
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 180 Session of
2017

INTRODUCED BY GREENLEAF, ARGALL, YAW, BREWSTER AND BOSCOLA,
JUNE 7, 2017

REFERRED TO JUDICIARY, JUNE 7, 2017

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, for relation to Electronic
23 Signatures in Global and National Commerce Act and for study
24 of organizations and repealing provisions relating to corneal
25 transplants.

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

28 Section 1. The definitions of "advisory committee," "bank or
29 storage facility," "decedent," "fund" 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 "Fund." The Governor Robert P. Casey Memorial Organ and
24 Tissue Donation Awareness Trust Fund established under section
25 8622 [(relating to The Governor Robert P. Casey Memorial Organ
26 and Tissue Donation Awareness Trust Fund)].

27 * * *

28 "Hospital administrator." An individual appointed by a
29 hospital's governing body to act on its behalf in the overall
30 management of the hospital. The term includes a designee of the

1 individual.

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

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

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

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

13 * * *

14 "Person authorized or obligated to dispose of a decedent's
15 body." Any of the following, without regard to order of
16 priority:

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

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

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

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

24 (i) is authorized to make decisions with respect to
25 the disposition, transportation, transfer, burial or
26 cremation of a decedent;

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

30 (iii) voluntarily assumes responsibility for

1 decisions with respect to the disposition,
2 transportation, transfer, burial or cremation of a
3 decedent.

4 * * *

5 "Procurement organization." An organ procurement
6 organization, eye bank or tissue bank.

7 "Program coordinator." The Organ and Tissue Donation
8 Awareness Program Coordinator established in section 8622.

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

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

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

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

23 * * *

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

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

1 * * *

2 Section 2. Section 8611(a), (b) and (c) of Title 20 are
3 amended and the section is amended by adding a subsection to
4 read:

5 § 8611. Persons who may execute anatomical gift.

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

25 (b) [Others entitled] Entitled to donate anatomy of
26 decedent.--Any of the following persons who are reasonably
27 available, in order of priority stated, when persons in prior
28 classes are not reasonably available at the time of death, and
29 in the absence of [actual notice of contrary indications] known
30 objections by the decedent or [actual notice of opposition] by a

1 member of [the same or] a prior class, may give all or any part
2 of the decedent's body for any purpose specified in section
3 8612:

4 [(1) The spouse.

5 (2) An adult son or daughter.

6 (3) Either parent.

7 (4) An adult brother or sister.

8 (5) A guardian of the person of the decedent at the time
9 of his death.

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

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

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

16 (3) An adult child of the decedent.

17 (4) A parent of the decedent.

18 (5) An adult sibling of the decedent.

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

20 (7) An adult grandchild of the decedent.

21 (8) A grandparent of the decedent.

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

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

28 (b.1) Anatomical gift prohibited.--An individual shall be
29 excluded from the classes listed in subsection (b) if, before an
30 incision has been made to remove a part from the prospective

1 donor's body or before invasive procedures have begun to prepare
2 an intended recipient, any of the following apply:

3 (1) The district attorney notifies the organ procurement
4 organization that the individual is a suspect or person of
5 interest in causing the disease, illness, injury or condition
6 of the prospective donor.

7 (2) The district attorney or a law enforcement officer
8 notifies the organ procurement organization that the
9 individual is the subject of a protection from abuse or any
10 similar order from a court that was issued to the prospective
11 donor.

12 (3) The district attorney or a law enforcement officer
13 notifies the organ procurement organization that the
14 individual has actually been arrested or detained in
15 connection with the condition of the prospective donor.

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

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

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

21 (ii) The donee knows that a gift by a member of a
22 class is opposed by a reasonably available member of [the
23 same or] a prior class[, the donee shall not accept the
24 gift].

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

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

30 * * *

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

2 § 8612. Persons who may become donees; purposes for which
3 anatomical gifts may be made.

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

6 (1) Any hospital, surgeon or physician for medical or
7 dental education, research, advancement of medical or dental
8 science, therapy or transplantation.

9 (2) Any accredited medical or dental school, college or
10 university for education, research, advancement of medical or
11 dental science or therapy.

12 (3) Any bank or storage facility for medical or dental
13 education, research, advancement of medical or dental
14 science, therapy or transplantation.

15 (4) Any specified individual for therapy or
16 transplantation needed by him.

17 (5) The board.]

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

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

21 (i) A hospital.

22 (ii) An accredited medical school, dental school,
23 college or university.

24 (iii) The board.

25 (iv) An organ procurement organization.

26 (v) Any other appropriate person as permitted by
27 law.

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

1 (3) A procurement organization.

2 (b) Directed donation.--If an anatomical gift to an
3 individual under subsection (a) (2) cannot be transplanted into
4 the individual, the part shall pass in accordance with
5 subsection (c) if authorized by the person making the anatomical
6 gift.

7 (c) Organ for transplant or therapy.--An anatomical gift of
8 an organ for transplantation or therapy, other than an
9 anatomical gift under subsection (a) (2), shall pass to the organ
10 procurement organization.

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

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

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

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

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

21 (e) Multiple purposes.--If there is more than one purpose of
22 an anatomical gift set forth in the document of gift but the
23 purposes are not set forth in any priority, the gift shall be
24 used for transplantation or therapy, if suitable and enumerated
25 in the document of gift, and shall pass to the appropriate
26 procurement organization. If the gift cannot be used for
27 transplantation or therapy, the gift may be used for other
28 lawful purposes enumerated in the document of gift.

29 (f) Unspecified purpose.--If an anatomical gift is made in a
30 document of gift that does not name a person described in

1 subsection (a) and does not identify the purpose of the gift,
2 the gift may be used only for transplantation or therapy, and
3 the gift shall pass in accordance with subsection (d).

4 (g) Effect of gift.--An anatomical gift of a part is neither
5 a refusal to give another part nor a limitation on the making of
6 an anatomical gift of another part or making an anatomical gift
7 for another purpose at a later time by the donor or another
8 person.

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

12 § 8613. Manner of executing anatomical gifts.

13 * * *

14 (b) Gifts by other documents.--[A gift of all or part of the
15 body under section 8611(a) may also be made by document other
16 than a will.] An anatomical gift may be made by other document,
17 including by authorizing a statement or symbol indicating that
18 the donor has made an anatomical gift, which shall be recorded
19 in a donor registry or on the donor's driver's license or
20 identification card. The gift becomes effective upon the death
21 of the donor. The document, which may be a card designed to be
22 carried on the person, must be signed by the donor [in the
23 presence of two witnesses who must sign the document in his
24 presence]. If the donor is mentally competent to signify his
25 desire to sign the document but is physically unable to do so,
26 the document may be signed for him by another at his direction
27 and in his presence in the presence of two witnesses who must
28 sign the document in his presence. Delivery of the document of
29 gift during the donor's lifetime is not necessary to make the
30 gift valid. If an anatomical gift is indicated on a driver's

1 license or an identification card, the anatomical gift is not
2 invalidated by revocation, suspension, expiration or
3 cancellation of:

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

6 (2) the identification card by the Department of
7 Transportation.

8 * * *

9 [(d) Designation of person to carry out procedures.--

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

30 (d.1) Reliance.--A person may rely on a document of gift or

1 amendment thereto as being valid unless that person knows that
2 it was not validly executed or was revoked.

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

14 * * *

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

17 (1) this chapter;

18 (2) the law of the state or country where it was
19 executed; or

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

23 (i) is domiciled;

24 (ii) has a place of residence; or

25 (iii) is a citizen.

26 (h) Choice of law.--If a document of gift is valid under
27 this section, the law of this Commonwealth governs
28 interpretation of the document.

29 (i) Refusals.--An individual may refuse to make an
30 anatomical gift of the individual's body or part by a writing or

1 record signed in the same manner as a document of gift or any
2 other writing or record used to identify the individual as
3 refusing to make an anatomical gift. An individual's unrevoked
4 refusal to make an anatomical gift of the individual's body or
5 part bars all other persons from making an anatomical gift of
6 the individual's body or part.

7 Section 5. Section 8615 of Title 20 is amended by adding
8 subsections to read:

9 § 8615. Amendment or revocation of gift.

10 * * *

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

17 (e) Revocation not a refusal.--A revocation made under this
18 chapter shall not be considered a known objection or refusal to
19 make a gift of one's body or a part of one's body nor a
20 prohibition against a person described in section 8611(b)
21 (relating to persons who may execute anatomical gift) making
22 such gift.

23 Section 6. Sections 8616(b), (c) and (d), 8617, 8619, 8621,
24 8622, 8623 and 8624 of Title 20 are amended to read:

25 § 8616. Rights and duties at death.

26 * * *

27 (b) Physicians.--The time of death shall be determined by a
28 physician who tends the donor at his death or, if none, the
29 physician who certifies the death. [The physician or person who
30 certifies death or any of his professional partners or

1 associates shall not participate in the procedures for removing
2 or transplanting a part.]

3 (c) Certain liability limited.--A person who acts in good
4 faith in accordance with the terms of this subchapter or with
5 the anatomical gift laws of another state or a foreign country
6 is not liable for damages in any civil action or subject to
7 prosecution in any criminal proceeding for his act. A person
8 making an anatomical gift or a donor's estate shall not be
9 liable for injury or damage which results from the making or use
10 of the anatomical gift. In determining whether an anatomical
11 gift has been made, amended or revoked under this chapter, a
12 person may rely upon representations of an individual listed in
13 section 8611(b) relating to the individual's relationship to the
14 donor or prospective donor unless the person knows that the
15 representation is untrue.

16 (d) Law on autopsies applicable.--The provisions of this
17 subchapter are subject to the laws of this Commonwealth
18 prescribing powers and duties with respect to autopsies.
19 Notwithstanding 18 Pa.C.S. Ch. 91 (relating to criminal history
20 record information), a procurement organization is authorized to
21 obtain a copy of an autopsy report in a timely fashion upon
22 request and payment of reasonable copying fees.

23 § 8617. Requests for anatomical gifts.

24 [(a) Procedure.--On or before the occurrence of each death
25 in an acute care general hospital, the hospital shall make
26 contact with the regional organ procurement organization in
27 order to determine the suitability for organ, tissue and eye
28 donation for any purpose specified under this subchapter. This
29 contact and the disposition shall be noted on the patient's
30 medical record.

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

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

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

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

30 The organ procurement organization, in consultation with the

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

26 (e) Tissue procurement.--

27 (1) The first priority use for all tissue shall be
28 transplantation.

29 (2) Upon Department of Health approval of guidelines
30 pursuant to subsection (f) (1) (ii), all acute care general

1 hospitals shall select at least one tissue procurement
2 provider. A hospital shall notify the regional organ
3 procurement organization of its choice of tissue procurement
4 providers. If a hospital chooses more than one tissue
5 procurement provider, it may specify a rotation of referrals
6 by the organ procurement organization to the designated
7 tissue procurement providers.

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

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

17 (i) The number of tissue donors.

18 (ii) The number of tissue procurements for
19 transplantation.

20 (iii) The number of tissue procurements recovered
21 for research by each tissue procurement provider
22 operating in this Commonwealth.

23 (f) Guidelines.--

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

1 (i) Establish guidelines regarding efficient
2 procedures facilitating the delivery of anatomical gift
3 donations from receiving hospitals to procurement
4 providers.

5 (ii) Develop guidelines to assist hospitals in the
6 selection and designation of tissue procurement
7 providers.

8 (2) Each organ procurement organization and each tissue
9 procurement provider operating within this Commonwealth
10 shall, within six months of the effective date of this
11 chapter, file with the Department of Health, for public
12 review, its operating protocols.]

13 (a) Procedure.--

14 (1) A hospital located in this Commonwealth shall notify
15 the applicable designated organ procurement organization or a
16 third party designated by that organization of an individual
17 whose death is imminent or who has died in the hospital.
18 Notification shall be made in a timely manner to ensure that
19 examination, evaluation and ascertainment of donor status as
20 set forth in subsection (d) can be completed within a time
21 frame compatible with the donation of organs and tissues for
22 transplant. The notification shall be made without regard to
23 whether the person has executed an advance directive for
24 health care.

25 (2) The following shall apply to coroners and medical
26 examiners:

27 (i) Except as set forth in subparagraph (ii), a
28 coroner or medical examiner shall notify the applicable
29 designated organ procurement organization of a person's
30 death in accordance with a mutually agreed-upon protocol.

1 Notification shall be made in a timely manner to ensure
2 that examination, evaluation and ascertainment of donor
3 status as set forth in subsection (d) can be completed
4 within a time frame compatible with the recovery of
5 tissues for transplant.

6 (ii) Notification under this paragraph shall not be
7 made if:

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

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

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

21 (c) Document of gift.--

22 (1) If the referred patient has a document of gift,
23 including registration with the Donate Life PA Registry, the
24 procurement organization representative or the designated
25 requestor shall attempt to notify a person listed in section
26 8611(b) (relating to persons who may execute anatomical gift)
27 of the gift.

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

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

12 (3) The hospital administrator or that person's
13 designated representative shall indicate in the medical
14 record of the decedent:

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

17 (ii) if a gift was made, the name of the person
18 granting the gift and that person's relationship to the
19 decedent.

20 (d) Testing.--

21 (1) This subsection shall apply if:

22 (i) a hospital refers an individual who is dead or
23 whose death is imminent to an organ procurement
24 organization; and

25 (ii) the organ procurement organization determines,
26 based upon a medical record review, that the individual
27 may be a prospective donor.

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

30 (i) The organ procurement organization may conduct a

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

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

10 (B) as required or permitted by law.

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

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

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

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

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

1 medical, dental and other health-related records.

2 (f.1) Recipients.--

3 (1) Subject to the provisions of this chapter, the
4 rights of the person to whom a part passes under section 8612
5 shall be superior to the rights of all others with respect to
6 the part. The person may accept or reject an anatomical gift
7 in whole or in part.

8 (2) Subject to the terms of the document of gift and
9 this chapter, a person that accepts an anatomical gift of an
10 entire body may allow embalming, burial or cremation and the
11 use of remains in a funeral service. If the gift is of a
12 part, the person to whom the part passes under section 8612,
13 upon the death of the donor and before embalming, burial or
14 cremation, shall cause the part to be removed without
15 unnecessary mutilation.

16 (f.2) Physicians.--

17 (1) Neither the physician who attends the decedent at
18 death nor the physician who determines the time of the
19 decedent's death may participate in the procedures for
20 removing or transplanting a part from the decedent.

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

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

25 (1) A hospital shall enter into agreements or
26 affiliations with organ procurement organizations for
27 coordination of procurement and use of anatomical gifts.

28 (2) A person, including a coroner or medical examiner,
29 that seeks to facilitate the making of an anatomical gift for
30 the purposes of transplantation or therapy from a decedent

1 who was not a hospital patient at the time of death shall
2 notify the applicable designated organ procurement
3 organization at or around the time of the person's death in
4 order to allow that organization to evaluate the potential
5 donation and, if applicable, coordinate the donation process.

6 (g) Death record review.--

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

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

12 (i) The [Department of Health] department shall
13 select to carry out the review the Commonwealth-licensed
14 organ procurement organization designated by the [Health
15 Care Financing Administration] Centers for Medicare and
16 Medicaid Services for the region within which the acute
17 care general hospital is located. For an organ
18 procurement organization to be selected under this
19 subparagraph, the organization must not operate nor have
20 an ownership interest in an entity which provides all of
21 the functions of a tissue procurement provider.

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

1 procurement provider.

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

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

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

19 (5) An organ procurement organization may, upon request
20 and payment of associated fees, obtain certified copies of
21 death records of a donor from the Division of Vital Records
22 of the department.

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

26 "Designated requestor." A hospital employee completing a
27 course offered by [an] a designated organ procurement
28 organization on how to approach potential donor families and
29 request organ or tissue donation.

30 "Noncompliance." Any failure on the part of a hospital to

1 contact an organ procurement organization as required under
2 subsection (d).

3 § 8619. Use of driver's license or identification card to
4 indicate organ or tissue donation.

5 (a) General rule.--The Department of Transportation shall
6 redesign the driver's license and identification card
7 application system to process requests for information regarding
8 consent of the individual to organ or tissue donation. The
9 following question shall be asked on both the application for a
10 driver's license or identification card and on the organ donor
11 designation at a photo center:

12 Pennsylvania strongly supports organ and tissue donation
13 because of its life-saving and life-enhancing
14 opportunities.

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

17 Only an affirmative response of an individual shall be noted on
18 the front of the driver's license or identification card and
19 shall clearly indicate the individual's intent to donate his
20 organs or tissue. A notation on an individual's driver's license
21 or identification card that he intends to donate his organs or
22 tissue is deemed sufficient to satisfy all requirements for
23 consent to organ or tissue donation. The department shall record
24 and store all donor designations in the Donate Life PA Registry.
25 The recorded and stored designation is sufficient to satisfy all
26 requirements for consent to organ and tissue donation. The
27 recorded and stored designation is not a public record subject
28 to disclosure as defined in section 102 of the act of February
29 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

30 (b) Electronic access.--The organ procurement organizations

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

21 § 8621. The Governor Robert P. Casey Memorial Organ and Tissue
22 Donation Awareness Trust Fund contributions.

23 (a) Driver's license.--

24 (1) Beginning as soon as practicable, but no later than
25 [January 1, 1995] 10 months after the effective date of this
26 paragraph, the Department of Transportation shall provide an
27 applicant for an original or renewal driver's license or
28 identification card the opportunity to make a contribution of
29 [\$1] \$3 to the fund. The contribution shall be added to the
30 regular fee for an original or renewal driver's license or

1 identification card. One contribution may be made for each
2 issuance or renewal of a license or identification card.
3 Contributions shall be used exclusively for the purposes set
4 out in section 8622 (relating to The Governor Robert P. Casey
5 Memorial Organ and Tissue Donation Awareness Trust Fund).

6 (2) The Department of Transportation shall monthly
7 determine the total amount designated under this section and
8 shall report that amount to the State Treasurer, who shall
9 transfer that amount to [The Governor Robert P. Casey
10 Memorial Organ and Tissue Donation Awareness Trust Fund] the
11 fund.

12 (3) The fund shall reimburse the Department of
13 Transportation for the costs incurred in the initial
14 development and implementation of the contribution program,
15 as well as any additional costs that may arise from changes
16 that are agreed to by both the department and the Organ and
17 Tissue Donation Advisory Committee.

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

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

6 (3) The [Governor Robert P. Casey Memorial Organ and
7 Tissue Donation Awareness Trust Fund] fund shall reimburse
8 the department for the initial costs incurred in the
9 development and implementation of the contribution program
10 [under this subsection.], as well as any additional costs
11 that may arise from changes that are agreed to by both the
12 department and the Organ and Tissue Donation Advisory
13 Committee.

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

29 (c) Internet website.--Within one year of the effective date
30 of this subsection, the official Internet website of the

1 department shall provide links through which individuals may
2 make voluntary contributions of at least \$1 to the fund,
3 electronically. The links shall be provided at least in
4 connection with the issuance of driver's licenses, personal
5 identification cards and registration of motor vehicles.

6 § 8622. The Governor Robert P. Casey Memorial Organ and Tissue
7 Donation Awareness Trust Fund.

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

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

28 (1) [10%] Ten percent of the total fund may be expended
29 annually by the Department of Health for reasonable hospital
30 and other medical expenses, funeral expenses and incidental

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

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

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

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

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

3 (1) Two representatives of organ procurement
4 organizations.

5 (2) Two representatives of tissue procurement providers.

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

8 (4) Three representatives of acute care hospitals.

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

10 (6) One representative of eye banks.

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

1 reimburse members of the advisory committee for all necessary
2 and reasonable travel and other expenses incurred in the
3 performance of their duties under this section.]

4 (c.1) Advisory committee.--

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

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

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

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

10 (iv) One representative from each designated organ
11 procurement organization.

12 (v) Two representatives of tissue procurement
13 providers.

14 (vi) Six members representative of:

15 (A) organ, tissue and eye recipients;

16 (B) families of recipients;

17 (C) donors; and

18 (D) families of donors.

19 (vii) Two representatives of acute care hospitals
20 which are:

21 (A) licensed in this Commonwealth; and

22 (B) members of the Statewide association
23 representing the interests of hospitals throughout
24 this Commonwealth.

25 (viii) One representative of eye banks.

26 (ix) One representative of community health
27 organizations.

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

29 (xi) The Majority Leader and Minority Leader of the
30 Senate and the Majority Leader and Minority Leader of the

1 House of Representatives or their designees.

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

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

6 (i) Members shall be appointed in a manner which
7 reflects geographic diversity. Input on the selection of
8 the representatives under paragraph (1) (vii) shall be
9 sought from the Statewide association referred to in
10 paragraph (1) (vii) (B).

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

12 (iii) The Governor may reappoint an advisory
13 committee member for successive terms.

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

16 (v) If a vacancy occurs prior to completion of a
17 term, the Governor shall appoint a member to fill the
18 unexpired term in the same manner as the vacating member
19 was appointed.

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

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

24 (ii) Recommend education and awareness training
25 programs.

26 (iii) Recommend priorities in expenditures from the
27 fund.

28 (iv) Advise the Secretary of Health on matters
29 relating to administration of the fund.

30 (v) Recommend legislation as necessary to fulfill

1 the purposes of this chapter.

2 (5) The advisory committee shall submit a report
3 concerning the advisory committee's activities and progress
4 to the Secretary of the Senate and the Chief Clerk of the
5 House of Representatives by October 31 of each even-numbered
6 year.

7 (6) The Department of Health shall reimburse members of
8 the advisory committee only for necessary and reasonable
9 travel and other expenses incurred in the performance of
10 their duties under this subsection.

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

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

21 (f) Lead Commonwealth agency.--

22 (1) The Department of Health shall be the lead
23 Commonwealth agency responsible for promoting organ and
24 tissue donation in this Commonwealth and shall coordinate
25 activities among other collaborating Commonwealth agencies
26 and stakeholders.

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

30 (i) The Department of Health shall be reimbursed by

1 the fund for the actual cost of the program coordinator
2 position.

3 (ii) The program coordinator has the following
4 powers and duties:

5 (A) Assist in administration of the fund.

6 (B) Serve as a full-time liaison to the advisory
7 committee and assist the advisory committee in
8 program development, projects, funding proposals and
9 priorities.

10 (C) Serve as liaison with other Commonwealth
11 agencies. This clause shall include working with the
12 Department of Transportation to ensure that driver's
13 license centers promote organ and tissue donation and
14 comply with agreed-upon arrangements to display
15 information and materials.

16 (D) Assist designated organ procurement
17 organizations in their collaborations with other
18 Commonwealth agencies.

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

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

30 § 8623. Confidentiality requirement.

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

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

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

13 (1) the recipient; and

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

16 § 8624. Prohibited activities.

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

25 (b) Unfair acts.--No organ procurement organization or
26 tissue procurement provider may disparage the services or
27 business of other procurement providers by false or misleading
28 representations of fact, engage in any other fraudulent conduct
29 to influence the selection by a hospital of a qualified tissue
30 procurement provider nor engage in unlawful competition or

1 discrimination. This subsection is not intended to restrict or
2 preclude any organ procurement organization or tissue
3 procurement provider from marketing or promoting its services in
4 the normal course of business.]

5 (c) Procurement organizations.--

6 (1) A procurement organization shall not do any of the
7 following:

8 (i) Disparage the services or business of another
9 procurement organization by false or misleading
10 representations of fact.

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

13 (iii) Engage in unlawful competition or
14 discrimination.

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

18 (d) Funeral establishments.--

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

21 (i) remove body parts from a corpse;

22 (ii) permit others to remove body parts from a
23 corpse; or

24 (iii) use funeral establishment facilities to remove
25 body parts from a corpse.

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

27 (i) Removal is permissible if it is:

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

30 (B) authorized in writing by a family member,

1 guardian or other person responsible for disposition
2 of the body.

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

10 (3) If a funeral director is notified by a person
11 authorized to make donations under this chapter that the
12 person wishes to donate body parts from a corpse within the
13 funeral director's custody, the funeral director shall
14 immediately notify the procurement organizations designated
15 to serve that region.

16 Section 7. Title 20 is amended by adding sections to read:
17 § 8625. Promotion of organ and tissue donation and Donate Life
18 PA Registry established.

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

27 (b) Paper form.--

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

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

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

6 (c) Donate Life PA Registry.--That portion of the database
7 maintained by the department for recording donor designations
8 and Internet-based interface established in this section shall
9 be known as the Donate Life PA Registry.

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

13 (e) Effect.--

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

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

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

19 (iii) on an advance health care directive;

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

22 (v) submitted under any other statutory provision.

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

27 (f) Technology.--An information technology system adopted by
28 the department after the effective date of this section shall
29 continue to accommodate the inclusion of donor designation
30 information into the database and the ongoing operation of the

1 Donate Life PA Registry.

2 § 8626. Facilitation of anatomical gift from decedent whose
3 death is under investigation.

4 (a) Coordination.--

5 (1) Upon identification of a prospective donor, a
6 procurement organization shall, within a reasonable time,
7 notify the coroner or medical examiner of the county in which
8 the prospective donor is located.

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

13 (i) Notify the coroner or medical examiner of the
14 county in which the cause precipitating the prospective
15 donor's death is believed to have occurred, who shall
16 then cause the district attorney of the county to be
17 notified in accordance with internal county protocols.

18 (ii) Notify the applicable procurement organization
19 of any change in jurisdiction.

20 (3) Procurement organizations shall in all cases
21 cooperate with the coroner or medical examiner in order to
22 facilitate the preservation and collection of forensic
23 evidence. Procurement organizations shall not move or cause
24 to be moved a prospective donor without authorization of the
25 coroner or medical examiner having jurisdiction. Upon
26 request, a procurement organization shall provide or assist
27 the coroner or medical examiner in obtaining:

28 (i) Medical records.

29 (ii) Photographs.

30 (iii) Specimens, including blood and tissue.

1 (iv) Laboratory and diagnostic test results.

2 (v) Any other available information.

3 (4) If applicable, the coroner or medical examiner shall
4 timely notify the procurement organization of any additional
5 requests from the coroner, medical examiner or district
6 attorney of the county where the cause of death is believed
7 to have occurred, including scheduling the recovery procedure
8 to permit their attendance where the scheduling can be done
9 in a time frame consistent with facilitating anatomical
10 donation. Attendance may be in person or, if in-person
11 attendance is not possible in a time frame consistent with
12 facilitating anatomical donation and, if available, by
13 electronic communication which includes a live visual
14 depiction of the recovery procedure.

15 (5) Notwithstanding the provisions of 18 Pa.C.S. Ch. 91
16 (relating to criminal history record information), a coroner
17 or medical examiner shall, upon request, release to the
18 procurement organization the name, contact information and
19 available medical history of a decedent whose death is under
20 investigation.

21 (b) Facilitation of donation.--Where a coroner or medical
22 examiner has jurisdiction in the case of a prospective organ or
23 tissue donor, the coroner or medical examiner shall have the
24 final authority to allow or disallow an anatomical gift and the
25 following shall apply:

26 (1) If the coroner or medical examiner is considering
27 denying recovery of one or more organs or tissue intended for
28 transplant or therapy, the coroner or medical examiner shall
29 notify the applicable procurement organization.

30 (2) For a denial to be valid, attendance of the coroner,

1 medical examiner or designee may be in person or, if in-
2 person attendance is not possible in a time frame consistent
3 with facilitating anatomical donation, attendance shall be by
4 electronic communication which includes a live visual
5 depiction of the recovery procedure. The following shall
6 apply:

7 (i) No removal of the organ or tissue shall occur if
8 the coroner or medical examiner or designee has denied
9 recovery in accordance with this section.

10 (ii) The applicable procurement organization shall
11 reimburse the coroner or medical examiner for the
12 reasonable costs of attendance at the recovery procedure.

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

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

24 § 8627. Collaboration among departments and procurement
25 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
30 procurement organizations in applying for Federal or private

1 grants recommended by the organ procurement organizations.

2 (2) The department, in consultation with designated
3 procurement organizations, shall establish an annual
4 education program for photo license technicians of the
5 department.

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

10 § 8628. Information relative to organ and tissue donation.

11 (a) Curriculum.--The Department of Education, in
12 consultation with the designated procurement organizations,
13 shall review the Commonwealth's educational curriculum framework
14 to ensure that information about organ and tissue donation is
15 included in the standards for students in grades 9 through 12
16 beginning with the 2019-2020 school year.

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

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

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

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

29 (c) Materials.--The department shall make related
30 instructional materials available to public and nonpublic

1 schools educating students in grades 9 through 12. The General
2 Assembly shall encourage nonpublic schools to use the
3 instructional materials. Nothing in this subsection shall be
4 construed to require nonpublic schools to use the instructional
5 materials.

6 (d) Institutions of higher education.--

7 (1) Beginning with the 2019-2020 school year, each
8 public institution of higher education in this Commonwealth
9 shall provide, in collaboration with the designated
10 procurement organizations, information to its students,
11 either through student health services or as part of the
12 curriculum, which:

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

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

19 (2) Beginning with the 2019-2020 school year, each
20 private institution of higher education in this Commonwealth
21 is encouraged to provide, in collaboration with the
22 designated procurement organizations, information to its
23 students, either through student health services or as part
24 of the curriculum, which:

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

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

1 § 8629. Requirements for physician and nurse training relative
2 to organ and tissue donation and recovery.

3 (a) Regulations.--The State Board of Medicine, the State
4 Board of Osteopathic Medicine and the State Board of Nursing
5 shall, in collaboration with the designated procurement
6 organizations, promulgate regulations stating the following
7 requirements for physician and professional nurse training:

8 (1) The curriculum in each college of medicine or
9 osteopathy or educational program of professional nursing in
10 this Commonwealth shall include two hours of instruction in
11 organ and tissue donation and recovery designed to address
12 clinical aspects of the donation and recovery process.

13 (2) Successful completion of organ and tissue donation
14 and recovery instruction under paragraph (1) shall be
15 required as a condition of receiving the degree of doctor of
16 medicine or doctor of osteopathy or a degree in professional
17 nursing, in this Commonwealth.

18 (3) A college of medicine or osteopathy or nursing
19 program which includes instruction in organ and tissue
20 donation and recovery under paragraph (1) in its curricula
21 shall offer this training for continuing education credit.

22 (b) Statement of policy.--The State Board of Medicine, the
23 State Board of Osteopathic Medicine and the State Board of
24 Nursing shall issue a statement of policy encouraging physicians
25 and nurses who, prior to the effective date of this section,
26 were not required to receive and did not receive instruction in
27 organ and tissue donation and recovery as part of a medical,
28 osteopathic or nursing school curriculum to complete the
29 training within three years after the effective date of this
30 section. The training may be completed through an online,

1 credit-based course developed by or for the designated
2 procurement organizations, in collaboration with representative
3 professional medical, osteopathic and nursing organizations in
4 this Commonwealth.

5 § 8630. Uniformity of application and construction.

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

10 § 8631. Relation to Electronic Signatures in Global and
11 National Commerce Act.

12 This chapter modifies, limits and supersedes the Electronic
13 Signatures in Global and National Commerce Act (Public Law 106-
14 229, 15 U.S.C. § 7001 et seq.). This chapter shall not modify,
15 limit or supersede section 101(c) of the Electronic Signatures
16 in Global and National Commerce Act or authorize electronic
17 delivery of any of the notices described in section 103(b) of
18 the Electronic Signatures in Global and National Commerce Act.

19 § 8632. Study of organizations.

20 (a) Study.--The Legislative Budget and Finance Committee
21 shall conduct a study and evaluation of the funding of certified
22 organ procurement organizations operating in this Commonwealth.

23 The study shall include an analysis of the following:

24 (1) Expenditures which utilize grants from the
25 Department of Health under section 8622(b) (relating to The
26 Governor Robert P. Casey Memorial Organ and Tissue Donation
27 Awareness Trust Fund).

28 (2) A breakdown of all sources of income received by
29 each organ procurement organization.

30 (3) The percentage of money used for the following:

- 1 (i) lobbying expenses;
- 2 (ii) number of staff and salary ranges;
- 3 (iii) fundraising activities and amounts raised;
- 4 (iv) money received from other health or disease
5 related organizations;
- 6 (v) assets, including real estate, as reported on
7 the Federal 990 tax return;
- 8 (vi) auditing requirements or rules utilized by the
9 organization; and
- 10 (vii) information relating to Federal contracts or
11 contracts with other states.

12 (b) Date.--The study under subsection (a) shall be completed
13 within one year of the effective date of this subsection. Copies
14 shall by submitted to the following:

- 15 (1) The Health and Human Services Committee of the
16 Senate.
- 17 (2) The Judiciary Committee of the Senate.
- 18 (3) The Health Committee of the House of
19 Representatives.
- 20 (4) The Judiciary Committee of the House of
21 Representatives.

22 Section 8. Subchapter C of Chapter 86 of Title 20 is
23 repealed:

24 [SUBCHAPTER C

25 CORNEAL TRANSPLANTS

26 § 8641. Removal of corneal tissue permitted under certain
27 circumstances.

28 (a) General rule.--On a request from an authorized official
29 of an eye bank for corneal tissue, a coroner or medical examiner
30 may permit the removal of corneal tissue if all of the following

1 apply:

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

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

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

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

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

19 § 8642. Limitation of liability.

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

26 Section 9. This act shall take effect as follows:

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

29 (2) This section shall take effect immediately.

30 (3) The addition of 20 Pa.C.S. § 8632 shall take effect

1 in 90 days.

2 (4) The remainder of this act shall take effect in 60
3 days.