

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 750

Printer's No.: 819

Sponsor: Senator Greenleaf

Prepared by: Gregg Warner

Synopsis: This bill is the Donate Life PA Act, amending 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. The legislation 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.

Summary:

Revised Uniform Anatomical Gift Act

New Subchapter D applies to an anatomical gift and any amendment to, revocation of or refusal to make an anatomical gift.

Making a gift

The bill establishes the procedure for making an anatomical gift for the purpose of transplants, therapy, research or education before the donor's death. The donor may do this directly or through an agent, a parent when the donor is a minor or the donor's guardian. The gift may be amended or revoked.

The legislation also provides the procedure for making an anatomical gift after the donor's death. An anatomical gift may be made by a member of a class of persons enumerated in the bill. The list in order of priority includes an agent of the decedent, the spouse, an adult child, a parent, an adult sibling, and several other classes of persons.

Receiving a gift

The bill describes the persons who may receive anatomical gifts. If for research or education, the gift may be made for example to a hospital, medical school, dental school, college or university. The gift may be made to an individual or to an eye or tissue bank. A gift may have multiple purposes.

A person may not accept an anatomical gift if the person knows that the gift was not effectively made under this law.

Search of individual

Upon the request of an organ procurement organization, persons authorized by this law may make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor.

Procurement organizations

The legislation lists the rights and duties of procurement organizations and other organizations such as hospitals and coroners. For example, a hospital shall notify the applicable procurement organization of an individual whose death is imminent or who has died at the hospital.

Upon receiving notification of a person's death, a coroner shall notify the applicable designated procurement organization in a timely manner to ensure that examination of donor status can be completed within a time frame compatible with the recovery of organs and tissues for transplant.

Subchapter E

New Subchapter E governs administrative matters such as the use of a driver's license or identification card to indicate organ and tissue donation, and contributions to the Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund.

Use of funds

The Casey fund shall be used as follows:

- 10% may be expended annually by the Department of Health for expenses incurred by the donor or the donor's family in connection with making the gift.
- 50% may be expended annually for grants to certified organ procurement organizations for the development and implementation of organ awareness programs.
- 15% may be expended by the Department of Health for Project-Make-A-Choice, public education program regarding organ and tissue donation.
- 25% may be expended by the Department of Education for the implementation of organ and tissue donation awareness programs in the secondary schools.

Advisory committee

The legislation establishes the Organ and Tissue Donation Advisory Committee. The committee shall meet at least biannually to review progress in the area of organ and tissue donation, make recommendations on education and training and in priorities in expenditures from the fund, advise the Secretary of Health, and recommend legislation.

Department of Health

The department is designated as the lead agency responsible for promoting organ and tissue donation and within the department there shall be a full-time position of Organ and Tissue Donation Awareness Program Coordinator.

Registry

The legislation directs the Department of Transportation to establish a Donate Life PA Registry which allows individuals who have been issued a driver's license or identification card to add their donor designation to the registry.

Curriculum

The Department of Education is directed to review the State curriculum to ensure that information about organ donation is included in the standards for students in grades 9 through 12. The State Board of Medicine, the State Board of Osteopathic Medicine and the State Board of Nursing shall make sure that curriculum in their respective educational programs include two hours of instruction in organ and tissue donation and recovery.

Disclosure of identity

The identity of a donor or a recipient may not be disclosed unless expressly authorized by the recipient, if the donor is alive, the donor, and if the donor is deceased, the next-of-kin.

Repeal

Subchapters B and C of Chapter 86 of Title 20, relating to express anatomical gifts, and corneal transplants, respectively, are repealed in favor of the new provisions in Subchapters D and E.

Effective date

This act takes effect in 60 days.

Background:

Purpose of legislation

The Donate Life PA Act provides for education about organ and tissue donation in secondary schools, as well as at medical and nursing schools; incorporates provisions of the revised Uniform Anatomical Gift Act; updates provisions relating to the Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund, and the Organ and Tissue Donation Advisory Committee (OTDAC); 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.

The legislation will support Pennsylvania's position as a national and international leader in organ and tissue donations and transplants. 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.

Pennsylvania program

In Pennsylvania, statewide education and awareness initiatives are developed and sponsored by the OTDAC)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 many of which have been incorporated into this legislation.

Federal and State laws

Though many aspects of the donation, allocation and transplantation of anatomical gifts are subject to federal law, it is state law that primarily governs the actual gifting and donation of these life saving and life enhancing organs and tissues. In 1994 the General Assembly enacted Act 102 which at the time set the standard nationwide for states to promote and support anatomical donations. Under Act 102 Pennsylvania routinely has been one of the leading states in numbers of donations and transplants. However, since 2006, 43 states, including most of our neighboring states, have passed an updated Uniform Anatomical Gift Act. The revised uniform law further standardizes the donation process and seeks to increase the number of organs available for donation without further burdening states and healthcare facilities.

Legislative history

This legislation has also been introduced in the House of Representatives as House Bill 100. During the 2009-2010 legislative session, this legislation was introduced as House Bill 2700.