

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, LEACH, PILEGGI, FARNESE, McGARRIGLE AND WOZNIAK, JANUARY 15, 2015

SENATOR GREENLEAF, JUDICIARY, RE-REPORTED AS AMENDED, APRIL 11, 2016

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 THE Governor Robert P. Casey Memorial Organ and Tissue <--
11 Donation Awareness Trust Fund contributions, for the THE <--
12 Governor Robert P. Casey Memorial Organ and Tissue Donation
13 Awareness 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

1 storage facility," "decedent" and "organ procurement  
2 organization" in section 8601 of Title 20 of the Pennsylvania  
3 Consolidated Statutes are amended and the section is amended by  
4 adding definitions to read:

5 § 8601. Definitions.

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

9 \* \* \*

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

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

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

17 "Agent." Any of the following:

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

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

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

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

1 \* \* \*

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

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

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

17 \* \* \*

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

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

24 \* \* \*

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

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

1 is actual knowledge about the modified term.

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

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

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

10 \* \* \*

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

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

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

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

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

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

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

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

1 \* \* \*

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

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

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

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

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

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

22 \* \* \*

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

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

30 \* \* \*

1 Section 2. Sections 8611(a), (b) and (c) of Title 20 are  
2 amended AND THE SECTION IS AMENDED BY ADDING A SUBSECTION to <--  
3 read:

4 § 8611. Persons who may execute anatomical gift.

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

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

1 of the decedent's body for any purpose specified in section  
2 8612:

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

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

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

15       (3) An adult child of the decedent.

16       (4) A parent of the decedent.

17       (5) An adult sibling of the decedent.

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

19       (7) An adult grandchild of the decedent.

20       (8) A grandparent of the decedent.

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

25       (10) A hospital administrator. <--

26       ~~(11) 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) An eye bank or tissue bank.

2           (4) An organ procurement organization.

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

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

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

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

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

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

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

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

30           (f) Unspecified purpose.--If an anatomical gift is made in a

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

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

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

13 § 8613. Manner of executing anatomical gifts.

14 \* \* \*

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

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

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

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

9 \* \* \*

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

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

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

15 \* \* \*

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

18 (1) this chapter;

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

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

24 (i) is domiciled;

25 (ii) has a place of residence; or

26 (iii) is a citizen.

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

30 (i) Refusals.--An individual may refuse to make an

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

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

10 § 8615. Amendment or revocation of gift.

11 \* \* \*

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

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

24 Section 6. Sections 8616(b), (c) and (d) ~~AND 8617, 8619,~~ <--  
25 ~~8621, 8622, 8623 and 8624~~ of Title 20 are amended to read:

26 § 8616. Rights and duties at death.

27 \* \* \*

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

1 certifies death or any of his professional partners or  
2 associates shall not participate in the procedures for removing  
3 or transplanting a part.]

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

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

24 § 8617. Requests for anatomical gifts.

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

1 medical record.

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

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

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

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



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

27 (e) Tissue procurement.--

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

30 (2) Upon Department of Health approval of guidelines

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

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

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

18 (i) The number of tissue donors.

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

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

24 (f) Guidelines.--

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

1 the effective date of this chapter, do all of the following:

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

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

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

14 (a) Procedure.--

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

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

28 (i) Except as set forth in subparagraph (ii), a  
29 coroner or medical examiner shall notify the applicable  
30 designated organ procurement organization of a person's

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

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

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

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

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

22 (c) Document of gift.--

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

29 (2) If no document of gift is known to the procurement  
30 organization representative or the designated requestor, one

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

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

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

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

21 (d) Testing.--

22 (1) This subsection shall apply if:

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

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

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

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

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

11                   (B) as required or permitted by law.

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

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

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

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

29           (f) Scope.--An examination conducted under this section may  
30 include copying of records necessary to determine the medical

1 suitability of the body or part. This subsection includes  
2 medical, dental and other health-related records.

3 (f.1) Recipients.--

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

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

17 (f.2) Physicians.--

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

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

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

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

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

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

7 (g) Death record review.--

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

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

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

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



1           which provides all of the functions of a tissue  
2           procurement provider.

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

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

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

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

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

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

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

4 SECTION 6.1. SECTION 8619 OF TITLE 20, AMENDED DECEMBER 17, <--  
5 2015 (P.L.452, NO.79), IS AMENDED TO READ:

6 § 8619. Use of driver's license or identification card to  
7 indicate organ or tissue donation.

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

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.~~

24 § 8619. USE OF DRIVER'S LICENSE OR IDENTIFICATION CARD TO <--  
25 INDICATE ORGAN OR TISSUE DONATION.

26 (A) GENERAL RULE.--THE DEPARTMENT OF TRANSPORTATION SHALL  
27 REDESIGN THE DRIVER'S LICENSE AND IDENTIFICATION CARD  
28 APPLICATION SYSTEM TO PROCESS REQUESTS FOR INFORMATION REGARDING  
29 CONSENT OF THE INDIVIDUAL TO ORGAN OR TISSUE DONATION. THE  
30 FOLLOWING QUESTION SHALL BE ASKED ON BOTH THE APPLICATION FOR A

1 DRIVER'S LICENSE OR IDENTIFICATION CARD AND ON THE ORGAN DONOR  
2 DESIGNATION AT A PHOTO CENTER:

3 PENNSYLVANIA STRONGLY SUPPORTS ORGAN AND TISSUE DONATION  
4 BECAUSE OF ITS LIFE-SAVING AND LIFE-ENHANCING  
5 OPPORTUNITIES.

6 DO YOU WISH TO HAVE THE ORGAN DONOR DESIGNATION PRINTED  
7 ON YOUR DRIVER'S LICENSE?

8 ONLY AN AFFIRMATIVE RESPONSE OF AN INDIVIDUAL SHALL BE NOTED ON  
9 THE FRONT OF THE DRIVER'S LICENSE OR IDENTIFICATION CARD AND  
10 SHALL CLEARLY INDICATE THE INDIVIDUAL'S INTENT TO DONATE HIS  
11 ORGANS OR TISSUE. A NOTATION ON AN INDIVIDUAL'S DRIVER'S LICENSE  
12 OR IDENTIFICATION CARD THAT HE INTENDS TO DONATE HIS ORGANS OR  
13 TISSUE IS DEEMED SUFFICIENT TO SATISFY ALL REQUIREMENTS FOR  
14 CONSENT TO ORGAN OR TISSUE DONATION. The department shall record  
15 and store all donor designations in the Donate Life PA Registry.  
16 The recorded and stored designation is sufficient to satisfy all  
17 requirements for consent to organ and tissue donation. The  
18 recorded and stored designation is not a public record subject  
19 to disclosure as defined in section 102 of the act of February  
20 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

21 (b) Electronic access.--The organ procurement organizations  
22 designated by the Federal Government in the Commonwealth of  
23 Pennsylvania as part of the nationwide organ procurement network  
24 [may] shall be given 24-hour-a-day electronic access to  
25 information necessary to confirm an individual's organ donor  
26 status through the Department of Transportation's driver  
27 licensing database. Necessary information shall include the  
28 individual's name, address, date of birth, driver's license  
29 number and organ donor status. Notwithstanding 75 Pa.C.S. § 6114  
30 (relating to limitation on sale, publication and disclosure of

1 records), the Department of Transportation is authorized to  
2 provide the organ procurement organizations, after a written  
3 agreement between the Department of Transportation and the organ  
4 procurement organizations is first obtained, with the foregoing  
5 information. The organ procurement organization shall not use  
6 such information for any purpose other than to confirm an  
7 individual's organ donor status at or near or after an  
8 individual's death. The organ procurement organizations shall  
9 not be assessed the fee for such information prescribed by 75  
10 Pa.C.S. § 1955(a) (relating to information concerning drivers  
11 and vehicles).

12 SECTION 6.2. SECTIONS 8621, 8622, 8623 AND 8624 OF TITLE 20 <--  
13 ARE AMENDED TO READ:

14 § 8621. The Governor Robert P. Casey Memorial Organ and Tissue  
15 Donation Awareness Trust Fund contributions.

16 (a) Driver's license.--

17 (1) Beginning as soon as practicable, but no later than  
18 [January 1, 1995] 10 months after the effective date of this  
19 paragraph, the Department of Transportation shall provide an  
20 applicant for an original or renewal driver's license or  
21 identification card the opportunity to make a contribution of  
22 [\$1] \$3 to the fund. The contribution shall be added to the  
23 regular fee for an original or renewal driver's license or  
24 identification card. One contribution may be made for each  
25 issuance or renewal of a license or identification card.  
26 Contributions shall be used exclusively for the purposes set  
27 out in section 8622 (relating to The Governor Robert P. Casey  
28 Memorial Organ and Tissue Donation Awareness Trust Fund).

29 (2) The Department of Transportation shall monthly  
30 determine the total amount designated under this section and

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

4 (3) THE GOVERNOR ROBERT P. CASEY MEMORIAL ORGAN AND <--  
5 TISSUE DONATION AWARENESS TRUST FUND SHALL REIMBURSE THE  
6 DEPARTMENT OF TRANSPORTATION FOR THE COSTS INCURRED IN THE  
7 INITIAL DEVELOPMENT AND IMPLEMENTATION OF THE CONTRIBUTION  
8 PROGRAM, AS WELL AS ANY ADDITIONAL COSTS THAT MAY ARISE FROM  
9 CHANGES THAT ARE AGREED TO BY BOTH THE DEPARTMENT AND THE  
10 ORGAN DONATION ADVISORY COMMITTEE.

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

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

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

27 (3) The Governor Robert P. Casey Memorial Organ and  
28 Tissue Donation Awareness Trust Fund shall reimburse the  
29 department for the initial costs incurred in the development  
30 and implementation of the contribution program [under this

1 subsection] ~~according to an implementation schedule~~ <--  
2 ~~established by the department and the Organ Donation Advisory~~  
3 ~~Committee.~~, AS WELL AS ANY ADDITIONAL COSTS THAT MAY ARISE <--  
4 FROM CHANGES THAT ARE AGREED TO BY BOTH THE DEPARTMENT AND  
5 THE ORGAN DONATION ADVISORY COMMITTEE.

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

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

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

30 (a) Establishment.--All contributions received by the

1 Department of Transportation under section 8621 (relating to The  
2 Governor Robert P. Casey Memorial Organ and Tissue Donation  
3 Awareness Trust Fund contributions) [and the Department of  
4 Revenue under section 8618 (relating to voluntary contribution  
5 system)] and the Department of Health under section 8617  
6 (relating to requests for anatomical gifts) shall be deposited  
7 into a special fund in the State Treasury to be known as The  
8 Governor Robert P. Casey Memorial Organ and Tissue Donation  
9 Awareness Trust Fund, which is hereby established.

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

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

1 estate. The advisory committee shall develop procedures,  
2 including the development of a pilot program, necessary for  
3 effectuating the purposes of this paragraph.

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

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

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

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

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

26 (2) Two representatives of tissue procurement providers.

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

29 (4) Three representatives of acute care hospitals.

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



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

25       (c.1) Advisory committee.--

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

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

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

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

1           (iv) One representative from each designated organ  
2 procurement organization.

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

5           (vi) Six members representative of:

6                 (A) organ, tissue and eye recipients;

7                 (B) families of recipients;

8                 (C) donors; and

9                 (D) families of donors.

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

12                 (A) licensed in this Commonwealth; and

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

16          (viii) One representative of eye banks.

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

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

20          (XI) THE MAJORITY LEADER AND MINORITY LEADER OF THE <--  
21 SENATE AND THE MAJORITY LEADER AND MINORITY LEADER OF THE  
22 HOUSE OF REPRESENTATIVES OR THEIR DESIGNEES.

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

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

27                 (i) Members shall be appointed in a manner which  
28 reflects geographic diversity. Input on the selection of  
29 the representatives under paragraph (1)(vii) shall be  
30 sought from the Statewide association referred to in

1 paragraph (1)(vii)(B).

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

3 (iii) The Governor may reappoint an advisory  
4 committee member for successive terms.

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

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

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

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

15 (ii) Recommend education and awareness training  
16 programs.

17 (iii) Recommend priorities in expenditures from the  
18 fund.

19 (iv) Advise the Secretary of Health on matters  
20 relating to administration of the fund.

21 (v) Recommend legislation as necessary to fulfill  
22 the purposes of this chapter.

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

27 (6) The Department of Health shall reimburse members of  
28 the advisory committee only for necessary and reasonable  
29 travel and other expenses incurred in the performance of  
30 their duties under this subsection.

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

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

11 (f) Lead Commonwealth agency.--

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

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

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

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

26 (A) Assist in administration of the fund.

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

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

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

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

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

22 § 8623. Confidentiality requirement.

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

26         (a) General rule.--Except as provided in subsection (b), no  
27         procurement organization may divulge any individually  
28         identifiable information acquired in the course of performing  
29         its responsibilities under this chapter except for the purposes  
30         of facilitating organ, eye or tissue donation and

1 transplantation or as otherwise required under applicable laws.

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

5 (1) the recipient; and

6 (2) if the donor is alive, the donor, or if the donor is  
7 deceased, the next of kin of the donor.

8 § 8624. Prohibited activities.

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

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

27 (c) Procurement organizations.--

28 (1) A procurement organization shall not do any of the  
29 following:

30 (i) Disparage the services or business of another

1 procurement organization by false or misleading  
2 representations of fact.

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

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

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

10 (d) Funeral establishments.--

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

13 (i) remove body parts from a corpse;

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

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

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

19 (i) Removal is permissible if it is:

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

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

25 (ii) Notwithstanding any other provision of law, if  
26 a donation is authorized under this chapter, a designated  
27 organ procurement organization and a Pennsylvania  
28 nonprofit eye bank accredited by the Eye Bank Association  
29 of America may recover donated ocular tissue, including  
30 the whole eye, cornea and sclera, and associated blood

1 specimens at a funeral establishment.

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

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

9 § 8625. Promotion of organ and tissue donation; Donate Life PA  
10 Registry established.

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

19 (b) Paper form.--

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

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

28 (c) Donate Life PA Registry; ~~name~~.--That portion of the <--  
29 database maintained by the department for recording donor  
30 designations and Internet-based interface established in this



1 section shall be known as the Donate Life PA Registry.

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

5 (e) Effect.--

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

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

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

11 (iii) on an advance health care directive;

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

14 (v) submitted under any other statutory provision.

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

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

24 § 8626. Facilitation of anatomical gift from decedent whose  
25 death is under investigation.

26 (a) Coordination.--

27 (1) Upon identification of a prospective donor, an organ  
28 procurement organization shall, within a reasonable time,  
29 notify the coroner or medical examiner of the county in which  
30 the prospective donor is located.

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

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

10           (ii) Notify the applicable organ procurement  
11 organization of any change in jurisdiction.

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

20           (i) Medical records.

21           (ii) Photographs.

22           (iii) Specimens, including blood and tissue.

23           (iv) Laboratory and diagnostic test results.

24           (v) Any other available information.

25           (4) If applicable, the coroner or medical examiner shall  
26 timely notify the organ procurement organization of any  
27 additional requests from the coroner, medical examiner or  
28 district attorney of the county where the cause of death is  
29 believed to have occurred, including scheduling the recovery  
30 procedure to permit their attendance where the scheduling can

1 be done in a time frame consistent with facilitating  
2 anatomical donation. Attendance may be in person or, if in-  
3 person attendance is not possible in a time frame consistent  
4 with facilitating anatomical donation and, if available, by  
5 electronic communication which includes a live visual  
6 depiction of the recovery procedure.

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

13 (b) Facilitation of donation.--Where a coroner or medical  
14 examiner has jurisdiction in the case of a prospective organ  
15 donor, THE CORONER OR MEDICAL EXAMINER SHALL HAVE THE FINAL <--  
16 AUTHORITY TO ALLOW OR DISALLOW AN ANATOMICAL GIFT AND the  
17 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~~

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

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

(2) FOR A DENIAL TO BE VALID, ATTENDANCE OF THE CORONER, MEDICAL EXAMINER OR DESIGNEE MAY BE IN PERSON OR, IF IN-PERSON ATTENDANCE IS NOT POSSIBLE IN A TIME FRAME CONSISTENT WITH FACILITATING ANATOMICAL DONATION, ATTENDANCE SHALL BE BY ELECTRONIC COMMUNICATION WHICH INCLUDES A LIVE VISUAL DEPICTION OF THE RECOVERY PROCEDURE. THE FOLLOWING SHALL APPLY:

~~(iv) (I) No removal of the organ shall occur if the coroner or medical examiner or designee has denied recovery in accordance with subparagraph (ii) and complied with the procedure in subparagraph (iii) THIS SECTION.~~

~~(v) (II) The applicable organ procurement organization shall reimburse the coroner or medical examiner for the reasonable costs of attendance at the~~

1 recovery procedure.

2 (c) Report.--If requested by the coroner, medical examiner  
3 or district attorney, the physician or technician recovering an  
4 organ under this section shall provide a report and, if  
5 necessary, be available to provide testimony in any proceeding,  
6 detailing the condition of the organ and the recovery procedure.  
7 Reasonable costs associated with a physician or technician's  
8 providing testimony under this section shall be paid by the  
9 designated organ procurement organization.

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

13 § 8627. Collaboration among departments and organ procurement  
14 organizations.

15 (a) Mandatory.--

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

21 (2) The Department of Transportation, in consultation  
22 with designated organ procurement organizations, shall  
23 establish an annual education program for photo license  
24 technicians of the Department of Transportation.

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

29 § 8628. Information relative to organ and tissue donation.

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

1 consultation with the designated organ procurement  
2 organizations, shall review the Commonwealth's educational  
3 curriculum framework to ensure that information about organ  
4 donation is included in the standards for students in grades 9  
5 through 12 beginning with the 2016-2017 school year.

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

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

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

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

18 (c) Materials.--The Department of Education shall make  
19 related instructional materials available to public and  
20 nonpublic schools educating students in grades nine through  
21 twelve. The General Assembly shall encourage nonpublic schools  
22 to use the instructional materials. Nothing in this subsection  
23 shall be construed to require nonpublic schools to use the  
24 instructional materials.

25 (d) Institutions of higher education.--

26 (1) Beginning with the 2016-2017 school year, each  
27 public institution of higher education in this Commonwealth  
28 shall provide, in collaboration with the designated organ  
29 procurement organizations, information to its students,  
30 either through student health services or as part of the

1 curriculum, which:

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

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

8 (2) Beginning with the 2017-2018 school year, each  
9 private institution of higher education in this Commonwealth  
10 is encouraged to provide, in collaboration with the  
11 designated organ procurement organizations, information to  
12 its students, either through student health services or as  
13 part of the curriculum, which:

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

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

20 § 8629. Requirements for physician and nurse training relative  
21 to organ and tissue donation and recovery.

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

27 (1) The curriculum in each college of medicine or  
28 osteopathy or educational program of professional nursing in  
29 this Commonwealth shall include two hours of instruction in  
30 organ and tissue donation and recovery designed to address

1 clinical aspects of the donation and recovery process.

2 (2) Successful completion of organ and tissue donation  
3 and recovery instruction under paragraph (1) shall be  
4 required as a condition of receiving the degree of doctor of  
5 medicine or doctor of osteopathy or a degree in professional  
6 nursing, in this Commonwealth.

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

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

24 § 8630. Uniformity of application and construction.

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

29 § 8631. Relation to Electronic Signatures in Global and  
30 National Commerce Act.



1 This chapter modifies, limits and supersedes the Electronic  
2 Signatures in Global and National Commerce Act (Public Law 106-  
3 229, 15 U.S.C. § 7001 et seq.). This chapter shall not modify,  
4 limit or supersede section 101(c) of the Electronic Signatures  
5 in Global and National Commerce Act or authorize electronic  
6 delivery of any of the notices described in section 103(b) of  
7 the Electronic Signatures in Global and National Commerce Act.

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

10 [SUBCHAPTER C

11 CORNEAL TRANSPLANTS

12 Sec.

13 8641. Removal of corneal tissue permitted under certain  
14 circumstances.

15 8642. Limitation of liability.

16 § 8641. Removal of corneal tissue permitted under certain  
17 circumstances.

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

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

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

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

29 (4) The removal of the corneal tissue will not interfere  
30 with the subsequent course of an investigation or autopsy or

1 alter the decedent's postmortem facial appearance.

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

9 § 8642. Limitation of liability.

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

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

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

19 (2) This section shall take effect immediately.

20 (3) The remainder of this act shall take effect in 60  
21 days.