Department of Health approval of guidelines  
12 pursuant to subsection (f)(1)(ii), all acute care general  
13 hospitals shall select at least one tissue procurement  
14 provider. A hospital shall notify the regional organ  
15 procurement organization of its choice of tissue procurement  
16 providers. If a hospital chooses more than one tissue  
17 procurement provider, it may specify a rotation of referrals  
18 by the organ procurement organization to the designated  
19 tissue procurement providers.

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

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

29 (i) The number of tissue donors.

30 (ii) The number of tissue procurements for  
31 transplantation.

32 (iii) The number of tissue procurements recovered  
33 for research by each tissue procurement provider  
34 operating in this Commonwealth.

35 (f) Guidelines.--

36 (1) The Department of Health, in consultation with organ  
37 procurement organizations, tissue procurement providers and  
38 the Hospital Association of Pennsylvania, donor recipients  
39 and family appointed pursuant to section 8622(c)(3) (relating  
40 to The Governor Robert P. Casey Memorial Organ and Tissue  
41 Donation Awareness Trust Fund) shall, within six months of  
42 the effective date of this chapter, do all of the following:

43 (i) Establish guidelines regarding efficient  
44 procedures facilitating the delivery of anatomical gift  
45 donations from receiving hospitals to procurement  
46 providers.

47 (ii) Develop guidelines to assist hospitals in the  
48 selection and designation of tissue procurement  
49 providers.

50 (2) Each organ procurement organization and each tissue  
51 procurement provider operating within this Commonwealth

1 shall, within six months of the effective date of this  
2 chapter, file with the Department of Health, for public  
3 review, its operating protocols.]

4 (a) Procedure.--

5 (1) A hospital located in this Commonwealth shall notify  
6 the applicable designated organ procurement organization or a  
7 third party designated by that organization of an individual  
8 whose death is imminent or who has died in the hospital.  
9 Notification shall be made in a timely manner to ensure that  
10 examination, evaluation and ascertainment of donor status as  
11 set forth in subsection (d) may be completed within a time  
12 frame compatible with the donation of organs and tissues for  
13 transplant. The notification shall be made without regard to  
14 whether the person has executed an advance directive for  
15 health care.

16 (2) The following shall apply to coroners and medical  
17 examiners:

18 (i) Except as set forth in subparagraph (ii), a  
19 coroner or medical examiner shall notify the applicable  
20 designated organ procurement organization of a person's  
21 death in accordance with a mutually agreed-upon protocol.  
22 Notification shall be made in a timely manner to ensure  
23 that examination, evaluation and ascertainment of donor  
24 status as set forth in subsection (d) can be completed  
25 within a time frame compatible with the recovery of  
26 tissues for transplant.

27 (ii) Notification under this paragraph shall not be  
28 made if:

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

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

34 (b) Referrals.--If an organ procurement organization  
35 receives a referral of an individual whose death is imminent or  
36 who has died, the organ procurement organization shall make a  
37 reasonable search of the records of the Donate Life PA Registry  
38 or the applicable State donor registry that it knows exists for  
39 the geographic area in which the individual resided or resides  
40 in order to ascertain whether the individual has made an  
41 anatomical gift.

42 (c) Document of gift.--

43 (1) If the referred patient has a document of gift,  
44 including registration with the Donate Life PA Registry, the  
45 procurement organization representative or the designated  
46 requestor shall attempt to notify a person listed in section  
47 8611(b) (relating to persons who may execute anatomical gift)  
48 of the gift.

49 (2) If no document of gift is known to the procurement  
50 organization representative or the designated requestor, one  
51 of these two individuals shall ask the persons listed in

1 section 8611(b) whether the decedent had a validly executed  
2 document of gift. If there is no evidence of an anatomical  
3 gift by the decedent, the procurement organization  
4 representative or the designated requestor shall notify a  
5 person listed in section 8611(b) of the option to donate  
6 organs and tissues. The notification shall be performed in  
7 accordance with a protocol that encourages discretion and  
8 sensitivity to family circumstances in all discussions  
9 regarding donations of tissue or organs. The protocol shall  
10 take into account the decedent's religious beliefs or  
11 nonsuitability for organ and tissue donation.

12 (3) The hospital administrator or that person's  
13 designated representative shall indicate in the medical  
14 record of the decedent and the following information shall be  
15 communicated by the hospital administrator or a designee to  
16 the organ procurement organization:

17 (i) whether or not a document of gift is known to  
18 exist or whether a gift was made;

19 (ii) if a gift was made, the name of the person  
20 granting the gift and that person's relationship to the  
21 decedent; and

22 (iii) whether the decedent executed an advance  
23 directive, a living will, a power of attorney, a health  
24 care power of attorney or another document, including a  
25 do-not-resuscitate order, evidencing an intention to  
26 limit, withdraw or withhold life-sustaining measures. The  
27 hospital administrator or the decedent's representative  
28 shall:

29 (A) Make a notation in the decedent's medical  
30 record whether the decedent indicated in a living  
31 will, power of attorney, health care power of  
32 attorney, will or other document evidencing an  
33 intention to either limit the anatomical gifts of the  
34 decedent or to deny making or refusing to make an  
35 anatomical gift.

36 (B) Indicate in the decedent's medical record if  
37 the decedent amended or revoked an anatomical gift.

38 (d) Testing.--

39 (1) This subsection shall apply if:

40 (i) a hospital refers an individual who is dead or  
41 whose death is imminent to an organ procurement  
42 organization;

43 (ii) the organ procurement organization determines,  
44 based upon a medical record review, that the individual  
45 may be a prospective donor; and

46 (iii) the decedent has not refused to make a gift  
47 under section 8613 (relating to manner of executing  
48 anatomical gifts).

49 (2) If the requirements of paragraph (1) are met, the  
50 following shall apply:

51 (i) The organ procurement organization may conduct a

1 blood or tissue test or minimally invasive examination  
2 which is reasonably necessary to evaluate the medical  
3 suitability of a part that is or may be the subject of an  
4 anatomical gift. Specific consent to testing or  
5 examination under this subparagraph shall not be  
6 required. The results of tests and examinations under  
7 this subparagraph shall be used or disclosed only:

8 (A) to evaluate medical suitability for donation  
9 and to facilitate the donation process; and

10 (B) as required or permitted by law.

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

15 (A) had the opportunity to advise the applicable  
16 persons as set forth in section 8611(b) of the option  
17 to make an anatomical gift and has received or been  
18 denied authorization to proceed with recovery of the  
19 part; or

20 (B) has ascertained that the individual made a  
21 gift or expressed a known objection to making a gift.

22 (e) Testing after death.--After a donor's death, a person to  
23 whom an anatomical gift may pass under section 8612 (relating to  
24 persons who may become donees; purposes for which anatomical  
25 gifts may be made) may conduct a test or examination which is  
26 reasonably necessary to evaluate the medical suitability of the  
27 body or part for its intended purpose.

28 (f) Scope.--An examination conducted under this section may  
29 include copying of records necessary to determine the medical  
30 suitability of the body or part. This subsection includes  
31 medical, dental and other health-related records.

32 (f.1) Recipients.--

33 (1) Subject to the provisions of this chapter, the  
34 rights of the person to whom a part passes under section 8612  
35 shall be superior to the rights of all others with respect to  
36 the part. The person may accept or reject an anatomical gift  
37 in whole or in part.

38 (2) Subject to the terms of the document of gift and  
39 this chapter, a person that accepts an anatomical gift of an  
40 entire body may allow embalming, burial or cremation and the  
41 use of remains in a funeral service. If the gift is of a  
42 part, the person to whom the part passes under section 8612,  
43 upon the death of the donor and before embalming, burial or  
44 cremation, shall cause the part to be removed without  
45 unnecessary mutilation.

46 (3) An organ procurement organization and other people  
47 involved in the organ donation process shall limit the  
48 testing and examination of the prospective donor authorized  
49 under this section to comply with any limitation expressed by  
50 the individual with respect to the part of the body to  
51 donate.

1 (f.2) Physicians.--

2 (1) Neither the physician who attends the decedent at  
3 death nor the physician who determines the time of the  
4 decedent's death may participate in the procedures for  
5 removing or transplanting a part from the decedent.

6 (2) Subject to paragraph (1), a physician or technician  
7 may remove a donated part from the body of a donor that the  
8 physician or technician is qualified to remove.

9 (f.3) Coordination of procurement and use.--

10 (1) A hospital shall enter into agreements or  
11 affiliations with organ procurement organizations for  
12 coordination of procurement and use of anatomical gifts.

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

21 (g) Death record review.--

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

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

27 (i) The [Department of Health] department shall  
28 select to carry out the review the Commonwealth-licensed  
29 organ procurement organization designated by the [Health  
30 Care Financing Administration] Centers for Medicare and  
31 Medicaid Services for the region within which the acute  
32 care general hospital is located. For an organ  
33 procurement organization to be selected under this  
34 subparagraph, the organization must not operate nor have  
35 an ownership interest in an entity which provides all of  
36 the functions of a tissue procurement provider.

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

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

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

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

13 (5) An organ procurement organization may, upon request  
14 and payment of associated fees, obtain certified copies of  
15 death records of a donor from the Division of Vital Records  
16 of the department.

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

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

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

27 § 8619. Use of driver's license or identification card to  
28 indicate organ or tissue donation.

29 (a) General rule.--The Department of Transportation shall  
30 redesign the driver's license and identification card  
31 application system to process requests for information regarding  
32 consent of the individual to organ or tissue donation. The  
33 following question shall be asked on both the application for a  
34 driver's license or identification card and on the organ donor  
35 designation at a photo center:

36 Pennsylvania strongly supports organ and tissue donation  
37 because of its life-saving and life-enhancing  
38 opportunities.

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

41 Only an affirmative response of an individual shall be noted on  
42 the front of the driver's license or identification card and  
43 shall clearly indicate the individual's intent to donate his  
44 organs or tissue. [A notation on an individual's driver's  
45 license or identification card that he intends to donate his  
46 organs or tissue is deemed sufficient to satisfy all

47 requirements for consent to organ or tissue donation.] The  
48 department shall record and store all donor designations in the  
49 Donate Life PA Registry. Subject to a decedent's wishes as  
50 expressed in a document listed under sections 8613(e)(2)  
51 (relating to manner of executing anatomical gifts) and 8617(c)



1 (3)(iii) (relating to requests for anatomical gifts), a notation  
2 on an individual's driver's license or identification card that  
3 the individual intends to donate the individual's organs or  
4 tissue or the recorded and stored designation in the Donate Life  
5 PA Registry is deemed sufficient to satisfy all requirements for  
6 consent to organ or tissue donation. The recorded and stored  
7 designation is not a public record subject to disclosure as  
8 defined in section 102 of the act of February 14, 2008 (P.L.6,  
9 No.3), known as the Right-to-Know Law. Authorization for  
10 donation of vascularized composite allografts, including face  
11 and hand transplants, shall be subject to the requirements set  
12 forth in Federal law, regulations and standards.

13 (b) Electronic access.--The organ procurement organizations  
14 designated by the Federal Government in the Commonwealth of  
15 Pennsylvania as part of the nationwide organ procurement network  
16 [may] shall be given 24-hour-a-day electronic access to  
17 information necessary to confirm an individual's organ donor  
18 status through the Department of Transportation's driver  
19 licensing database. Necessary information shall include the  
20 individual's name, address, date of birth, driver's license  
21 number and organ donor status. Notwithstanding 75 Pa.C.S. § 6114  
22 (relating to limitation on sale, publication and disclosure of  
23 records), the Department of Transportation is authorized to  
24 provide the organ procurement organizations, after a written  
25 agreement between the Department of Transportation and the organ  
26 procurement organizations is first obtained, with the foregoing  
27 information. The organ procurement organization shall not use  
28 such information for any purpose other than to confirm an  
29 individual's organ donor status at or near or after an  
30 individual's death. The organ procurement organizations shall  
31 not be assessed the fee for such information prescribed by 75  
32 Pa.C.S. § 1955(a) (relating to information concerning drivers  
33 and vehicles).

34 § 8621. The Governor Robert P. Casey Memorial Organ and Tissue  
35 Donation Awareness Trust Fund contributions.

36 (a) Driver's license.--

37 (1) Beginning as soon as practicable, but no later than  
38 [January 1, 1995] 10 months after the effective date of this  
39 paragraph, the Department of Transportation shall provide an  
40 applicant for an original or renewal driver's license or  
41 identification card the opportunity to make a contribution of  
42 [\$1] \$3 to the fund. The contribution shall be added to the  
43 regular fee for an original or renewal driver's license or  
44 identification card. One contribution may be made for each  
45 issuance or renewal of a license or identification card.  
46 Contributions shall be used exclusively for the purposes set  
47 out in section 8622 (relating to The Governor Robert P. Casey  
48 Memorial Organ and Tissue Donation Awareness Trust Fund).

49 (2) The Department of Transportation shall monthly  
50 determine the total amount designated under this section and  
51 shall report that amount to the State Treasurer, who shall

1 transfer that amount to The Governor Robert P. Casey Memorial  
2 Organ and Tissue Donation Awareness Trust Fund.

3 (3) The Governor Robert P. Casey Memorial Organ and  
4 Tissue Donation Awareness Trust Fund shall reimburse the  
5 Department of Transportation for the costs incurred in the  
6 initial development and implementation of the contribution  
7 program, as well as any additional costs that may arise from  
8 changes that are agreed to by both the Department of  
9 Transportation and the advisory committee.

10 (b) Vehicle registration.--[The]

11 (1) Beginning as soon as practicable, but no later than  
12 10 months after the effective date of this paragraph, the  
13 Department of Transportation shall provide an applicant for a  
14 renewal vehicle registration the opportunity to make a  
15 contribution of [\$1] \$3 to The Governor Robert P. Casey  
16 Memorial Organ and Tissue Donation Awareness Trust Fund. The  
17 contribution shall be added to the regular fee for a renewal  
18 of a vehicle registration. One contribution may be made for  
19 each renewal vehicle registration. Contributions shall be  
20 used exclusively for the purposes described in section 8622.

21 (2) The Department of Transportation shall monthly  
22 determine the total amount designated under this section and  
23 shall report that amount to the State Treasurer, who shall  
24 transfer that amount to The Governor Robert P. Casey Memorial  
25 Organ and Tissue Donation Awareness Trust Fund.

26 (3) The Governor Robert P. Casey Memorial Organ and  
27 Tissue Donation Awareness Trust Fund shall reimburse the  
28 [department for the initial costs incurred in the development  
29 and implementation of the contribution program under this  
30 subsection.] Department of Transportation for the costs  
31 incurred in the initial development and implementation of the  
32 contribution program, as well as any additional costs that  
33 may arise from changes that are agreed to by both the  
34 Department of Transportation and the advisory committee.

35 (4) The General Fund shall reimburse the Department of  
36 Transportation for the actual annual operating costs of the  
37 program for vehicle registrations as described in this  
38 subsection. [subject to the following limits: For the first  
39 fiscal year during which this subsection is effective, the  
40 General Fund shall reimburse the Department of Transportation  
41 for the actual operating costs of the program in this  
42 subsection up to a maximum of \$100,000. For each fiscal year  
43 thereafter, the General Fund shall reimburse the Department  
44 of Transportation for the actual operating costs of the  
45 program in this subsection in an amount not to exceed the  
46 prior year's actual operating costs on a full fiscal year  
47 basis plus 3%. The amounts approved by the Governor as  
48 necessary are hereby appropriated from the General Fund for  
49 this purpose.]

50 (c) Internet website.--The following shall become effective  
51 within one year of the effective date of this subsection:

1       (1) The official publicly accessible Internet website of  
2 the Department of Transportation shall provide links through  
3 which persons may electronically make voluntary contributions  
4 of at least \$1 to the fund. At a minimum, the links shall be  
5 provided in accordance with subsection (a)(1) and subsection  
6 (b)(1).

7       (2) The Department of Health shall provide detailed  
8 information on its official publicly accessible Internet  
9 website, written in nonlegal terms, in both English and  
10 Spanish, about organ donation, including:

11       (i) The laws of this Commonwealth.

12       (ii) The risks and benefits of organ donation.

13       (iii) The laws of this Commonwealth regarding living  
14 wills, advance directives, do-not-resuscitate orders and  
15 other documents which can be used to provide, limit or  
16 deny making an anatomical donation.

17       (iv) A description regarding:

18           (A) the procedure used by hospitals and organ  
19 procurement organizations to ask family members if  
20 the decedent will be an organ donor;

21           (B) if the decedent may be or is an organ donor,  
22 the types of tests that will be performed on the  
23 decedent and the procedure used to harvest organs,  
24 tissues and eyes, including any differences in the  
25 procedure used to harvest organs; and

26           (C) brain death and cardiac death.

27       (v) A statement that a person may consult with the  
28 person's physician or attorney before making the decision  
29 to make an anatomical gift.

30       (vi) A statement indicating that if the person  
31 intends to withhold or withdraw life-sustaining measures  
32 through an advance directive, living will or other  
33 document, such choices for their end-of-life care may be  
34 incompatible with organ donation.

35       (3) The Department of Health shall provide the material  
36 listed in paragraph (2) in written form, in both English and  
37 Spanish, at all driver's license centers across this  
38 Commonwealth. Additionally, the department shall provide such  
39 materials upon request, including the request of another  
40 agency of the Commonwealth.

41 § 8622. The Governor Robert P. Casey Memorial Organ and Tissue  
42 Donation Awareness Trust Fund.

43       (a) Establishment.--All contributions received by the  
44 Department of Transportation under section 8621 (relating to The  
45 Governor Robert P. Casey Memorial Organ and Tissue Donation  
46 Awareness Trust Fund contributions) [and the Department of  
47 Revenue under section 8618 (relating to voluntary contribution  
48 system)] and the Department of Health under section 8617  
49 (relating to requests for anatomical gifts) shall be deposited  
50 into a special fund in the State Treasury to be known as The  
51 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 and Tissue Donation Advisory Committee created in subsection  
9 [(c)] (c.1). Any remaining funds are appropriated subject to the  
10 approval of the Governor for the following purposes:

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

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

31 (3) [15%] Fifteen percent may be expended by the  
32 Department of Health, in cooperation with certified organ  
33 procurement organizations, for the Project-Make-A-Choice  
34 program, which shall include information pamphlets designed  
35 by the Department of Health relating to organ donor awareness  
36 and the laws regarding organ donation, public information and  
37 public education about contributing to the fund when  
38 obtaining or renewing a driver's license and when completing  
39 a State individual income tax return form. The Project-Make-  
40 A-Choice program shall also provide the web address and a  
41 link for the Department of Health's publicly accessible  
42 Internet website under section 8621(c)(2) (relating to The  
43 Governor Robert P. Casey Memorial Organ and Tissue Donation  
44 Awareness Trust Fund contributions) and a statement that  
45 detailed information about organ donation can be found on the  
46 Department of Health's publicly accessible Internet website.

47 (4) [25%] Twenty-five percent may be expended by the  
48 Department of Education for the implementation of organ  
49 donation awareness programs in the secondary schools in this  
50 Commonwealth.

51 [(c) Advisory committee.--The Organ Donation Advisory

Committee is hereby established, with membership as follows:

- (1) Two representatives of organ procurement organizations.
- (2) Two representatives of tissue procurement providers.
- (3) Six members representative of organ, tissue and eye recipients, families of recipients and families of donors.
- (4) Three representatives of acute care hospitals.
- (5) One representative of the Department of Health.
- (6) One representative of eye banks.

All members shall be appointed by the Governor. Appointments shall be made in a manner that provides representation of the northwest, north central, northeast, southwest, south central and southeast regions of this Commonwealth. Members shall serve five-year terms. The Governor may reappoint advisory committee members for successive terms. Members of the advisory committee shall remain in office until a successor is appointed and qualified. If vacancies occur prior to completion of a term, the Governor shall appoint another member in accordance with this subsection to fill the unexpired term. The advisory committee shall meet at least biannually to review progress in the area of organ and tissue donation in this Commonwealth, recommend education and awareness training programs, recommend priorities in expenditures from the fund and advise the Secretary of Health on matters relating to administration of the fund. The advisory committee shall recommend legislation as it deems necessary to fulfill the purposes of this chapter. The advisory committee shall submit a report concerning its activities and progress to the General Assembly within 30 days prior to the expiration of each legislative session. The Department of Health shall reimburse members of the advisory committee for all necessary and reasonable travel and other expenses incurred in the performance of their duties under this section.]

(c.1) Advisory committee.--

(1) The Organ and Tissue Donation Advisory Committee is established. Each member shall be appointed by the Governor. Membership shall be as follows:

- (i) The Secretary of Education or a designee.
- (ii) The Secretary of Health or a designee.
- (iii) The Secretary of Transportation or a designee.
- (iv) The Secretary of the Commonwealth or a designee.
- (v) One representative from each designated organ procurement organization.
- (vi) Two representatives of tissue procurement providers.
- (vii) Six members representative of:
  - (A) organ, tissue and eye recipients;
  - (B) families of recipients;
  - (C) donors; and
  - (D) families of donors.
- (viii) Two representatives of acute care hospitals

1 which are:

2 (A) licensed in this Commonwealth; and

3 (B) members of the Statewide association  
4 representing the interests of hospitals throughout  
5 this Commonwealth.

6 (ix) One representative of eye banks.

7 (x) One representative of community health  
8 organizations.

9 (xi) One elected county coroner of this  
10 Commonwealth.

11 (2) A member under paragraph (1)(i), (ii), (iii) and  
12 (iv) shall serve ex officio.

13 (3) For a member under paragraph (1)(v), (vi), (vii),  
14 (viii), (ix), (x) and (xi), the following apply:

15 (i) Members shall be appointed in a manner which  
16 reflects geographic diversity. Input on the selection of  
17 the representatives under paragraph (1)(viii) shall be  
18 sought from the Statewide association referred to in  
19 paragraph (1)(viii)(B).

20 (ii) The members shall serve five-year terms.

21 (iii) The Governor may reappoint an advisory  
22 committee member for successive terms.

23 (iv) A member shall remain in office until a  
24 successor is appointed and qualified.

25 (v) If a vacancy occurs prior to completion of a  
26 term, the Governor shall appoint a member to fill the  
27 unexpired term in the same manner as the vacating member  
28 was appointed.

29 (4) The advisory committee shall meet at least  
30 biannually to do all of the following:

31 (i) Review progress in the area of organ and tissue  
32 donation in this Commonwealth.

33 (ii) Recommend education and awareness training  
34 programs.

35 (iii) Recommend priorities in expenditures from the  
36 fund.

37 (iv) Advise the Secretary of Health on matters  
38 relating to administration of the fund.

39 (v) Recommend legislation as necessary to fulfill  
40 the purposes of this chapter.

41 (5) The advisory committee shall submit a report  
42 concerning its activities and progress to the Secretary of  
43 the Senate and the Chief Clerk of the House of  
44 Representatives by October 31 of each even-numbered year. A  
45 final written report under this section shall be adopted at a  
46 public meeting. The report shall be a public record under the  
47 act of February 14, 2008 (P.L.6, No.3), known as the Right-  
48 to-Know Law.

49 (6) The Department of Health shall reimburse members of  
50 the advisory committee only for necessary and reasonable  
51 travel and other expenses incurred in the performance of

1 their duties under this subsection.

2 (d) Reports.--The Department of Health, the Department of  
3 Transportation and the Department of Education shall submit an  
4 annual report to the General Assembly on expenditures of fund  
5 moneys and any progress made in [reducing the number of  
6 potential donors who were not identified] increasing the number  
7 of donor designations.

8 [(e) Definition.--As used in this section, the term "vital  
9 organ" means a heart, lung, liver, kidney, pancreas, small  
10 bowel, large bowel or stomach for the purpose of  
11 transplantation.]

12 (f) Lead Commonwealth agency.--

13 (1) The Department of Health shall be the lead  
14 Commonwealth agency responsible for promoting organ and  
15 tissue donation in this Commonwealth and shall coordinate  
16 activities among other collaborating Commonwealth agencies.

17 (2) Within the Department of Health there is established  
18 a full-time position of Organ and Tissue Donation Awareness  
19 Program Coordinator. The following shall apply:

20 (i) The Department of Health shall be reimbursed by  
21 The Governor Robert P. Casey Memorial Organ and Tissue  
22 Donation Awareness Trust Fund for the actual cost of the  
23 program coordinator position.

24 (ii) The program coordinator has the following  
25 powers and duties:

26 (A) Assist in administration of the fund.

27 (B) Serve as a full-time liaison to the advisory  
28 committee and assist the advisory committee in  
29 program development, projects, funding proposals and  
30 priorities.

31 (C) Serve as liaison with other Commonwealth  
32 agencies. This clause shall include working with the  
33 Department of Transportation to ensure that driver's  
34 license centers promote organ and tissue donation and  
35 comply with agreed-upon arrangements to display  
36 information and materials.

37 (D) Assist designated organ procurement  
38 organizations in their collaborations with other  
39 Commonwealth agencies.

40 (E) Provide input to designated organ  
41 procurement organizations regarding training of  
42 individuals performing notifications under section  
43 8617(c). Such training shall encourage discretion and  
44 sensitivity to family circumstances and the  
45 circumstances of the potential donor's death in all  
46 discussions regarding donations of tissue or organs  
47 and take into account the potential donor's religious  
48 beliefs or nonsuitability for organ and tissue  
49 donation.

50 (F) Assist in resolving issues that may arise in  
51 hospitals in this Commonwealth regarding donation.

1 § 8623. Confidentiality requirement.

2 [The identity of the donor and of the recipient may not be  
3 communicated unless expressly authorized by the recipient and  
4 next of kin of the decedent.]

5 (a) General rule.--Except as provided in subsection (b), no  
6 procurement organization may divulge any individually  
7 identifiable information acquired in the course of performing  
8 its responsibilities under this chapter except for the purposes  
9 of facilitating organ, eye or tissue donation and  
10 transplantation or as otherwise required under applicable laws.

11 (b) Donors and recipients.--A procurement organization may  
12 communicate individually identifiable information of the donor  
13 and recipient if expressly authorized by:

14 (1) the recipient; and

15 (2) if the donor is alive, the donor, or if the donor is  
16 deceased, the next of kin of the donor.

17 § 8624. Prohibited activities.

18 [(a) Affiliates.--No organ procurement organization selected  
19 by the Department of Health under section 8617(g) (relating to  
20 requests for anatomical gifts) to conduct annual death reviews  
21 may use that review authority or any powers or privileges  
22 granted thereby to coerce or attempt to coerce a hospital to  
23 select the organization or any tissue procurement provider  
24 contractually affiliated with the organization as a designated  
25 tissue procurement provider under section 8617(e).]

26 (b) Unfair acts.--No organ procurement organization or  
27 tissue procurement provider may disparage the services or  
28 business of other procurement providers by false or misleading  
29 representations of fact, engage in any other fraudulent conduct  
30 to influence the selection by a hospital of a qualified tissue  
31 procurement provider nor engage in unlawful competition or  
32 discrimination. This subsection is not intended to restrict or  
33 preclude any organ procurement organization or tissue  
34 procurement provider from marketing or promoting its services in  
35 the normal course of business.]

36 (c) Procurement organizations.--

37 (1) A procurement organization shall not do any of the  
38 following:

39 (i) Disparage the services or business of another  
40 procurement organization by false or misleading  
41 representations of fact.

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

44 (iii) Engage in unlawful competition or  
45 discrimination.

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

49 (d) Funeral establishments.--

50 (1) Except as set forth in paragraph (2), a funeral  
51 director or a funeral establishment shall not:



1           (i) remove body parts from a corpse;  
2           (ii) permit others to remove body parts from a  
3 corpse; or  
4           (iii) use funeral establishment facilities to remove  
5 body parts from a corpse.

6           (2) Paragraph (1) shall not apply as follows:

7           (i) Removal is permissible if it is:

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

10               (B) authorized in writing by a family member,  
11 guardian or other person responsible for disposition  
12 of the body.

13           (ii) Notwithstanding any other provision of law, if  
14 a donation is authorized under this chapter, a designated  
15 organ procurement organization and a Pennsylvania  
16 nonprofit eye bank accredited by the Eye Bank Association  
17 of America may recover donated ocular tissue, including  
18 the whole eye, cornea and sclera, and associated blood  
19 specimens at a funeral establishment.

20           (3) If a funeral director is notified by a person  
21 authorized to make donations under this chapter that the  
22 person wishes to donate body parts from a corpse within the  
23 funeral director's custody, the funeral director shall  
24 immediately notify the organ procurement organization  
25 designated to serve that region.

26           Section 6. Title 20 is amended by adding sections to read:  
27 § 8625. Promotion of organ and tissue donation; Donate Life PA  
28 Registry established.

29           (a) Promotion.--The Department of Transportation shall  
30 ensure access by residents of this Commonwealth to an Internet-  
31 based interface which promotes organ and tissue donation and  
32 enables residents 18 years of age or older who hold a  
33 Pennsylvania driver's license or identification card to register  
34 as donors and have that designation immediately integrated into  
35 the current database maintained by the Department of  
36 Transportation.

37           (b) Paper form.--

38               (1) Within one year of the effective date of this  
39 section, the department shall establish a system which allows  
40 individuals who have been issued a driver's license or  
41 identification card to add their donor designation to the  
42 Donate Life PA Registry by submitting a form to the  
43 department.

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

46           (c) Donate Life PA Registry; name.--That portion of the  
47 database maintained by the department for recording donor  
48 designations and Internet-based interface established in this  
49 section shall be known as the Donate Life PA Registry.

50           (d) Form and content.--The form and content of the Internet-  
51 based interface shall be determined and maintained by the

1 Department of Transportation, after consulting with the  
2 designated organ procurement organizations.

3 (e) Effect.--Registration by a donor shall constitute  
4 sufficient authorization to donate organs and tissues for  
5 transplantation and therapy. Authorization of another person  
6 shall not be necessary to effectuate the anatomical gift.

7 (f) Technology.--An information technology system adopted by  
8 the Department of Transportation after the effective date of  
9 this section shall continue to accommodate the inclusion of  
10 donor designation information into the database and the ongoing  
11 operation of the Donate Life PA Registry.

12 § 8626. Facilitation of anatomical gift from decedent whose  
13 death is under investigation.

14 (a) Coordination.--

15 (1) Upon identification of a prospective donor, the  
16 designated organ procurement organization shall, within a  
17 reasonable time, notify the coroner or medical examiner of  
18 the county in which the prospective donor is located.

19 (2) Upon notification as described in paragraph (1), a  
20 coroner or medical examiner intending to investigate a  
21 prospective donor's death shall, to the extent applicable and  
22 reasonable under the circumstances:

23 (i) Notify the coroner or medical examiner of the  
24 county in which the cause precipitating the prospective  
25 donor's death is believed to have occurred, who shall  
26 then cause the district attorney of the county to be  
27 notified in accordance with internal county protocols.

28 (ii) Notify the applicable organ procurement  
29 organization of any change in jurisdiction.

30 (3) Organ procurement organizations shall in all cases  
31 cooperate with the coroner or medical examiner in order to  
32 facilitate the preservation and collection of forensic  
33 evidence. Organ procurement organizations shall not move or  
34 cause to be moved a prospective donor without authorization  
35 of the coroner or medical examiner having jurisdiction. Upon  
36 request, an organ procurement organization shall provide or  
37 assist the coroner or medical examiner in obtaining:

38 (i) Medical records.

39 (ii) Photographs.

40 (iii) Specimens, including blood and tissue.

41 (iv) Laboratory and diagnostic test results.

42 (v) Any other available information.

43 (4) If applicable, the coroner or medical examiner shall  
44 timely notify the organ procurement organization of any  
45 additional requests from the coroner, medical examiner or  
46 district attorney of the county where the cause of death is  
47 believed to have occurred, including scheduling the recovery  
48 procedure to permit their attendance where the scheduling can  
49 be done in a time frame consistent with facilitating  
50 anatomical donation.

51 (5) Notwithstanding the provisions of 18 Pa.C.S. Ch. 91

1 (relating to criminal history record information), a coroner  
2 or medical examiner shall, upon request, release to the organ  
3 procurement organization the name, contact information and  
4 available medical and social history of a decedent whose  
5 death is under investigation. The information provided under  
6 this paragraph shall be exempt from the act of February 14,  
7 2008 (P.L.6, No.3), known as the Right-to-Know Law.

8 (b) Facilitation of donation.--If a coroner or medical  
9 examiner has jurisdiction in the case of a prospective organ  
10 donor, the coroner or medical examiner shall have the final  
11 authority to disallow an anatomical gift and the following shall  
12 apply:

13 (1) If the coroner or medical examiner is considering  
14 denying recovery of one or more organs intended for  
15 transplant or therapy, the coroner or medical examiner shall  
16 notify the applicable organ procurement organization.

17 (2) The coroner or medical examiner and the applicable  
18 organ procurement organization shall seek to agree to  
19 limitations to the donation that address the needs of the  
20 coroner or medical examiner.

21 (3) If a limitation to the donation that addresses a  
22 need of the coroner or medical examiner cannot be reached,  
23 the coroner, medical examiner or the coroner's or medical  
24 examiner's designee shall attend the organ recovery  
25 procedure. The following shall apply:

26 (i) The organ procurement organization shall use the  
27 organization's best efforts to schedule the recovery  
28 procedure at the time reasonably requested by the coroner  
29 or medical examiner.

30 (ii) The coroner or medical examiner or the  
31 coroner's or medical examiner's designee in attendance  
32 may deny removal of an organ if, in the individual's  
33 judgment, the removal of the organ may interfere with or  
34 impede the investigation of the cause, manner and  
35 mechanism of death of the donor.

36 (iii) For the denial of removal of an organ to be  
37 valid, the coroner, medical examiner or the coroner's or  
38 medical examiner's designee must be in attendance at the  
39 recovery procedure. Attendance must be in-person or, if  
40 in-person attendance is not possible in a time frame  
41 consistent with facilitating donation and if available,  
42 by electronic communication which includes a live visual  
43 depiction of the recovery procedure.

44 (iv) If the coroner, medical examiner or the  
45 coroner's or medical examiner's designee denies removal  
46 of an organ, the coroner or medical examiner shall  
47 provide to the designated organ procurement organization  
48 a written explanation of the reason for determining that  
49 the removal of the organ may interfere with or impede the  
50 investigation of the cause, manner and mechanism of  
51 death. Information provided under this paragraph shall be

1 exempt from the Right-to-Know Law.

2 (v) Removal of an organ may not occur if the coroner  
3 or medical examiner or the coroner's or medical  
4 examiner's designee has denied removal of that organ in  
5 accordance with this section.

6 (vi) The applicable organ procurement organization  
7 shall reimburse the coroner or medical examiner for the  
8 reasonable costs of attendance at the recovery procedure.

9 (c) Report.--If requested by the coroner, medical examiner  
10 or district attorney, the physician recovering an organ under  
11 this section shall provide a report and, if necessary, be  
12 available to provide testimony in any proceeding, detailing the  
13 condition of the organ and the recovery procedure. Reasonable  
14 costs associated with a physician or technician's providing  
15 testimony under this section shall be paid by the designated  
16 organ procurement organization. A report prepared under this  
17 subsection shall be exempt from the Right-to-Know Law.

18 (d) Timing.--The requirements of this section shall be  
19 performed in a manner and time frame consistent with anatomical  
20 donation.

21 § 8627. Collaboration among departments and organ procurement  
22 organizations.

23 (a) Mandatory.--

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

29 (2) The Department of Transportation, in consultation  
30 with designated organ procurement organizations, shall  
31 establish an annual education program for photo license  
32 technicians of the Department of Transportation.

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

37 § 8628. Information relative to organ and tissue donation.

38 (a) Curriculum.--The Department of Education, in  
39 consultation with the designated organ procurement  
40 organizations, shall review the Commonwealth's educational  
41 curriculum framework to ensure that information about organ  
42 donation is included in the standards for students in grades 9  
43 through 12 beginning with the 2016-2017 school year. The form  
44 and content of the curriculum regarding organ donation shall be  
45 determined by the Department of Education.

46 (b) Goals.--The goals of the standards shall be to:

47 (1) Provide a comprehensive, scientific overview of  
48 anatomical donation, its history and scientific advancement.

49 (2) Fully address the risks and benefits of and the  
50 myths and misunderstandings regarding organ and tissue  
51 donation.

1       (3) Explain the options available to minors and adults,  
2       including the option of designating oneself as an organ and  
3       tissue donor and the option of not designating oneself as an  
4       organ donor.

5       (c) Materials.--The Department of Education shall make  
6       related instructional materials available to public and  
7       nonpublic schools educating students in grades 9 through 12. The  
8       General Assembly shall encourage nonpublic schools to use the  
9       instructional materials. Nothing in this subsection shall be  
10       construed to require nonpublic schools to use the instructional  
11       materials.

12       (c.1) Parental option.--A minor enrolled in a public or  
13       nonpublic school may be permitted to opt out of receiving  
14       instruction or materials relating to anatomical donation as  
15       provided under this section if the minor's parent or guardian  
16       has provided written notice to the school.

17       (d) Institutions of higher education.--

18       (1) Beginning with the 2017-2018 school year, each  
19       public institution of higher education in this Commonwealth  
20       may provide, in collaboration with the designated organ  
21       procurement organizations, information to its students,  
22       either through student health services or as part of the  
23       curriculum, which:

24               (i) provides a comprehensive, scientific overview of  
25               anatomical donation, its history and scientific  
26               advancement; and

27               (ii) addresses the risks and benefits of and the  
28               myths and misunderstandings about anatomical donation.

29       (2) Beginning with the 2017-2018 school year, each  
30       private institution of higher education in this Commonwealth  
31       may provide, in collaboration with the designated organ  
32       procurement organizations, information to its students,  
33       either through student health services or as part of the  
34       curriculum, which:

35               (i) provides a comprehensive, scientific overview of  
36               anatomical donation, its history and scientific  
37               advancement; and

38               (ii) addresses the risks and benefits of and the  
39               myths and misunderstandings about anatomical donation.

40       § 8629. Requirements for physician and nurse training relative  
41       to organ and tissue donation and recovery.

42       The State Board of Medicine, the State Board of Osteopathic  
43       Medicine and the State Board of Nursing shall promulgate  
44       regulations requiring physicians, osteopathic physicians and  
45       professional nurses to complete a two-hour course on organ and  
46       tissue donation and recovery designed to address the clinical  
47       aspects of the donation and recovery process as a condition of  
48       the license renewal for their first renewal after the effective  
49       date of this section.

50       § 8629.1. Department of Transportation.

51       The following shall apply:

1       (1) The Secretary of Transportation shall publish notice  
2       in the Pennsylvania Bulletin of the completion of the  
3       Department of Transportation's:

4           (i) Internet website;

5           (ii) establishment of the Donate Life PA registry;

6       and

7           (iii) establishment of the links to enable donation  
8       of money under section 8621 (relating to The Governor  
9       Robert P. Casey Memorial Organ and Tissue Donation  
10       Awareness Trust Fund contributions).

11       (2) Until the notice under paragraph (1) is published,  
12       the Secretary of Transportation shall issue a statement every  
13       60 days to the chairperson and minority chairperson of the  
14       Judiciary Committee of the Senate and the chairperson and  
15       minority chairperson of the Judiciary Committee of the House  
16       of Representatives regarding the steps taken by the  
17       department to complete the requirements of paragraph (1).

18   § 8629.2. Department of Corrections.

19       The Department of Corrections shall, in consultation with an  
20       organ procurement organization, provide information to or make  
21       information available about anatomical donation to inmates in  
22       State Correctional Institutions. The information shall be  
23       provided or made available annually and shall include topics  
24       under section 8621(c)(2) (relating to The Governor Robert P.  
25       Casey Memorial Organ and Tissue Donation Awareness Trust Fund  
26       contributions).

27   § 8630. Uniformity of application and construction.

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

32   § 8631. Relation to Electronic Signatures in Global and  
33       National Commerce Act.

34       This chapter modifies, limits and supersedes the Electronic  
35       Signatures in Global and National Commerce Act (Public Law 106-  
36       229, 15 U.S.C. § 7001 et seq.). This chapter shall not modify,  
37       limit or supersede section 101(c) of the Electronic Signatures  
38       in Global and National Commerce Act or authorize electronic  
39       delivery of any of the notices described in section 103(b) of  
40       the Electronic Signatures in Global and National Commerce Act.

41       Section 7. Subchapter C of Chapter 86 of Title 20 is  
42       repealed:

43                               [SUBCHAPTER C  
44                               CORNEAL TRANSPLANTS

45       Sec.

46       8641. Removal of corneal tissue permitted under certain  
47       circumstances.

48       8642. Limitation of liability.

49       § 8641. Removal of corneal tissue permitted under certain  
50       circumstances.

51       (a) General rule.--On a request from an authorized official

1 of an eye bank for corneal tissue, a coroner or medical examiner  
2 may permit the removal of corneal tissue if all of the following  
3 apply:

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

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

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

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

14 (b) Definition.--As used in this section, the term "eye  
15 bank" means a nonprofit corporation chartered under the laws of  
16 this Commonwealth to obtain, store and distribute donor eyes to  
17 be used by physicians or surgeons for corneal transplants,  
18 research or other medical purposes and the medical activities of  
19 which are directed by a physician or surgeon in this  
20 Commonwealth.

21 § 8642. Limitation of liability.

22 A person who acts in good faith in accordance with the  
23 provisions of this subchapter shall not be subject to criminal  
24 or civil liability arising from any action taken under this  
25 subchapter. The immunity provided by this section shall not  
26 extend to persons if damages result from the gross negligence,  
27 recklessness or intentional misconduct of the person.]

28 Section 8. This act shall take effect as follows:

29 (1) The addition of 20 Pa.C.S. § 8629.1 shall take  
30 effect immediately.

31 (2) This section shall take effect immediately.

32 (3) The remainder of this act shall take effect upon  
33 publication of the notice under 20 Pa.C.S. § 8629.1.