

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 180 Session of 2015

INTRODUCED BY GREENLEAF, STACK, SCHWANK, YAW, FONTANA, BREWSTER, BOSCOLA, HUGHES, SMITH, COSTA, VULAKOVICH, ARGALL, BROWNE AND LEACH, JANUARY 15, 2015

REFERRED TO JUDICIARY, JANUARY 15, 2015

AN ACT

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

25 The General Assembly of the Commonwealth of Pennsylvania  
 26 hereby enacts as follows:

27 Section 1. The definitions of "advisory committee," "bank or  
 28 storage facility," "decedent" and "organ procurement

1 organization" in section 8601 of Title 20 of the Pennsylvania  
2 Consolidated Statutes are amended and the section is amended by  
3 adding definitions to read:

4 § 8601. Definitions.

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

8 \* \* \*

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

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

12 "Advisory committee." The Organ and Tissue Donation Advisory  
13 Committee established under section 8622 (relating to The  
14 Governor Robert P. Casey Memorial Organ and Tissue Donation  
15 Awareness Trust Fund).

16 "Agent." Any of the following:

17 (1) An individual authorized to make health care  
18 decisions on a principal's behalf under Subchapter C of  
19 Chapter 54 (relating to health care agents and  
20 representatives).

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

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

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

30 \* \* \*

1        "Decedent." [A deceased individual, including a stillborn  
2 infant or fetus.] A deceased individual whose body or part is or  
3 may be the source of an anatomical gift. The term includes a  
4 stillborn infant and, subject to restrictions imposed by other  
5 laws, a fetus. The term does not include a blastocyst, embryo or  
6 fetus that is the subject of an induced abortion.

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

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

16        \* \* \*

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

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

23        \* \* \*

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

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

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

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

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

9 \* \* \*

10 "Person authorized or obligated to dispose of a decedent's  
11 body." Any of the following, without regard to order of  
12 priority:

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

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

17 (3) An administrator or official of a social service  
18 agency having a relationship with the decedent.

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

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

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

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

30 \* \* \*

1 "Procurement organization." An organ procurement  
2 organization, eye bank or tissue bank.

3 "Program coordinator." The Organ and Tissue Donation  
4 Awareness Program Coordinator established in section 8622  
5 (relating to The Governor Robert P. Casey Memorial Organ and  
6 Tissue Donation Awareness Trust Fund).

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

11 "Reasonably available." Able to be contacted by a  
12 procurement organization with reasonable effort and willing and  
13 able to exercise the decision to refuse or to authorize  
14 anatomical donation in a timely manner consistent with existing  
15 medical criteria necessary to make an anatomical gift.

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

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

21 \* \* \*

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

25 "Tissue bank." A person that is licensed, accredited or  
26 regulated under Federal or State law to engage in the recovery,  
27 screening, testing, processing, storage or distribution of  
28 tissue.

29 \* \* \*

30 Section 2. Sections 8611(a), (b) and (c) of Title 20 are

1 amended to read:

2 § 8611. Persons who may execute anatomical gift.

3 (a) General rule.--Any individual of sound mind and 18 years  
4 of age or more may give all or any part of his body for any  
5 purpose specified in section 8612 (relating to persons who may  
6 become donees; purposes for which anatomical gifts may be made),  
7 the gift to take effect upon death. [Any] An agent [acting under  
8 a power of attorney which authorizes the agent to make  
9 anatomical gifts] may effectuate a gift for any purpose  
10 specified in section 8612. Any individual who is a minor and 16  
11 years of age or older may effectuate a gift for any purpose  
12 specified in section 8612, provided parental or guardian consent  
13 is deemed given. Parental or guardian consent shall be noted on  
14 the minor's donor card, application for the donor's learner's  
15 permit or driver's license or other document of gift. A gift of  
16 the whole body shall be invalid unless made in writing at least  
17 15 days prior to the date of death or consent is obtained from  
18 the legal next of kin. Where there are adult children of the  
19 deceased who are not children of the surviving spouse, their  
20 consent shall also be required for a gift of the whole body for  
21 anatomical study.

22 (b) [Others entitled] Entitled to donate anatomy of  
23 decedent.--Any of the following persons who are reasonably  
24 available, in order of priority stated, when persons in prior  
25 classes are not reasonably available at the time of death, and  
26 in the absence of [actual notice of contrary indications] known  
27 objections by the decedent or [actual notice of opposition] by a  
28 member of [the same or] a prior class, may give all or any part  
29 of the decedent's body for any purpose specified in section  
30 8612:

- 1            [(1) The spouse.  
2            (2) An adult son or daughter.  
3            (3) Either parent.  
4            (4) An adult brother or sister.  
5            (5) A guardian of the person of the decedent at the time  
6 of his death.  
7            (6) Any other person authorized or under obligation to  
8 dispose of the body.]

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

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

13            (3) An adult child of the decedent.

14            (4) A parent of the decedent.

15            (5) An adult sibling of the decedent.

16            (6) A guardian of the person of the decedent.

17            (7) An adult grandchild of the decedent.

18            (8) A grandparent of the decedent.

19            (9) Any other person related to the decedent by blood,  
20 marriage or adoption or a person with an established  
21 relationship with, and who exhibited special care and concern  
22 for, the decedent.

23            (10) A hospital administrator.

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

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

27            (1) The donee may not accept a gift under any of the  
28 following circumstances:

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

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

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

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

10       \* \* \*

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

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

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

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

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

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

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

27           (5) The board.]

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

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

- 1           (i) A hospital.  
2           (ii) An accredited medical school, dental school,  
3           college or university.  
4           (iii) The board.  
5           (iv) An organ procurement organization.  
6           (v) Any other appropriate person as permitted by  
7           law.

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

11          (3) An eye bank or tissue bank.

12          (4) An organ procurement organization.

13          (b) Directed donation.--If an anatomical gift to an  
14          individual under subsection (a) (2) cannot be transplanted into  
15          the individual, the part shall pass in accordance with  
16          subsection (c) if authorized by the person making the anatomical  
17          gift.

18          (c) Organ for transplant or therapy.--An anatomical gift of  
19          an organ for transplantation or therapy, other than an  
20          anatomical gift under subsection (a) (2), shall pass to the organ  
21          procurement organization.

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

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

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

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

30                 (4) If the gift is of the decedent's entire body, the

1 gift shall pass to the board.

2 (e) Multiple purposes.--If there is more than one purpose of  
3 an anatomical gift set forth in the document of gift but the  
4 purposes are not set forth in any priority, the gift shall be  
5 used for transplantation or therapy, if suitable and enumerated  
6 in the document of gift, and shall pass to the appropriate organ  
7 procurement organization. If the gift cannot be used for  
8 transplantation or therapy, the gift may be used for other  
9 lawful purposes enumerated in the document of gift.

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

15 (g) Effect of gift.--An anatomical gift of a part is neither  
16 a refusal to give another part nor a limitation on the making of  
17 an anatomical gift of another part or making an anatomical gift  
18 for another purpose at a later time by the donor or another  
19 person.

20 Section 4. Section 8613(b), (d) and (e) of Title 20 are  
21 amended and the section is amended by adding subsections to  
22 read:

23 § 8613. Manner of executing anatomical gifts.

24 \* \* \*

25 (b) Gifts by other documents.--[A gift of all or part of the  
26 body under section 8611(a) may also be made by document other  
27 than a will.] An anatomical gift may be made by other document,  
28 including by authorizing a statement or symbol indicating that  
29 the donor has made an anatomical gift, which shall be recorded  
30 in a donor registry or on the donor's driver's license or

1 identification card. The gift becomes effective upon the death  
2 of the donor. The document, which may be a card designed to be  
3 carried on the person, must be signed by the donor [in the  
4 presence of two witnesses who must sign the document in his  
5 presence]. If the donor is mentally competent to signify his  
6 desire to sign the document but is physically unable to do so,  
7 the document may be signed for him by another at his direction  
8 and in his presence in the presence of two witnesses who must  
9 sign the document in his presence. Delivery of the document of  
10 gift during the donor's lifetime is not necessary to make the  
11 gift valid. If an anatomical gift is indicated on a driver's  
12 license or an identification card, the anatomical gift is not  
13 invalidated by revocation, suspension, expiration or  
14 cancellation of:

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

17       (2) the identification card by the Department of  
18       Transportation.

19       \* \* \*

20       [(d) Designation of person to carry out procedures.--  
21 Notwithstanding section 8616(b) (relating to rights and duties  
22 at death), the donor may designate in his will, card or other  
23 document of gift the surgeon or physician to carry out the  
24 appropriate procedures. In the absence of a designation or if  
25 the designee is not available, the donee or other person  
26 authorized to accept the gift may employ or authorize any  
27 surgeon or physician for the purpose, or, in the case of a gift  
28 of eyes, he may employ or authorize a person who is a funeral  
29 director licensed by the State Board of Funeral Directors, an  
30 eye bank technician or medical student, if the person has

1 successfully completed a course in eye enucleation approved by  
2 the State Board of Medical Education and Licensure, or an eye  
3 bank technician or medical student trained under a program in  
4 the sterile technique for eye enucleation approved by the State  
5 Board of Medical Education and Licensure to enucleate eyes for  
6 an eye bank for the gift after certification of death by a  
7 physician. A qualified funeral director, eye bank technician or  
8 medical student acting in accordance with the terms of this  
9 subsection shall not have any liability, civil or criminal, for  
10 the eye enucleation.]

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

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

25 \* \* \*

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

28 (1) this chapter;

29 (2) the law of the state or country where it was  
30 executed; or

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

4           (i) is domiciled;

5           (ii) has a place of residence; or

6           (iii) is a citizen.

7           (h) Choice of law.--If a document of gift is valid under  
8 this section, the law of this Commonwealth governs  
9 interpretation of the document.

10          (i) Refusals.--An individual may refuse to make an  
11 anatomical gift of the individual's body or part by a writing or  
12 record signed in the same manner as a document of gift or any  
13 other writing or record used to identify the individual as  
14 refusing to make an anatomical gift. An individual's unrevoked  
15 refusal to make an anatomical gift of the individual's body or  
16 part bars all other persons from making an anatomical gift of  
17 the individual's body or part.

18          Section 5. Section 8615 of Title 20 is amended by adding  
19 subsections to read:

20 § 8615. Amendment or revocation of gift.

21          \* \* \*

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

28          (e) Revocation not a refusal.--A revocation made under this  
29 chapter shall not be considered a known objection or refusal to  
30 make a gift of one's body or a part of one's body nor a

1 prohibition against a person described in section 8611(b)  
2 (relating to persons who may execute anatomical gift) making  
3 such gift.

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

6 § 8616. Rights and duties at death.

7 \* \* \*

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

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

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

1 record information), an organ procurement organization is  
2 authorized to obtain a copy of an autopsy report in a timely  
3 fashion upon request and payment of reasonable copying fees.

4 § 8617. Requests for anatomical gifts.

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

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

18 (c) Donor card.--Notwithstanding any provision of law to the  
19 contrary, the intent of a decedent to participate in an organ  
20 donor program as evidenced by the possession of a validly  
21 executed donor card, donor driver's license, living will,  
22 durable power of attorney or other document of gift shall not be  
23 revoked by any member of any of the classes specified in section  
24 8611(b).

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

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

7 (1) The patient's identifier number.

8 (2) The patient's age.

9 (3) The cause of death.

10 (4) Any past medical history available.

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

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

7 (e) Tissue procurement.--

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

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

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

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

28 (i) The number of tissue donors.

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

1 (iii) The number of tissue procurements recovered  
2 for research by each tissue procurement provider  
3 operating in this Commonwealth.

4 (f) Guidelines.--

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

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

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

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

24 (a) Procedure.--

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

1 set forth in subsection (d) can be completed within a time  
2 frame compatible with the donation of organs and tissues for  
3 transplant. The notification shall be made without regard to  
4 whether the person has executed an advance directive for  
5 health care.

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

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

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

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

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

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

1 anatomical gift.

2 (c) Document of gift.--

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

9 (2) If no document of gift is known to the procurement  
10 organization representative or the designated requestor, one  
11 of these two individuals shall ask the persons listed in  
12 section 8611(b) whether the decedent had a validly executed  
13 document of gift. If there is no evidence of an anatomical  
14 gift by the decedent, the procurement organization  
15 representative or the designated requestor shall notify a  
16 person listed in section 8611(b) of the option to donate  
17 organs and tissues. The notification shall be performed in  
18 accordance with a protocol that encourages discretion and  
19 sensitivity to family circumstances in all discussions  
20 regarding donations of tissue or organs. The protocol shall  
21 take into account the deceased's religious beliefs or  
22 nonsuitability for organ and tissue donation.

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

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

28 (ii) if a gift was made, the name of the person  
29 granting the gift and that person's relationship to the  
30 decedent.

1 (d) Testing.--

2 (1) This subsection shall apply if:

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

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

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

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

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

21 (B) as required or permitted by law.

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

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

1           (B) has ascertained that the individual made a  
2           gift or expressed 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 donor designations in the Donate Life PA Registry.  
3 The recorded and stored designation is sufficient to satisfy all  
4 requirements for consent to organ and tissue donation. The  
5 recorded and stored designation is not a public record subject  
6 to disclosure as defined in section 102 of the act of February  
7 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

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

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

1 (a) Driver's license.--

2 (1) Beginning as soon as practicable, but no later than  
3 [January 1, 1995] 10 months after the effective date of this  
4 paragraph, the Department of Transportation shall provide an  
5 applicant for an original or renewal driver's license or  
6 identification card the opportunity to make a contribution of  
7 [\$1] \$3 to the fund. The contribution shall be added to the  
8 regular fee for an original or renewal driver's license or  
9 identification card. One contribution may be made for each  
10 issuance or renewal of a license or identification card.  
11 Contributions shall be used exclusively for the purposes set  
12 out in section 8622 (relating to The Governor Robert P. Casey  
13 Memorial Organ and Tissue Donation Awareness Trust Fund).

14 (2) The Department of Transportation shall monthly  
15 determine the total amount designated under this section and  
16 shall report that amount to the State Treasurer, who shall  
17 transfer that amount to The Governor Robert P. Casey Memorial  
18 Organ and Tissue Donation Awareness Trust Fund.

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

20 (1) Beginning as soon as practicable, but no later than  
21 10 months after the effective date of this paragraph, the  
22 Department of Transportation shall provide an applicant for a  
23 renewal vehicle registration the opportunity to make a  
24 contribution of [\$1] \$3 to The Governor Robert P. Casey  
25 Memorial Organ and Tissue Donation Awareness Trust Fund. The  
26 contribution shall be added to the regular fee for a renewal  
27 of a vehicle registration. One contribution may be made for  
28 each renewal vehicle registration. Contributions shall be  
29 used exclusively for the purposes described in section 8622.

30 (2) The Department of Transportation shall monthly

1 determine the total amount designated under this section and  
2 shall report that amount to the State Treasurer, who shall  
3 transfer that amount to The Governor Robert P. Casey Memorial  
4 Organ and Tissue Donation Awareness Trust Fund.

5 (3) The Governor Robert P. Casey Memorial Organ and  
6 Tissue Donation Awareness Trust Fund shall reimburse the  
7 department for the initial costs incurred in the development  
8 and implementation of the contribution program [under this  
9 subsection] according to an implementation schedule  
10 established by the department and the Organ Donation Advisory  
11 Committee.

12 (4) The General Fund shall reimburse the Department of  
13 Transportation for the actual annual operating costs of the  
14 program for vehicle registrations as described in this  
15 subsection [subject to the following limits: For the first  
16 fiscal year during which this subsection is effective, the  
17 General Fund shall reimburse the Department of Transportation  
18 for the actual operating costs of the program in this  
19 subsection up to a maximum of \$100,000]. For each fiscal year  
20 [thereafter], the General Fund shall reimburse the Department  
21 of Transportation for the actual operating costs of the  
22 program in this subsection in an amount not to exceed the  
23 prior year's actual operating costs on a full fiscal year  
24 basis plus 3%. The amounts approved by the Governor as  
25 necessary are hereby appropriated from the General Fund for  
26 this purpose.

27 (c) Internet website.--Within one year of the effective date  
28 of this subsection, the official Internet website of the  
29 department shall provide links through which individuals may  
30 make voluntary contributions of at least \$1 to the fund,

1 electronically. The links shall be provided at least in  
2 connection with the issuance of driver's licenses, personal  
3 identification cards and registration of motor vehicles.

4 § 8622. The Governor Robert P. Casey Memorial Organ and Tissue  
5 Donation Awareness Trust Fund.

6 (a) Establishment.--All contributions received by the  
7 Department of Transportation under section 8621 (relating to The  
8 Governor Robert P. Casey Memorial Organ and Tissue Donation  
9 Awareness Trust Fund contributions) [and the Department of  
10 Revenue under section 8618 (relating to voluntary contribution  
11 system)] and the Department of Health under section 8617  
12 (relating to requests for anatomical gifts) shall be deposited  
13 into a special fund in the State Treasury to be known as The  
14 Governor Robert P. Casey Memorial Organ and Tissue Donation  
15 Awareness Trust Fund, which is hereby established.

16 (b) Appropriation.--All moneys deposited in the fund and  
17 interest which accrues from those funds are appropriated on a  
18 continuing basis subject to the approval of the Governor to  
19 compensate the Department of Transportation, the Department of  
20 Health and the Department of Revenue for actual costs related to  
21 implementation of this chapter, including all costs of the Organ  
22 and Tissue Donation Advisory Committee created in subsection  
23 [(c)] (c.1). Any remaining funds are appropriated subject to the  
24 approval of the Governor for the following purposes:

25 (1) [10%] Ten percent of the total fund may be expended  
26 annually by the Department of Health for reasonable hospital  
27 and other medical expenses, funeral expenses and incidental  
28 expenses incurred by the donor or donor's family in  
29 connection with making [a vital organ donation] an organ or  
30 tissue donation, along with programming, to provide support

1 services to organ and tissue donors and their families, such  
2 as bereavement counseling services. Such expenditures shall  
3 not exceed \$3,000 per donor and shall only be made directly  
4 to the funeral home, hospital or other service provider  
5 related to the donation. No part of the fund shall be  
6 transferred directly to the donor's family, next of kin or  
7 estate. The advisory committee shall develop procedures,  
8 including the development of a pilot program, necessary for  
9 effectuating the purposes of this paragraph.

10 (2) [50%] Fifty percent may be expended for grants to  
11 certified organ procurement organizations for the development  
12 and implementation of organ donation awareness programs in  
13 this Commonwealth. The Department of Health shall develop and  
14 administer this grant program, which is hereby established.

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

24 (4) [25%] Twenty-five percent may be expended by the  
25 Department of Education for the implementation of organ  
26 donation awareness programs in the secondary schools in this  
27 Commonwealth.

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

30 (1) Two representatives of organ procurement

1 organizations.

2 (2) Two representatives of tissue procurement providers.

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

5 (4) Three representatives of acute care hospitals.

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

7 (6) One representative of eye banks.

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

1 (c.1) Advisory committee.--

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

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

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

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

7 (iv) One representative from each designated organ  
8 procurement organization.

9 (v) Two representatives of tissue procurement  
10 providers.

11 (vi) Six members representative of:

12 (A) organ, tissue and eye recipients;

13 (B) families of recipients;

14 (C) donors; and

15 (D) families of donors.

16 (vii) Two representatives of acute care hospitals  
17 which are:

18 (A) licensed in this Commonwealth; and

19 (B) members of the Statewide association  
20 representing the interests of hospitals throughout  
21 this Commonwealth.

22 (viii) One representative of eye banks.

23 (ix) One representative of community health  
24 organizations.

25 (x) One elected county coroner of this Commonwealth.

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

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

30 (i) Members shall be appointed in a manner which

1 reflects geographic diversity. Input on the selection of  
2 the representatives under paragraph (1) (vii) shall be  
3 sought from the Statewide association referred to in  
4 paragraph (1) (vii) (B).

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

6 (iii) The Governor may reappoint an advisory  
7 committee member for successive terms.

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

10 (v) If a vacancy occurs prior to completion of a  
11 term, the Governor shall appoint a member to fill the  
12 unexpired term in the same manner as the vacating member  
13 was appointed.

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

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

18 (ii) Recommend education and awareness training  
19 programs.

20 (iii) Recommend priorities in expenditures from the  
21 fund.

22 (iv) Advise the Secretary of Health on matters  
23 relating to administration of the fund.

24 (v) Recommend legislation as necessary to fulfill  
25 the purposes of this chapter.

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

30 (6) The Department of Health shall reimburse members of

1 the advisory committee only for necessary and reasonable  
2 travel and other expenses incurred in the performance of  
3 their duties under this subsection.

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

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

14 (f) Lead Commonwealth agency.--

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

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

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

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

28 (A) Assist in administration of the fund.

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

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

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

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

12 (E) Provide input to designated organ  
13 procurement organizations regarding training of  
14 individuals performing notifications under section  
15 8617(c). Such training shall encourage discretion and  
16 sensitivity to family circumstances and the  
17 circumstances of the potential donor's death in all  
18 discussions regarding donations of tissue or organs  
19 and take into account the potential donor's religious  
20 beliefs or nonsuitability for organ and tissue  
21 donation.

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

24 § 8623. Confidentiality requirement.

25 [The identity of the donor and of the recipient may not be  
26 communicated unless expressly authorized by the recipient and  
27 next of kin of the decedent.]

28 (a) General rule.--Except as provided in subsection (b), no  
29 procurement organization may divulge any individually  
30 identifiable information acquired in the course of performing

1 its responsibilities under this chapter except for the purposes  
2 of facilitating organ, eye or tissue donation and  
3 transplantation or as otherwise required under applicable laws.

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

7 (1) the recipient; and

8 (2) if the donor is alive, the donor, or if the donor is  
9 deceased, the next of kin of the donor.

10 § 8624. Prohibited activities.

11 [(a) Affiliates.--No organ procurement organization selected  
12 by the Department of Health under section 8617(g) (relating to  
13 requests for anatomical gifts) to conduct annual death reviews  
14 may use that review authority or any powers or privileges  
15 granted thereby to coerce or attempt to coerce a hospital to  
16 select the organization or any tissue procurement provider  
17 contractually affiliated with the organization as a designated  
18 tissue procurement provider under section 8617(e).

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

29 (c) Procurement organizations.--

30 (1) A procurement organization shall not do any of the

1 following:

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

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

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

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

12 (d) Funeral establishments.--

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

15 (i) remove body parts from a corpse;

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

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

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

21 (i) Removal is permissible if it is:

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

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

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

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

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

10 Section 7. Title 20 is amended by adding sections to read:

11 § 8625. Promotion of organ and tissue donation; Donate Life PA  
12 Registry established.

13 (a) Promotion.--The Department of Transportation shall  
14 ensure access by residents of this Commonwealth to an Internet-  
15 based interface which promotes organ and tissue donation and  
16 enables residents 18 years of age or older who hold a  
17 Pennsylvania driver's license or identification card to register  
18 as donors and have their decisions immediately integrated into  
19 the current database maintained by the department. The database  
20 shall include only affirmative donation decisions.

21 (b) Paper form.--

22 (1) Within one year of the effective date of this  
23 section, the department shall establish a system which allows  
24 individuals who have been issued a driver's license or  
25 identification card to add their donor designation to the  
26 Donate Life PA Registry by submitting a form to the  
27 department.

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

30 (c) Donate Life PA Registry; name.--That portion of the

1 database maintained by the department for recording donor  
2 designations and Internet-based interface established in this  
3 section shall be known as the Donate Life PA Registry.

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

7 (e) Effect.--

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

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

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

13 (iii) on an advance health care directive;

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

16 (v) submitted under any other statutory provision.

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

21 (f) Technology.--An information technology system adopted by  
22 the Department of Transportation after the effective date of  
23 this section shall continue to accommodate the inclusion of  
24 donor designation information into the database and the ongoing  
25 operation of the Donate Life PA Registry.

26 § 8626. Facilitation of anatomical gift from decedent whose  
27 death is under investigation.

28 (a) Coordination.--

29 (1) Upon identification of a prospective donor, an organ  
30 procurement organization shall, within a reasonable time,

1 notify the coroner or medical examiner of the county in which  
2 the prospective donor is located.

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

7 (i) Notify the coroner or medical examiner of the  
8 county in which the cause precipitating the prospective  
9 donor's death is believed to have occurred, who shall  
10 then cause the district attorney of the county to be  
11 notified in accordance with internal county protocols.

12 (ii) Notify the applicable organ procurement  
13 organization of any change in jurisdiction.

14 (3) Organ procurement organizations shall in all cases  
15 cooperate with the coroner or medical examiner in order to  
16 facilitate the preservation and collection of forensic  
17 evidence. Organ procurement organizations shall not move or  
18 cause to be moved a prospective donor without authorization  
19 of the coroner or medical examiner having jurisdiction. Upon  
20 request, an organ procurement organization shall provide or  
21 assist the coroner or medical examiner in obtaining:

22 (i) Medical records.

23 (ii) Photographs.

24 (iii) Specimens, including blood and tissue.

25 (iv) Laboratory and diagnostic test results.

26 (v) Any other available information.

27 (4) If applicable, the coroner or medical examiner shall  
28 timely notify the organ procurement organization of any  
29 additional requests from the coroner, medical examiner or  
30 district attorney of the county where the cause of death is

1 believed to have occurred, including scheduling the recovery  
2 procedure to permit their attendance where the scheduling can  
3 be done in a time frame consistent with facilitating  
4 anatomical donation. Attendance may be in person or, if in-  
5 person attendance is not possible in a time frame consistent  
6 with facilitating anatomical donation and, if available, by  
7 electronic communication which includes a live visual  
8 depiction of the recovery procedure.

9 (5) Notwithstanding the provisions of 18 Pa.C.S. Ch. 91  
10 (relating to criminal history record information), a coroner  
11 or medical examiner shall, upon request, release to the organ  
12 procurement organization the name, contact information and  
13 available medical and social history of a decedent whose  
14 death is under investigation.

15 (b) Facilitation of donation.--Where a coroner or medical  
16 examiner has jurisdiction in the case of a prospective organ  
17 donor, the following shall apply:

18 (1) If the coroner or medical examiner is considering  
19 denying recovery of one or more organs intended for  
20 transplant or therapy, the coroner or medical examiner shall  
21 notify the applicable organ procurement organization.

22 (2) If requested by the organ procurement organization,  
23 the coroner or medical examiner or designee shall attend the  
24 organ recovery procedure and the following shall apply:

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

29 (ii) The coroner or medical examiner or designee may  
30 only deny removal of the organ if, in his judgment, the

1 removal of the organ may interfere with or impede the  
2 investigation of the cause, manner and mechanism of  
3 death. For the denial to be valid, the coroner or medical  
4 examiner or designee must be in attendance at the  
5 recovery procedure. Attendance must be in person or, if  
6 in-person attendance is not possible in a time frame  
7 consistent with facilitating donation and, if available,  
8 by electronic communication which includes a live visual  
9 depiction of the recovery procedure.

10 (iii) If the coroner or medical examiner or  
11 designee denies removal of the organ, the coroner or  
12 medical examiner shall explain, in writing, the reason  
13 for determining that the removal of the organ may  
14 interfere with or impede the investigation of the cause,  
15 manner and mechanism of death.

16 (iv) No removal of the organ shall occur if the  
17 coroner or medical examiner or designee has denied  
18 recovery in accordance with subparagraph (ii) and  
19 complied with the procedure in subparagraph (iii).

20 (v) The applicable organ procurement organization  
21 shall reimburse the coroner or medical examiner for the  
22 reasonable costs of attendance at the recovery procedure.

23 (c) Report.--If requested by the coroner, medical examiner  
24 or district attorney, the physician or technician recovering an  
25 organ under this section shall provide a report and, if  
26 necessary, be available to provide testimony in any proceeding,  
27 detailing the condition of the organ and the recovery procedure.  
28 Reasonable costs associated with a physician or technician's  
29 providing testimony under this section shall be paid by the  
30 designated organ procurement organization.

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

4 § 8627. Collaboration among departments and organ procurement  
5 organizations.

6 (a) Mandatory.--

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

12 (2) The Department of Transportation, in consultation  
13 with designated organ procurement organizations, shall  
14 establish an annual education program for photo license  
15 technicians of the Department of Transportation.

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 § 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 9  
26 through 12 beginning with the 2016-2017 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 twelve. The General Assembly shall encourage nonpublic schools  
13 to use the instructional materials. Nothing in this subsection  
14 shall be construed to require nonpublic schools to use the  
15 instructional materials.

16 (d) Institutions of higher education.--

17 (1) Beginning with the 2016-2017 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 2017-2018 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 § 8629. Requirements for physician and nurse training relative  
12 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 § 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 § 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 8. 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 9. This act shall take effect as follows:

8 (1) The amendment of 20 Pa.C.S. § 8621 shall take effect  
9 immediately.

10 (2) This section shall take effect immediately.

11 (3) The remainder of this act shall take effect in 60  
12 days.