

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 850** Session of
2013

INTRODUCED BY GREENLEAF, STACK, FARNESE, YUDICHAK, FONTANA,
BREWSTER, ERICKSON, RAFFERTY, MENSCH, COSTA, HUGHES, BAKER,
SOLOBAY, BROWNE, WASHINGTON, FERLO, SCARNATI, VULAKOVICH,
SMITH, TARTAGLIONE, BLAKE, ALLOWAY, LEACH, BOSCOLA, WOZNIAK
AND SCHWANK, APRIL 16, 2013

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, NOVEMBER 19, 2013

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 definitions, for prospective donors, for prospective donees,
4 for procedure, for amendment or revocation, for rights and
5 duties at death, for requests, for identification and
6 authorization, for the Governor Robert P. Casey Memorial
7 Organ and Tissue Donation Awareness Trust Fund, for
8 confidentiality and for prohibitions; providing for promotion
9 of donations through a registry, for effect on advance health
10 care directive, for facilitation of gifts during
11 investigation, for collaboration, for information, for
12 physician and nurse training, for uniformity and for
13 electronic signatures; and further providing for corneal
14 transplants.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. The definitions of "advisory committee," "bank or
18 storage facility," "decedent" and "organ procurement
19 organization" in section 8601 of Title 20 of the Pennsylvania
20 Consolidated Statutes are amended and the section is amended by
21 adding definitions to read:

22 § 8601. Definitions.

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

4 * * *

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

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

8 "Advisory committee." The Organ and Tissue Donation Advisory
9 Committee established under section 8622 (relating to The
10 Governor Robert P. Casey Memorial Organ and Tissue Donation
11 Awareness Trust Fund).

12 "Agent." Any of the following:

13 (1) An individual authorized to make health care
14 decisions on another's behalf under Subchapter C of Chapter
15 54 (relating to health care agents and representatives).

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

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

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

25 * * *

26 "Decedent." [A deceased individual, including a stillborn
27 infant or fetus.] A deceased individual whose body or part is or
28 may be the source of an anatomical gift. The term includes a
29 stillborn infant and, subject to restrictions imposed by other
30 laws, a fetus. The term does not include a blastocyst, embryo or

1 fetus that is the subject of an induced abortion.

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

6 "Donate Life PA Registry." ~~The registry established in~~ <--
7 ~~section 8625 (relating to promotion of organ and tissue~~
8 ~~donation; Donate Life PA Registry established).~~ THAT SUBSET OF <--
9 PERSONS IN THE DEPARTMENT OF TRANSPORTATION'S DRIVER'S LICENSE
10 AND PHOTO IDENTIFICATION CARD DATABASE WHO HAVE ELECTED TO
11 INCLUDE THE DONOR DESIGNATION ON THEIR RECORD. THIS TERM SHALL
12 NOT REFER TO A SEPARATE DATABASE.

13 * * *

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

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

20 * * *

21 "Hospital administrator." Any individual appointed by a
22 hospital's governing body to act on its behalf in the overall
23 management of the hospital. The term includes a designee of the
24 individual.

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

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

29 "Organ procurement organization." An organization [that
30 meets the requirements of section 371 of the Public Health

1 Service Act (58 Stat. 682, 42 U.S.C. § 273)] designated for the
2 region by the Secretary of Health and Human Services as an organ
3 procurement organization.

4 * * *

5 "Person authorized or obligated to dispose of a decedent's
6 body." Any of the following, without regard to order of
7 priority:

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

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

12 (3) An administrator or ~~authorized~~ official of a social <--
13 service agency having a relationship with the decedent.

14 (4) An individual or official of an entity that:

15 (i) is authorized to make decisions with respect to
16 the disposition, transportation, transfer, burial or
17 cremation of a decedent;

18 (ii) is under an obligation to make decisions with
19 respect to the disposition, transportation, transfer,
20 burial or cremation of a decedent; or

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

25 * * *

26 "Program coordinator." The Organ and Tissue Donation
27 Awareness Program Coordinator established in section 8622
28 (relating to The Governor Robert P. Casey Memorial Organ and
29 Tissue Donation Awareness Trust Fund).

30 "Prospective donor." A person who is dead or whose death is

1 imminent and has been determined by an organ procurement
2 organization to have a part that could be medically suitable for
3 transplantation, therapy, research or education.

4 "Reasonably available." Able to be contacted by a
5 procurement organization ~~without undue~~ WITH REASONABLE effort <--
6 and willing and able to act in a timely manner consistent with
7 existing medical criteria necessary to make an anatomical gift.

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

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

13 * * *

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

18 * * *

19 Section 2. Sections 8611(a), (b) and (c) of Title 20 are
20 amended ~~and the section is amended by adding a subsection to~~ <--
21 read:

22 § 8611. Persons who may execute anatomical gift.

23 (a) General rule.--Any individual of sound mind and 18 years
24 of age or more may give all or any part of his body for any
25 purpose specified in section 8612 (relating to persons who may
26 become donees; purposes for which anatomical gifts may be made),
27 the gift to take effect upon death. [Any] An agent [acting under
28 a power of attorney which authorizes the agent to make
29 anatomical gifts] may effectuate a gift for any purpose
30 specified in section 8612. Any individual who is a minor and 16

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

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

21 [(1) The spouse.

22 (2) An adult son or daughter.

23 (3) Either parent.

24 (4) An adult brother or sister.

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

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

29 (1) An agent of the decedent at the time of death who
30 could have made an anatomical gift under subsection (a).

- 1 (2) The spouse of the decedent.
- 2 (3) An adult child of the decedent.
- 3 (4) A parent of the decedent.
- 4 (5) An adult sibling of the decedent.
- 5 (6) A guardian of the person of the decedent.
- 6 (7) An adult who is related to the decedent by blood, <--
7 marriage or adoption, including a stepparent, stepchild or
8 stepsibling. GRANDCHILD OF THE DECEDENT. <--
- 9 (8) A GRANDPARENT OF THE DECEDENT.
- 10 ~~(8)~~ (9) A person that exhibited special care and concern <--
11 for the decedent.
- 12 ~~(9)~~ (10) A hospital administrator. <--
- 13 ~~(10)~~ (11) A person authorized or obligated to dispose of <--
14 the decedent's body.
- 15 ~~(b.1) Required to donate anatomy of decedent. Unless there <--~~
16 is a known objection by the decedent, a hospital administrator
17 shall give all or part of the decedent's body for any purpose
18 specified in section 8612.
- 19 (c) Donee not to accept in certain cases.--[If the]
- 20 (1) The donee may not accept a gift under any of the
21 following circumstances:
- 22 (i) The donee [has actual notice of contrary
23 indications] knows of an objection by the decedent [or].
- 24 (ii) The donee knows that a gift by a member of a
25 class is opposed by a reasonably available member of [the
26 same or] a prior class[, the donee shall not accept the
27 gift].
- 28 (iii) The donee knows that a gift by a member of a
29 class is opposed by at least 50% of the reasonably
30 available members of the same class.

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

3 * * *

4 Section 2.1. Section 8612 of Title 20 is amended to read:

5 § 8612. Persons who may become donees; purposes for which
6 anatomical gifts may be made.

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

9 (1) Any hospital, surgeon or physician for medical or
10 dental education, research, advancement of medical or dental
11 science, therapy or transplantation.

12 (2) Any accredited medical or dental school, college or
13 university for education, research, advancement of medical or
14 dental science or therapy.

15 (3) Any bank or storage facility for medical or dental
16 education, research, advancement of medical or dental
17 science, therapy or transplantation.

18 (4) Any specified individual for therapy or
19 transplantation needed by him.

20 (5) The board.]

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

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

24 (i) A hospital.

25 (ii) An accredited medical school, dental school,
26 college or university.

27 (iii) The board.

28 (iv) An organ procurement organization.

29 (v) Any other appropriate person as authorized

<--

30 PERMITTED by law.

<--

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

4 (3) An eye bank or tissue bank.

5 (4) An organ procurement organization.

6 (b) Directed donation.--If an anatomical gift to an
7 individual under subsection (a)(2) cannot be transplanted into
8 the individual, the part shall pass in accordance with
9 subsection (c) in the absence of a known objection by the person
10 making the anatomical gift.

11 (c) Organ for transplant or therapy.--An anatomical gift of
12 an organ for transplantation or therapy, other than an
13 anatomical gift under subsection (a)(2), shall pass to the organ
14 procurement organization.

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

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

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

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

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

25 (e) Multiple purposes.--If there is more than one purpose of
26 an anatomical gift set forth in the document of gift but the
27 purposes are not set forth in any priority, the gift shall be
28 used for transplantation or therapy, if suitable AND ENUMERATED <--
29 IN THE DOCUMENT OF GIFT, and shall pass to the appropriate organ
30 procurement organization. If the gift cannot be used for

1 transplantation or therapy, the gift may be used for ~~research or~~ <--
2 ~~education~~ OTHER LAWFUL PURPOSES ENUMERATED IN THE DOCUMENT OF <--
3 GIFT.

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

9 (G) EFFECT OF GIFT.--AN ANATOMICAL GIFT OF A PART IS NEITHER <--
10 A REFUSAL TO GIVE ANOTHER PART NOR A LIMITATION ON THE MAKING OF
11 AN ANATOMICAL GIFT OF ANOTHER PART OR MAKING AN ANATOMICAL GIFT
12 FOR ANOTHER PURPOSE AT A LATER TIME BY THE DONOR OR ANOTHER
13 PERSON.

14 Section 2.2. Section 8613(b), (d) and (e) of Title 20 are
15 amended and the section is amended by adding subsections to
16 read:

17 § 8613. Manner of executing anatomical gifts.

18 * * *

19 (b) Gifts by other documents.--[A gift of all or part of the
20 body under section 8611(a) may also be made by document other
21 than a will.] An anatomical gift may be made by other document,
22 including by authorizing a statement or symbol indicating that
23 the donor has made an anatomical gift, which shall be recorded
24 in a donor registry or on the donor's driver's license or
25 identification card. The gift becomes effective upon the death
26 of the donor. The document, which may be a card designed to be
27 carried on the person, must be signed by the donor [in the
28 presence of two witnesses who must sign the document in his
29 presence]. If the donor is mentally competent to signify his
30 desire to sign the document but is physically unable to do so,

1 the document may be signed for him by another at his direction
2 and in his presence in the presence of two witnesses who must
3 sign the document in his presence. Delivery of the document of
4 gift during the donor's lifetime is not necessary to make the
5 gift valid. If an anatomical gift is indicated on a driver's
6 license or an identification card, the anatomical gift is not
7 invalidated by revocation, suspension, expiration or
8 cancellation of:

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

11 (2) the identification card by the Department of
12 Transportation.

13 * * *

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

1 physician. A qualified funeral director, eye bank technician or
2 medical student acting in accordance with the terms of this
3 subsection shall not have any liability, civil or criminal, for
4 the eye enucleation.]

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

8 (e) Consent not necessary.--[If a donor card, donor driver's
9 license, living will, durable power of attorney or other
10 document of gift evidencing a gift of organs or tissue has been
11 executed,] A donor's gift of all or any part of the individual's
12 body, including a designation IN A REGISTRY on a driver's <--
13 license or identification card, donor card, advance health care
14 directive, will or other document of gift, may not be revoked by
15 the next-of-kin or other persons identified in section 8611(b).
16 The consent of any person [designated in section 8611(b)] at the
17 time of the donor's death or immediately thereafter is not
18 necessary to render the gift valid and effective.

19 * * *

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

22 (1) this chapter;

23 (2) the law of the state or country where it was
24 executed; or

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

28 (i) is domiciled;

29 (ii) has a place of residence; or

30 (iii) is a citizen.

1 (h) Choice of law.--If a document of gift is valid under
2 this section, the law of this Commonwealth governs
3 interpretation of the document.

4 (I) REFUSALS.--AN INDIVIDUAL MAY REFUSE TO MAKE AN <--
5 ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR PART BY A WRITING OR
6 RECORD SIGNED IN THE SAME MANNER AS A DOCUMENT OF GIFT OR ANY
7 OTHER WRITING OR RECORD USED TO IDENTIFY THE INDIVIDUAL AS
8 REFUSING TO MAKE AN ANATOMICAL GIFT. AN INDIVIDUAL'S UNREVOKED
9 REFUSAL TO MAKE AN ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR
10 PART BARS ALL OTHER PERSONS FROM MAKING AN ANATOMICAL GIFT OF
11 THE INDIVIDUAL'S BODY OR PART.

12 Section 3. Section 8615 of Title 20 is amended by adding
13 subsections to read:

14 § 8615. Amendment or revocation of gift.

15 * * *

16 (d) Effectiveness of revocation.--A revocation made under
17 this chapter shall take effect if, before an incision has been
18 made to remove a part from the donor's body or before invasive
19 procedures have begun to prepare the recipient, the applicable
20 organ procurement organization, transplant hospital or physician
21 or technician knows of the revocation.

22 (e) Revocation not a refusal.--A revocation made under this
23 chapter shall be effective if the applicable organ procurement <--
24 organization, tissue bank, eye bank or transplant hospital knows
25 of, and can reasonably communicate, the revocation to the
26 involved physicians or technicians before an incision has been
27 made to remove a part from the donor's body or before invasive
28 procedures have begun to prepare the recipient. NOT BE <--
29 CONSIDERED A KNOWN OBJECTION OR REFUSAL TO MAKE A GIFT OF ONE'S
30 BODY OR A PART OF ONE'S BODY NOR A PROHIBITION AGAINST A PERSON

1 DESCRIBED IN SECTION 8611(B) (RELATING TO PERSONS WHO MAY
2 EXECUTE ANATOMICAL GIFT) MAKING SUCH GIFT.

3 Section 4. Sections 8616(b), (c) and (d), 8617, 8619, 8621,
4 8622, 8623 and 8624 of Title 20 are amended to read:

5 § 8616. Rights and duties at death.

6 * * *

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

13 (c) Certain liability limited.--A person who acts in good
14 faith in accordance with the terms of this subchapter or with
15 the anatomical gift laws of another state or a foreign country
16 is not liable for damages in any civil action or subject to
17 prosecution in any criminal proceeding for his act. Neither a
18 person making an anatomical gift nor a donor's estate shall be
19 liable for injury or damage which results from the making or use
20 of the anatomical gift. In determining whether an anatomical
21 gift has been made, amended or revoked under this chapter, a
22 person may rely upon representations of an individual listed in
23 section 8611(b) relating to the individual's relationship to the
24 donor or prospective donor unless the person knows that the
25 representation is untrue.

26 (d) Law on autopsies applicable.--The provisions of this
27 subchapter are subject to the laws of this Commonwealth
28 prescribing powers and duties with respect to autopsies.
29 Notwithstanding 18 Pa.C.S. Ch. 91 (relating to criminal history
30 record information), an organ procurement organization is

1 authorized to obtain a copy of an autopsy report in a timely
2 fashion upon request and payment of reasonable copying fees.

3 § 8617. Requests for anatomical gifts.

4 [(a) Procedure.--On or before the occurrence of each death
5 in an acute care general hospital, the hospital shall make
6 contact with the regional organ procurement organization in
7 order to determine the suitability for organ, tissue and eye
8 donation for any purpose specified under this subchapter. This
9 contact and the disposition shall be noted on the patient's
10 medical record.

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

17 (c) Donor card.--Notwithstanding any provision of law to the
18 contrary, the intent of a decedent to participate in an organ
19 donor program as evidenced by the possession of a validly
20 executed donor card, donor driver's license, living will,
21 durable power of attorney or other document of gift shall not be
22 revoked by any member of any of the classes specified in section
23 8611(b).

24 (d) Identification of potential donors.--Each acute care
25 general hospital shall develop within one year of the date of
26 final enactment of this section, with the concurrence of the
27 hospital medical staff, a protocol for identifying potential
28 organ and tissue donors. It shall require that, at or near the
29 time of every individual death, all acute care general hospitals
30 contact by telephone their regional organ procurement

1 organization to determine suitability for organ, tissue and eye
2 donation of the individual in question. The person designated by
3 the acute care general hospital to contact the organ procurement
4 organization shall have the following information available
5 prior to making the contact:

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

10 The organ procurement organization, in consultation with the
11 patient's attending physician or his designee, shall determine
12 the suitability for donation. If the organ procurement
13 organization in consultation with the patient's attending
14 physician or his designee determines that donation is not
15 appropriate based on established medical criteria, this shall be
16 noted by hospital personnel on the patient's record, and no
17 further action is necessary. If the organ procurement
18 organization in consultation with the patient's attending
19 physician or his designee determines that the patient is a
20 suitable candidate for anatomical donation, the acute care
21 general hospital shall initiate a request by informing the
22 persons and following the procedure designated under section
23 8611(b) of the option to donate organs, tissues or eyes. The
24 person initiating the request shall be an organ procurement
25 organization representative or a designated requestor. The organ
26 procurement organization representative or designated requestor
27 shall ask persons pursuant to section 8611(b) whether the
28 deceased was an organ donor. If the person designated under
29 section 8611(b) does not know, then this person shall be
30 informed of the option to donate organs and tissues. The

1 protocol shall encourage discretion and sensitivity to family
2 circumstances in all discussions regarding donations of tissue
3 or organs. The protocol shall take into account the deceased
4 individual's religious beliefs or nonsuitability for organ and
5 tissue donation.

6 (e) Tissue procurement.--

7 (1) The first priority use for all tissue shall be
8 transplantation.

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

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

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

27 (i) The number of tissue donors.

28 (ii) The number of tissue procurements for
29 transplantation.

30 (iii) The number of tissue procurements recovered

1 for research by each tissue procurement provider
2 operating in this Commonwealth.

3 (f) Guidelines.--

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

11 (i) Establish guidelines regarding efficient
12 procedures facilitating the delivery of anatomical gift
13 donations from receiving hospitals to procurement
14 providers.

15 (ii) Develop guidelines to assist hospitals in the
16 selection and designation of tissue procurement
17 providers.

18 (2) Each organ procurement organization and each tissue
19 procurement provider operating within this Commonwealth
20 shall, within six months of the effective date of this
21 chapter, file with the Department of Health, for public
22 review, its operating protocols.]

23 (a) Procedure.--

24 (1) A hospital located in this Commonwealth shall notify
25 the applicable designated organ procurement organization or a
26 third party designated by that organization of an individual
27 whose death is imminent or who has died in the hospital.
28 Notification shall be made in a timely manner to ensure that
29 examination, evaluation and ascertainment of donor status as
30 set forth in subsection (d) can be completed within a time

1 frame compatible with the donation of organs and tissues for
2 transplant. The notification shall be made without regard to
3 whether the person has executed an advance directive for
4 health care.

5 (2) The following shall apply to coroners and medical
6 examiners:

7 (i) Except as set forth in subparagraph (ii), a
8 coroner or medical examiner shall notify the applicable
9 designated organ procurement organization of a person's
10 death in accordance with a mutually agreed-upon protocol.
11 Notification shall be made in a timely manner to ensure
12 that examination, evaluation and ascertainment of donor
13 status as set forth in subsection (d) can be completed
14 within a time frame compatible with the recovery of
15 tissues for transplant.

16 (ii) Notification under this paragraph shall not be
17 made if:

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

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

23 (b) Referrals.--If an organ procurement organization
24 receives a referral of an individual whose death is imminent or
25 who has died, the organ procurement organization shall make a
26 reasonable search of the records of the Donate Life PA Registry
27 or the applicable State donor registry that it knows exists for
28 the geographic area in which the individual resided or resides
29 in order to ascertain whether the individual has made an
30 anatomical gift.

1 (c) Document of gift.--

2 (1) If the referred patient has a document of gift,
3 including registration with the Donate Life PA Registry, the
4 procurement organization representative or the designated
5 requestor shall attempt to notify a person listed in section
6 8611(b) (relating to persons who may execute anatomical gift)
7 of the gift.

8 (2) If no document of gift is known to the procurement
9 organization representative or the designated requestor, one
10 of these two individuals shall ask the persons listed in
11 section 8611(b) whether the decedent had a validly executed
12 document of gift. If there is no evidence of an anatomical
13 gift by the decedent, the procurement organization
14 representative or the designated requestor shall notify a
15 person listed in section 8611(b) of the option to donate
16 organs and tissues. THE NOTIFICATION SHALL BE PERFORMED IN <--
17 ACCORDANCE WITH A PROTOCOL THAT ENCOURAGES DISCRETION AND
18 SENSITIVITY TO FAMILY CIRCUMSTANCES IN ALL DISCUSSIONS
19 REGARDING DONATIONS OF TISSUE OR ORGANS. THE PROTOCOL SHALL
20 TAKE INTO ACCOUNT THE DECEASED'S RELIGIOUS BELIEFS OR
21 NONSUITABILITY FOR ORGAN AND TISSUE DONATION.

22 (3) The hospital administrator or that person's
23 designated representative shall indicate in the medical
24 record of the decedent:

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

27 (ii) IF A GIFT WAS MADE, the name of the person <--
28 granting ~~or refusing~~ the gift and that person's <--
29 relationship to the decedent.

30 (d) Testing.--

1 (1) This subsection shall apply if:

2 (i) a hospital refers an individual who is dead or
3 whose death is imminent to an organ procurement
4 organization; and

5 (ii) the organ procurement organization determines,
6 based upon a medical record review, that the individual
7 may be a prospective donor.

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

10 (i) The organ procurement organization may conduct a
11 blood or tissue test or minimally invasive examination
12 which is reasonably necessary to evaluate the medical
13 suitability of a part that is or may be the subject of an
14 anatomical gift. Specific consent to testing or
15 examination under this subparagraph shall not be
16 required. The results of tests and examinations under
17 this subparagraph shall be used or disclosed only:

18 (A) to evaluate medical suitability for donation
19 and to facilitate the donation process; and

20 (B) as required or permitted by law.

21 (ii) The hospital may not withdraw or withhold any
22 measures which are necessary to maintain the medical
23 suitability of the part until the organ procurement
24 organization has:

25 (A) had the opportunity to advise the applicable
26 persons as set forth in section 8611(b) of the option
27 to make an anatomical gift and has received or been
28 denied authorization to proceed with recovery of the
29 part; or

30 (B) has ascertained that the individual

1 ~~expressed a known objection~~ MADE A GIFT OR EXPRESSED <--

2 A KNOWN OBJECTION TO MAKING A GIFT.

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

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

13 (f.1) Recipients.--

14 (1) Subject to the provisions of this chapter, the
15 rights of the person to whom a part passes under section 8612
16 shall be superior to the rights of all others with respect to
17 the part. The person may accept or reject an anatomical gift
18 in whole or in part.

19 (2) Subject to the terms of the document of gift and
20 this chapter, a person that accepts an anatomical gift of an
21 entire body may allow embalming, burial or cremation and the
22 use of remains in a funeral service. If the gift is of a
23 part, the person to whom the part passes under section 8612,
24 upon the death of the donor and before embalming, burial or
25 cremation, shall cause the part to be removed without
26 unnecessary mutilation.

27 (f.2) Physicians.--

28 (1) Neither the physician who attends the decedent at
29 death nor the physician who determines the time of the
30 decedent's death may participate in the procedures for

1 removing or transplanting a part from the decedent.

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

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

6 (1) A hospital shall enter into agreements or
7 affiliations with organ procurement organizations for
8 coordination of procurement and use of anatomical gifts.

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

17 (g) Death record review.--

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

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

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

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

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

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

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

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

30 (5) An organ procurement organization may, upon request

1 and payment of associated fees, obtain certified copies of
2 death records of a donor from the Division of Vital Records
3 of the department.

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

7 "Designated requestor." A hospital employee completing a
8 course offered by [an] a designated organ procurement
9 organization on how to approach potential donor families and
10 request organ or tissue donation.

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

14 § 8619. Use of driver's license or identification card to
15 indicate organ or tissue donation.

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

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

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

1 consent to organ or tissue donation. The department shall record
2 and store all ~~organ~~ donor designations in the Donate Life PA <--
3 Registry, regardless of whether a driver's license or <--
4 identification card is issued. The recorded and stored
5 designation is sufficient to satisfy all requirements for
6 consent to organ and tissue donation.

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

28 § 8621. The Governor Robert P. Casey Memorial Organ and Tissue
29 Donation Awareness Trust Fund contributions.

30 (a) Driver's license.--Beginning as soon as practicable, but

1 no later than [January 1, 1995] July 1, 2013 ~~2014~~, the <--
2 Department of Transportation shall provide an applicant for an
3 original or renewal driver's license or identification card the
4 opportunity to make a contribution of [\$1] ~~\$2~~ \$3 to the fund. <--
5 The contribution shall be added to the regular fee for an
6 original or renewal driver's license or identification card. One
7 contribution may be made for each issuance or renewal of a
8 license or identification card. Contributions shall be used
9 exclusively for the purposes set out in section 8622 (relating
10 to The Governor Robert P. Casey Memorial Organ and Tissue
11 Donation Awareness Trust Fund). The Department of Transportation
12 shall monthly determine the total amount designated under this
13 section and shall report that amount to the State Treasurer, who
14 shall transfer that amount to The Governor Robert P. Casey
15 Memorial Organ and Tissue Donation Awareness Trust Fund.

16 (b) Vehicle registration.--The Department of Transportation
17 shall provide an applicant for a renewal vehicle registration
18 the opportunity to make a contribution of [\$1] ~~\$2~~ \$3 to The <--
19 Governor Robert P. Casey Memorial Organ and Tissue Donation
20 Awareness Trust Fund. The contribution shall be added to the
21 regular fee for a renewal of a vehicle registration. One
22 contribution may be made for each renewal vehicle registration.
23 Contributions shall be used exclusively for the purposes
24 described in section 8622. The Department of Transportation
25 shall monthly determine the total amount designated under this
26 section and shall report that amount to the State Treasurer, who
27 shall transfer that amount to The Governor Robert P. Casey
28 Memorial Organ and Tissue Donation Awareness Trust Fund. The
29 Governor Robert P. Casey Memorial Organ and Tissue Donation
30 Awareness Trust Fund shall reimburse the department for the

1 initial costs incurred in the development and implementation of
2 the contribution program [under this subsection] ~~in an amount of~~ <--
3 ~~not more than \$375,000~~ ACCORDING TO AN IMPLEMENTATION SCHEDULE <--
4 ESTABLISHED BY THE DEPARTMENT AND THE ORGAN DONATION ADVISORY
5 COMMITTEE. The General Fund shall reimburse the Department of
6 Transportation for the actual annual operating costs of the
7 program for vehicle registrations as described in this
8 subsection [subject to the following limits: For the first
9 fiscal year during which this subsection is effective, the
10 General Fund shall reimburse the Department of Transportation
11 for the actual operating costs of the program in this subsection
12 up to a maximum of \$100,000]. For each fiscal year thereafter,
13 the General Fund shall reimburse the Department of
14 Transportation for the actual operating costs of the program in
15 this subsection in an amount not to exceed the prior year's
16 actual operating costs on a full fiscal year basis plus 3%. The
17 amounts approved by the Governor as necessary are hereby
18 appropriated from the General Fund for this purpose.

19 (c) Internet website.--Within one year of the effective date
20 of this subsection, the official Internet website of the
21 department shall provide links through which individuals may
22 make voluntary contributions of at least \$1 to the fund,
23 electronically and by paper. The links shall be provided at <--
24 least in connection with the issuance of driver's licenses,
25 personal identification cards and registration of motor
26 vehicles.

27 § 8622. The Governor Robert P. Casey Memorial Organ and Tissue
28 Donation Awareness Trust Fund.

29 (a) Establishment.--All contributions received by the
30 Department of Transportation under section 8621 (relating to The

1 Governor Robert P. Casey Memorial Organ and Tissue Donation
2 Awareness Trust Fund contributions) [and the Department of
3 Revenue under section 8618 (relating to voluntary contribution
4 system)] and the Department of Health under section 8617
5 (relating to requests for anatomical gifts) shall be deposited
6 into a special fund in the State Treasury to be known as The
7 Governor Robert P. Casey Memorial Organ and Tissue Donation
8 Awareness Trust Fund, which is hereby established.

9 (b) Appropriation.--All moneys deposited in the fund and
10 interest which accrues from those funds are appropriated on a
11 continuing basis subject to the approval of the Governor to
12 compensate the Department of Transportation, the Department of
13 Health and the Department of Revenue for actual costs related to
14 implementation of this chapter, including all costs of the Organ
15 and Tissue Donation Advisory Committee created in subsection

16 (c). Any remaining funds are appropriated subject to the
17 approval of the Governor for the following purposes:

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

1 including the development of a pilot program, necessary for
2 effectuating the purposes of this paragraph.

3 (2) [50%] Fifty percent may be expended for grants to
4 certified organ procurement organizations for the development
5 and implementation of organ donation awareness programs in
6 this Commonwealth. The Department of Health shall develop and
7 administer this grant program, which is hereby established.

8 (3) [15%] Fifteen percent may be expended by the
9 Department of Health, in cooperation with certified organ
10 procurement organizations, for the Project-Make-A-Choice
11 program, which shall include information pamphlets designed
12 by the Department of Health relating to organ donor awareness
13 and the laws regarding organ donation, public information and
14 public education about contributing to the fund when
15 obtaining or renewing a driver's license and when completing
16 a State individual income tax return form.

17 (4) [25%] Twenty-five percent may be expended by the
18 Department of Education for the implementation of organ
19 donation awareness programs in the secondary schools in this
20 Commonwealth.

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

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

25 (2) Two representatives of tissue procurement providers.

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

28 (4) Three representatives of acute care hospitals.

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

30 (6) One representative of eye banks.

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

24 (c) Advisory committee.--

25 (1) The Organ and Tissue Donation Advisory Committee is
26 established. Membership shall be as follows:

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

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

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

30 (iv) One representative from each designated organ

1 procurement organization.

2 (v) Two representatives of tissue procurement
3 providers.

4 (vi) Six members representative of:

5 (A) organ, tissue and eye recipients;

6 (B) families of recipients;

7 (C) donors; and

8 (D) families of donors.

9 (vii) Two representatives of acute care hospitals
10 which are:

11 (A) licensed in this Commonwealth; and

12 (B) members of the Statewide association
13 representing the interests of hospitals throughout
14 this Commonwealth.

15 (viii) One representative of eye banks.

16 (ix) One representative of community health
17 organizations.

18 (2) A member under paragraph (1) (i), (ii) and (iii)
19 shall serve ex officio.

20 (3) For a member under paragraph (1) (iv), (v), (vi),
21 (vii), (viii) and (ix), the following apply:

22 (i) Members shall be appointed in a manner which
23 reflects geographic diversity. Input on the selection of
24 the representatives under paragraph (1) (vii) shall be
25 sought from the Statewide association referred to in
26 paragraph (1) (vii) (B).

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

28 (iii) The Governor may reappoint an advisory
29 committee member for successive terms.

30 (iv) A member shall remain in office until a

1 successor is appointed and qualified.

2 (v) If a vacancy occurs prior to completion of a
3 term, the Governor shall appoint a member to fill the
4 unexpired term in the same manner as the vacating member
5 was appointed.

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

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

10 (ii) Recommend education and awareness training
11 programs.

12 (iii) Recommend priorities in expenditures from the
13 fund.

14 (iv) Advise the Secretary of Health on matters
15 relating to administration of the fund.

16 (v) Recommend legislation as necessary to fulfill
17 the purposes of this chapter.

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

22 (6) The Department of Health shall reimburse members of
23 the advisory committee only for necessary and reasonable
24 travel and other expenses incurred in the performance of
25 their duties under this subsection.

26 (d) Reports.--The Department of Health, the Department of
27 Transportation and the Department of Education shall submit an
28 annual report to the General Assembly on expenditures of fund
29 moneys and any progress made in [reducing the number of
30 potential donors who were not identified] increasing the number

1 of donor designations.

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

6 (f) Lead Commonwealth agency.--

7 (1) The Department of Health shall be the lead
8 Commonwealth agency responsible for promoting organ and
9 tissue donation in this Commonwealth and shall coordinate
10 activities among other collaborating Commonwealth agencies.

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

14 (i) The Department of Health shall be reimbursed by
15 The Governor Robert P. Casey Memorial Organ and Tissue
16 Donation Awareness Trust Fund for the actual cost of the
17 program coordinator position.

18 (ii) The program coordinator has the following
19 powers and duties:

20 (A) Assist in administration of the fund.

21 (B) Serve as a full-time liaison to the advisory
22 committee and assist the advisory committee in
23 program development, projects, funding proposals and
24 priorities.

25 (C) Serve as liaison with other Commonwealth
26 agencies. This clause shall include working with the
27 Department of Transportation to ensure that driver's
28 license centers promote organ and tissue donation and
29 comply with agreed-upon arrangements to display
30 information and materials.

1 (D) Assist designated organ procurement
2 organizations in their collaborations with other
3 Commonwealth agencies.

4 (E) PROVIDE INPUT TO DESIGNATED ORGAN PROCUREMENT <--
5 ORGANIZATIONS REGARDING TRAINING OF INDIVIDUALS
6 PERFORMING NOTIFICATIONS UNDER SECTION 8617(C). SUCH
7 TRAINING SHALL ENCOURAGE DISCRETION AND SENSITIVITY
8 TO FAMILY CIRCUMSTANCES AND THE CIRCUMSTANCES OF THE
9 POTENTIAL DONOR'S DEATH IN ALL DISCUSSIONS REGARDING
10 DONATIONS OF TISSUE OR ORGANS AND TAKE INTO ACCOUNT
11 THE POTENTIAL DONOR'S RELIGIOUS BELIEFS OR
12 NONSUITABILITY FOR ORGAN AND TISSUE DONATION.

13 (F) ASSIST IN RESOLVING ISSUES THAT ARISE IN
14 HOSPITALS IN THIS COMMONWEALTH REGARDING DONATION.

15 § 8623. Confidentiality requirement.

16 The identity of the donor and of the recipient may not be
17 communicated unless expressly authorized by [the recipient and
18 next of kin of the decedent.]:

19 (1) the recipient; and

20 (2) if the donor is alive, the donor, or if the donor is
21 deceased, the next of kin of the donor.

22 § 8624. Prohibited activities.

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

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

11 (a) Procurement organizations.--

12 (1) A procurement organization shall not do any of the
13 following:

14 (i) Disparage the services or business of another
15 procurement organization by false or misleading
16 representations of fact.

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

19 (iii) Engage in unlawful competition or
20 discrimination.

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

24 (b) Funeral establishments.--

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

27 (i) remove body parts from a corpse;

28 (ii) permit others to remove body parts from a
29 corpse; or

30 (iii) use funeral establishment facilities to remove

1 body parts from a corpse.

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

3 (i) Removal is permissible if it is:

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

6 (B) authorized in writing by a family member,
7 guardian or other person responsible for disposition
8 of the body.

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

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

22 Section 5. Title 20 is amended by adding sections to read:

23 § 8625. Promotion of organ and tissue donation; Donate Life PA
24 Registry established.

25 (a) Promotion.--The Department of Transportation shall
26 ensure access by residents of this Commonwealth to an Internet-
27 based interface which promotes organ and tissue donation and
28 enables residents 18 years of age or older who hold a
29 Pennsylvania driver's license or identification card to register
30 as donors and have their decisions immediately integrated into

1 the current database maintained by the department. The database
2 shall include only affirmative donation decisions.

3 (b) Paper form.--

4 (1) Within one year of the effective date of this
5 section, the department shall establish a system which allows
6 individuals who have been issued a driver's license or
7 identification card to add their donor designation to the
8 Donate Life PA Registry by submitting a form to the
9 department.

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

12 (c) Donate Life PA Registry; name.--~~The~~ THAT PORTION OF THE <--
13 database maintained by the department for recording donor
14 designations and Internet-based interface established in this
15 section shall be known as the Donate Life PA Registry.

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

19 (e) Effect.--

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

22 (i) provided to the Donate Life PA Registry;

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

25 (iii) on an advance health care directive;

26 (iv) submitted under section 8611 (relating to
27 persons who may execute anatomical gift); or

28 (v) submitted under any other statutory provision.

29 (2) Registration by a donor shall constitute sufficient
30 authorization to donate organs and tissues for

1 transplantation and therapy. Authorization of another person
2 shall not be necessary to effectuate the anatomical gift.

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

8 § 8626. Effect of anatomical gift on advance health care <--
9 directive.

10 (a) Scope. This section shall apply if a hospital patient
11 who is a prospective donor has executed an advance health care
12 directive or otherwise specified by record the circumstances
13 under which the patient would want life support withheld or
14 withdrawn, and the terms of the advance health care directive or
15 other record are in conflict with the option of making an
16 anatomical gift by precluding the administration of measures
17 necessary to ensure the medical suitability of a part for
18 transplantation or therapy.

19 (b) Requirements. If the patient is incapable of resolving
20 the conflict, any of the following shall act for the patient to
21 resolve the conflict:

22 (1) The patient's agent.

23 (2) If no agent has been designated by the patient or if
24 the agent is not reasonably available, a person authorized by
25 law other than this chapter to make decisions on behalf of
26 the patient with regard to the patient's health care.

27 (c) Resolution. The parties specified in subsection (b)
28 shall seek to resolve the conflict as expeditiously as possible.
29 Information relevant to the resolution of the conflict shall be
30 obtained from the appropriate organ procurement organization and

~~1 any other person authorized to make an anatomical gift for the~~
~~2 patient under section 8611 (relating to persons who may execute~~
~~3 anatomical gift). If the parties cannot resolve the conflict,~~
~~4 the patient's donor designation or an anatomical gift by a~~
~~5 person authorized under section 8611 shall control the~~
~~6 administration of measures necessary to ensure the medical~~
~~7 suitability of a part for transplantation or therapy.~~

~~8 (d) Measures. Measures necessary to ensure the medical~~
~~9 suitability of the part shall not be withheld or withdrawn from~~
~~10 the patient prior to resolution of the conflict.~~

~~11 § 8627 8626. Facilitation of anatomical gift from decedent <--~~
~~12 whose death is under investigation.~~

~~13 (a) Request by procurement organization. Organ procurement <--~~

~~14 (A) COLLABORATION BY PROCUREMENT ORGANIZATION.-- <--~~

~~15 (1) A CORONER OR MEDICAL EXAMINER HAVING JURISDICTION~~
~~16 MAY PERMIT THE REMOVAL OF AN ANATOMICAL GIFT AUTHORIZED UNDER~~
~~17 THIS CHAPTER FROM A DECEDENT WHOSE DEATH IS UNDER~~
~~18 INVESTIGATION.~~

~~19 (2) ORGAN PROCUREMENT organizations shall in all cases~~
~~20 collaborate with the coroner or medical examiner to ensure~~
~~21 the preservation of forensic evidence and collection of <--~~
~~22 photographs and specimens. Notwithstanding the EVIDENCE. <--~~

~~23 (3) UPON REQUEST, AN ORGAN PROCUREMENT ORGANIZATION~~
~~24 SHALL PROVIDE OR ASSIST THE CORONER OR MEDICAL EXAMINER IN~~
~~25 OBTAINING:~~

~~26 (I) MEDICAL RECORDS.~~

~~27 (II) PHOTOGRAPHS.~~

~~28 (III) SPECIMENS, INCLUDING BLOOD AND TISSUE.~~

~~29 (IV) LABORATORY AND DIAGNOSTIC TEST RESULTS.~~

~~30 (V) ANY OTHER AVAILABLE INFORMATION.~~

1 (4) NOTWITHSTANDING THE provisions set forth in 18 Pa.C.S.
2 Ch. 91 (relating to criminal history record information), a
3 coroner or medical examiner shall, upon request, release to the
4 organ procurement organization the name, contact information and
5 available medical and social history of a decedent whose death
6 is under investigation. The coroner or medical examiner may <--
7 permit the removal of an anatomical gift authorized under
8 section 8611 (relating to persons who may execute anatomical
9 gift) from a decedent who died under circumstances requiring an
10 investigation.

11 (b) Collaboration. If a coroner or medical examiner is
12 considering withholding one or more organs of a potential donor
13 for any reason, the coroner or medical examiner or his or her
14 designee shall, upon request of the organ procurement
15 organization, be present during the procedure to remove the
16 organs. The coroner or medical examiner or his or her designee
17 may request a biopsy of those organs or deny removal of the
18 organs if necessary. If the coroner or medical examiner or his
19 or her designee denies removal of the organs, the coroner or
20 medical examiner shall explain in writing the reasons for
21 determining that those organs may be involved in the cause of
22 death and the basis for denying recovery of the organ.

23 (B) ATTENDANCE AT RECOVERY.-- <--

24 (1) IF A CORONER OR MEDICAL EXAMINER IS CONSIDERING
25 DENYING RECOVERY OF ONE OR MORE ORGANS INTENDED FOR
26 TRANSPLANT OR THERAPY FOR ANY REASON, THE CORONER OR MEDICAL
27 EXAMINER OR HIS OR HER DESIGNEE SHALL, UPON REQUEST OF THE
28 ORGAN PROCUREMENT ORGANIZATION, BE PRESENT DURING THE
29 PROCEDURE TO REMOVE THE ORGANS.

30 (2) THE CORONER OR MEDICAL EXAMINER OR HIS OR HER

1 DESIGNEE IN ATTENDANCE MAY DENY REMOVAL OF THE ORGANS IF IN
2 HIS OR HER JUDGMENT THOSE ORGANS MAY BE INVOLVED IN THE CAUSE
3 OF DEATH.

4 (3) IF THE CORONER OR MEDICAL EXAMINER OR HIS OR HER
5 DESIGNEE DENIES REMOVAL OF THE ORGANS, THE CORONER OR MEDICAL
6 EXAMINER SHALL EXPLAIN IN WRITING THE REASONS FOR DETERMINING
7 THAT THOSE ORGANS MAY BE INVOLVED IN THE CAUSE OF DEATH AND
8 THE BASIS FOR DENYING RECOVERY OF THE ORGAN.

9 (4) THE DESIGNATED ORGAN PROCUREMENT ORGANIZATION SHALL
10 REIMBURSE THE CORONER OR MEDICAL EXAMINER FOR THE REASONABLE
11 COSTS FOR THE PROFESSIONAL SERVICES OF THE CORONER OR MEDICAL
12 EXAMINER OR HIS OR HER DESIGNEE ASSOCIATED WITH ATTENDING THE
13 RECOVERY.

14 (c) Report.--If requested by the coroner or medical
15 examiner, the physician or technician recovering a part under
16 this section shall provide a report detailing the condition of
17 the part. If appropriate, the report shall include a biopsy,
18 photographs or medically approved sample from the part. <--
19 ~~the~~
20 ~~designated organ procurement organization shall reimburse the~~
21 ~~coroner or medical examiner for the reasonable costs for the~~
22 ~~professional services of the coroner or medical examiner or his~~
23 ~~or her designee associated with attending the recovery.~~

24 § 8628 8627. Collaboration among departments and organ <--
25 procurement organizations.

26 (a) Mandatory.--

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

1 (2) The Department of Transportation, in consultation
2 with designated organ procurement organizations, shall
3 establish an annual education program for ~~employees PHOTO~~ <--
4 LICENSE TECHNICIANS of the Department of Transportation. ~~The~~ <--
5 program shall focus on:

6 (i) ~~benefits associated with organ and tissue~~
7 donations;

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

10 (iii) ~~how employees can:~~

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

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

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

20 § ~~8629~~ 8628. Information relative to organ and tissue donation. <--

21 (a) Curriculum.--The Department of Education, in
22 consultation with the designated organ procurement
23 organizations, shall review the Commonwealth's educational
24 curriculum framework to ensure that information about organ
25 donation is included in the standards for students in grades
26 nine through 12 beginning with the 2013-2014 school year.

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

28 (1) Emphasize the benefits of organ and tissue donation
29 to the health and well-being of society generally and to
30 individuals whose lives are saved by organ and tissue

1 donations so that students will be motivated to make an
2 affirmative decision to register as a donor when they become
3 adults.

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

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

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

16 (d) Institutions of higher education.--

17 (1) Beginning with the 2013-2014 school year, each
18 public institution of higher education in this Commonwealth
19 shall provide, in collaboration with the designated organ
20 procurement organizations, information to its students,
21 either through student health services or as part of the
22 curriculum, which:

23 (i) emphasizes the benefits to the health and well-
24 being of society and the lives that are saved through
25 organ and tissue donations; and

26 (ii) instills knowledge which will enable
27 individuals to make informed decisions about registering
28 to become an organ and tissue donor.

29 (2) Beginning with the 2013-2014 school year, each
30 private institution of higher education in this Commonwealth

1 is encouraged to provide, in collaboration with the
2 designated organ procurement organizations, information to
3 its students, either through student health services or as
4 part of the curriculum, which:

5 (i) emphasizes the benefits to the health and well-
6 being of society and the lives that are saved through
7 organ and tissue donations; and

8 (ii) instills knowledge which will enable
9 individuals to make informed decisions about registering
10 to become an organ and tissue donor.

11 ~~§ 8630~~ 8629. Requirements for physician and nurse training <--
12 relative to organ and tissue donation and recovery.

13 (a) Regulations.--The State Board of Medicine, the State
14 Board of Osteopathic Medicine and the State Board of Nursing
15 shall, in collaboration with the designated organ procurement
16 organizations, promulgate regulations stating the following
17 requirements for physician and professional nurse training:

18 (1) The curriculum in each college of medicine or
19 osteopathy or educational program of professional nursing in
20 this Commonwealth shall include two hours of instruction in
21 organ and tissue donation and recovery designed to address
22 clinical aspects of the donation and recovery process.

23 (2) Successful completion of organ and tissue donation
24 and recovery instruction under paragraph (1) shall be
25 required as a condition of receiving the degree of doctor of
26 medicine or doctor of osteopathy or a degree in professional
27 nursing, in this Commonwealth.

28 (3) A college of medicine or osteopathy or nursing
29 program which includes instruction in organ and tissue
30 donation and recovery under paragraph (1) in its curricula

1 shall offer this training for continuing education credit.

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

15 § ~~8631~~ 8630. Uniformity of application and construction. <--

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

20 § ~~8632~~ 8631. Relation to Electronic Signatures in Global and <--
21 National Commerce Act.

22 This chapter modifies, limits and supersedes the Electronic
23 Signatures in Global and National Commerce Act (Public Law 106-
24 229, 15 U.S.C. § 7001 et seq.). This chapter shall not modify,
25 limit or supersede section 101(c) of the Electronic Signatures
26 in Global and National Commerce Act or authorize electronic
27 delivery of any of the notices described in section 103(b) of
28 the Electronic Signatures in Global and National Commerce Act.

29 Section 6. Subchapter C of Chapter 86 of Title 20 is
30 repealed:

1 [SUBCHAPTER C

2 CORNEAL TRANSPLANTS

3 Sec.

4 8641. Removal of corneal tissue permitted under certain
5 circumstances.

6 8642. Limitation of liability.

7 § 8641. Removal of corneal tissue permitted under certain
8 circumstances.

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

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

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

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

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

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

30 § 8642. Limitation of liability.

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

7 Section 7. This act shall take effect in 60 days.