



## SENATE OF PENNSYLVANIA BILL SUMMARY

### Senate Bill 180 Printer's No. 112

Prime Sponsor: Senator Greenleaf  
Committee: Judiciary

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#### **SYNOPSIS:**

This bill updates the Uniform Anatomical Gift Act of 1968. Known as the Donate Life PA Act, this bill amends the Probate, Estates and Fiduciaries Code, Title 20 of the Pennsylvania Consolidated Statutes, to update and revise the law relating to organ and tissue donations.

#### **SUMMARY:**

The bill establishes a comprehensive framework for public education about organ and tissue donations; clarifies the methods for making anatomical donations; and updates the law to reflect the best clinical practices to support anatomical donations for transplantations.

The bill provides for education about organ and tissue donation in secondary schools, as well as at medical and nursing schools; updates provisions relating to the Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund and the Organ and Tissue Donor Awareness Program (OTDAP); reinforces the priority of transplantation in the law and affirms that anatomical donations must be initially referred to a federally-designated organ procurement agency to ensure the donations are subject to regulatory oversight; and encourages the cooperation of medical examiners and coroners with organ procurement organizations.

#### *Persons who may execute anatomical gift*

Section 8611 of the Probate, Estates and Fiduciaries Code is amended to expand the list of individuals who may give all or any part of the decedent's body for the purposes specified in the legislation. Each individual only has authority, in the order of priority listed, if persons in prior classes are not reasonably available at the time of death and in the absence of known objections by the decedent or by a member of the prior class.

#### *Purposes for which an anatomical gift may be made*

Section 8612 is amended to further provide for the entities to which an anatomical gift may be made and to specify for what purposes an anatomical gift may be made and under what circumstances. For research purposes, these include hospitals, medical schools, and organ procurement organizations. For other purposes such as transplantation, these include eye or tissue banks and organ procurement organizations. The section describes what happens if multiple purposes are listed in the gift document or if the purpose is unspecified in the document.

A “document of gift” is defined as a donor card or other record used to make, amend or revoke an anatomical gift. The term includes a statement or symbol on a driver’s license.

#### *Executing, amending and revoking a gift*

Sections 8613, relating to the manner of executing anatomical gifts, is amended to specify when a document of gift is valid and the role of the driver’s license or photo ID card. This bill does not change the provisions pertaining to anatomical gifts made in wills or to specific donees. The intent of the decedent is paramount, and the decedent’s clearly expressed choice with regard to anatomical gifts may not be changed by other persons. The bill specifies how an individual may refuse to make an anatomical gift of the individual’s body. Section 8615, relating to amendment and revocation of gifts, is amended to clarify when a revocation takes effect. Provisions in Section 8615 relating to the manner in which a person may revoke an anatomical gift are not changed by this bill.

#### *Liability limited*

Section 8616 is amended to make clear that a person making an anatomical gift or a donor’s estate shall not be liable for injury or damage which results from the making of an anatomical gift. A person may rely on the representation of an individual listed in section 8611 unless the person knows that the representation is untrue.

#### *Procedure*

Section 8617 governs the procedure a hospital uses to notify the applicable designated organ procurement organization about an individual whose death is imminent or who has died in the hospital. The section also provides for notification to organ procurement organizations by a coroner or medical examiner unless the period for organ and tissue donation has expired.

The organ procurement organization is obligated to check the Donate Life PA Registry or the donor registry from the applicable state to determine whether the person elected to make an anatomical gift. The organ procurement must contact the individuals listed in Section 8611(b) to notify them of a document of gift or, in the absence of a document of gift, to ask those individuals about the decedent’s documented or expressed intentions regarding anatomical gifts. This section requires that organ procurement organizations employ a protocol that encourages discretion and sensitivity to family circumstances and religious beliefs.

Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent’s death may participate in the procedures relating to organ or tissue donation.

The section describes how the document of gift is implemented, including a blood or tissue test or minimally invasive examination which is reasonably necessary to evaluate the medical suitability of the body part.

#### *Registry*

Section 8619 requires the Department of Transportation to record and store all organ donor designations in the Donate Life PA Registry, regardless of whether a driver’s license is issued.

*The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund*

Section 8621 increases from \$1 to \$3 the contribution to the fund that an applicant for a driver's license may make. The section also directs the Department of Transportation to establish an Internet website through which individuals may make contributions.

Section 8622 revises the membership of the Organ and Tissue Donation Advisory Committee. The Department of Health shall be the lead Commonwealth agency responsible for promoting organ and tissue donation. The bill establishes a full-time position within the department for an Organ and Tissue Awareness Program Coordinator.

*Confidentiality*

Subject to the consent of the donor and recipient, the bill prohibits any organ procurement organization from divulging individually identifiable information acquired in the course of performing its responsibilities, except to the extent necessary to facilitate the transplantation of organs or tissue.

*Prohibited activities*

Section 8624 is amended to further enumerate the type of activities that procurement organizations and funeral establishments may not do.

*Donate Life PA registry*

Section 8625 is added to establish the registry, which is a database maintained by the Department of Transportation for recording donor designations. The section directs the department to ensure access by Pennsylvania residents to an Internet-based interface which promotes organ and tissue donation.

*Coroners and medical examiner and organ procurement organizations*

Section 8626 requires organ procurement organizations to notify the coroner or medical examiner in which the prospective donor is located. If that coroner or medical intends to investigate the death, then he or she must notify any other applicable coroners or medical examiners. This section requires organ procurement organizations to cooperate with coroners and medical examiners to preserve and collect forensic evidence and to refrain from moving the body without authorization from the coroner or medical examiner. Section 8626 addresses the manner in which coroners and medical examiners cooperate with organ procurement organizations to determine whether an organ or tissue donation may proceed. The coroner or medical examiner have the final authority to deny an organ or tissue recovery.

Section 8627 directs organ procurement organizations to collaborate with the coroner or medical examiner to ensure the preservation of forensic evidence and collection of photographs and specimens.

*Departments and organ procurement organizations*

Section 8628 directs the Department of Education to ensure that information about organ donation is included in the standards for students in grades 9 through 12. Public institutions of higher education in Pennsylvania are required to do the same.

*Physician and nurse training*

Section 8629 directs the State Board of Medicine, the State Board of Osteopathic Medicine and the State Board of Nursing to promulgate regulations providing for physician and nurse training about organ and tissue donation and recovery.

*Existing law on corneal transplants*

Section 8641, relating to corneal transplants, will be repealed.

**AMENDMENT:**

Amendment A\_\_\_\_\_, offered in the Senate Judiciary Committee, changes Section 8611, relating to persons who make an anatomical gift. The amendment clarifies that a person under charges or suspicion of wrongdoing with regard to the prospective donor may not authorize the donation of organs or tissue by that donor. In order to comply with the Pennsylvania Constitution, the amendment requires the Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund to reimburse the Department of Transportation for costs relating to organ donation activities.

The amendment emphasizes that coroners and medical examiners have the final authority to deny an organ or tissue recovery. The amendment amends Section 8626 to eliminate the requirement that coroners or medical examiners state specific reasons for denying an organ recovery. Before denying the organ or tissue recovery, there is an attendance requirement. The coroner or medical examiner may attend the organ recovery in person, send a designee to the recovery procedure, or else attend by way of audiovisual technology that allows the coroner or medical examiner to view the procedure.

**EFFECTIVE DATE:**

This bill is effective in 60 days.

**BILL HISTORY:**

This will was reported out of the Senate Judiciary Committee on January 22, 2015. The bill was reported out of the Appropriations Committee on March 22, 2016 and re-referred to the Judiciary Committee on March 23, 2016.

Prepared by: Cawley 4/8/2016