

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 850

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Sponsor: Senator Greenleaf

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Synopsis: 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. The section describes what happens if multiple purposes are list 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. Section 8615, relating to amendment and revocation of gifts, is amended to clarify when a revocation takes effect.

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 donor procurement organization about an individual whose death is imminent or who has died in the hospital. The section also provides for notification by a coroner or medical examiner.

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 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 \$2 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.

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 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 transportation to collaborate with the organ donation procurement organizations for the ongoing development and implementation of the Donate Life PA Registry.

Information about organ and tissue donation

Section 8629 directs the Department of Education, in consultation with the designated organ procurement organizations, to review the Commonwealth's educational curriculum to ensure that information about organ donation is included in the standards for students in grades nine through 12.

The section also directs institutions of higher education to provide information on organ donation to their students.

Physician and nurse training

Section 8630 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.

Effective date

This act takes effect in 60 days.

Background: House Bill 30 is the companion House bill to Senate Bill 850. House Bill 30 is pending before the House Judiciary Committee.

In 1994 the General Assembly enacted Act 102 which at the time set the standard nationwide for supporting anatomical donations. However, since 2006, 46 United States jurisdictions have passed an updated version of the Uniform Anatomical Gift Act. The revised uniform law embodies clinical best practices and seeks to maximize the number of organs available for donation without burdening states and healthcare facilities. The Donate Life PA Act draws many of its provisions from the uniform act while building on existing Pennsylvania law.

In Pennsylvania, statewide education and awareness initiatives are developed and sponsored by the Organ and Tissue Donation Advisory Committee in collaboration with various nonprofit organizations and executive agencies collectively referred to as the Organ and Tissue Donor Awareness Program (OTDAP). In 2006 the Legislative Budget and Finance Committee (LBFC) was directed to evaluate the OTDAP. The LBFC made 26 recommendations to build on the success of the OTDAP, many of which have been incorporated into this legislation.

Senate Bill 850 will support Pennsylvania's position as a national and international leader in organ and tissue donations and transplantations. With more than 8,000 patients awaiting a life-saving organ transplant in Pennsylvania and thousands of others who benefit from life enhancing tissue transplants, this legislation is necessary to assist in addressing this public health crisis.

Legislative history

Last session this legislation was introduced as Senate Bill 750 and House Bill 100. The Senate Judiciary Committee reported Senate Bill 750 from committee. The Senate re-referred Senate Bill 750 to the Senate Appropriations Committee where it remained for the rest of the session. This session the legislation has been revised based on input received from interested groups and individuals so Senate Bill 850 and House Bill 30 are not the same as Senate Bill 750 and House Bill 100.