Mr. Speaker:

The Committee on Health to which were referred House Bill No. 593 introduced by Hon. Carol Jayne B. Lopez, entitled:

AN ACT
REGULATING THE DONATION AND TRANSPLANTATION OF HUMAN ORGANS AND TISSUES FROM LIVING DONORS
House Bill No. 1405 introduced by Hon. Harlin C. Abayon, entitled:

**AN ACT**
**TO REGULATE ORGAN TRANSPLANTATION AND APPROPRIATING FUNDS THEREFOR**

House Bill No. 1790 introduced by Hon. Rufus B. Rodriguez and Maximo B. Rodriguez, Jr., entitled:

**AN ACT**
**ESTABLISHING A NATIONAL PROGRAM FOR SHARING OF ORGANS FROM DECEASED DONORS AND REGULATION OF HUMAN ORGANS FOR DONATION AND TRANSPLANTATION FROM LIVING DONORS**

House Bill No. 3165 introduced by Hon. Rene L. Relampagos, entitled:

**AN ACT**
**TO INSTITUTE POLICIES TO PROHIBIT COMMERCIAL DEALINGS IN HUMAN ORGANS, TISSUES AND/OR PARTS, PROVIDING PENALTIES THEREFOR FOR ITS VIOLATIONS, AND FOR OTHER PURPOSES**

House Bill No. 3223 introduced by Hon. Scott Davies S. Lanete, M.D., entitled:

**AN ACT**
**ESTABLISHING A NATIONAL PROGRAM FOR SHARING OF ORGANS FROM DECEASED DONORS AND APPROPRIATING FUNDS THEREFOR**

House Bill No. 4440 introduced by Hon. Giorgidi B. Aggabao, entitled:

**AN ACT**
**STRENGTHENING THE HUMAN ORGAN DONATION PROGRAM FOR ORGAN AND TISSUE TRANSPLANTATION, AND FOR OTHER PURPOSES**

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has considered the same and recommends that the attached House Bill No. ______, entitled:

**AN ACT**
**PROVIDING FOR A REVISED HUMAN ORGAN DONATION AND TRANSPLANTATION PROGRAM AND PROVIDING PENALTIES FOR VIOLATION THEREOF, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 7170, AS AMENDED, ALSO KNOWN AS THE “ORGAN DONATION ACT OF 1991”**

Respectfully submitted,

HON. EUFRANIO “Franny” C. ERIGUEL, M.D.
Chairman
Committed on Health

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY
Republic of the Philippines
HOUSE OF REPRESENTATIVES
Congress of the Philippines
Metro Manila

Sixteenth Congress
Second Regular Session
Substitute House Bill No. 5538


AN ACT
PROVIDING FOR A REVISED HUMAN ORGAN DONATION AND TRANSPLANTATION PROGRAM AND PROVIDING PENALTIES FOR VIOLATION THEREOF, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 7170, AS AMENDED, ALSO KNOWN AS THE “ORGAN DONATION ACT OF 1991”

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short Title. – This Act shall be known as the “Organ Donation Act.”

ARTICLE I - GENERAL PROVISIONS

SEC. 2. Coverage. – This Act covers all government and private hospitals, health facilities, organ recovery organizations, medical and allied medical practitioners or professionals, foundations and non-government organizations that are involved in organ and tissue transplantation in the Philippines.

This Act also covers organ donations for transplantation purposes from deceased and living donors.

SEC. 3. Definition of Terms. – As used in this Act:

a) Allowable reimbursement refers to the reasonable costs incurred by the donor associated with the legal removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ, tissue or part, or the
expenses of travel, housing, and lost wages, medical insurance and periodic health monitoring, life insurance, and cost of medicines of the donor to attain full recovery;

b) Brain death refers to the irreversible cessation of all functions of the entire brain;

c) Clinical transplant coordinator refers to a healthcare professional of a transplant center designated to coordinate with its transplant team, patients, donors, the organ recovery organizations, the Philippine Organ Donation and Transplantation Board and the Philippine Network for Organ Sharing towards the performance of a transplant operation;

d) Commercial dealings refer to:

1. The sale, barter, or supply of human organ, tissue, or part thereof involving valuable consideration in whatever form;

2. Acts involving trafficking of a human organ, tissue, or part thereof through whatever means; and

3. The brokering for sale, barter or supply of a human organ, tissue, or part whether for money or any other consideration in violation of this Act.

e) Death refers to the irreversible cessation of circulatory and respiratory functions or the irreversible cessation of all functions of the entire brain, including the brain stem. A person shall be medically and legally dead if:

1. In the opinion of the attending physician, based on the acceptable standards of medical practice, there is an absence of natural respiratory and cardiac functions and, attempts at resuscitation would not be successful in restoring these functions. In this case, death shall be deemed to have occurred at the time these functions ceased; or

2. In the opinion of the consulting physician, concurred in by the attending physician, that on the basis of acceptable standards of medical practice, there is an irreversible cessation of all brain functions; and considering the absence of such functions, further attempts at resuscitation or continued supportive maintenance would not be successful in restoring such natural functions. In this case, death shall be deemed to have occurred at the time when these conditions first appeared.

The death of a person shall be determined in accordance with the acceptable standards of medical practice and shall be diagnosed separately by the attending physician and another consulting physician, both of whom must be appropriately qualified and suitably experienced in the care of such parties. The death shall be recorded in the patient’s medical record.

f) Decedent refers to a deceased individual, and includes a still-born infant or fetus;
g) **Donor** refers to an individual who voluntarily donates organ, tissue or part gratuitously to another who accepts it. The term also refers to an individual authorized in this Act to donate all or part of the body of a decedent;

h) **Donor allocation scoring system** refers to the national scoring system by which allocation of organs from deceased donors shall be based;

i) **Graft** refers to an organ that has been removed from the body of an organ donor for transplantation into a recipient;

j) **Hospital** refers to an institution licensed, accredited or approved by the Department of Health (DOH) devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment and care of individuals from illness, disease, injury or deformity, or in need of obstetrical or other medical and nursing care. The term “hospital” shall also be construed as any building or place where there are installed beds, or cribs, or bassinets for twenty-four-hour use or longer by patients in the treatment of diseases, diseased conditions, injuries, deformities, or abnormal physical and mental states, maternity cases, and all institutions such as those for convalescence, sanatoria care, infirmaries, nurseries, dispensaries and such other means by which they may be designated;

k) **Human organ** refers to the kidney, liver, heart, lung, pancreas, and any other human organ, tissue or part thereof, including bone marrow, bone, cornea, skin, muscle tissue, and any other transplantable part of a human body;

l) **Human Organ and tissue bank storage facility** refers to a facility licensed, accredited or approved by DOH under the law for storage of human organs, tissues or parts thereof;

m) **Immediate family of the decedent** refers to the spouse, son or daughter of legal age, either parent, brother or sister of legal age and legal guardian over the person of the decedent, at the time of death;

n) **Indigent** refers to an individual who has no visible means of income or whose income is insufficient for the subsistence of his family, and identified, listed or certified by the Department of Social Welfare and Development (DSWD) as poor pursuant to the National Household Targeting System for Poverty Reduction;

o) **Living donor** refers to an individual who is willing to donate an organ, tissue or part of the body while still alive, and may be either:

1. a **Living related donor (LRD)** - a donor who is related to the recipient by blood within the fourth civil degree of consanguinity, including parents, children, siblings, nephews, nieces and first cousins, or

2. a **Living non-related donor (LNRD)** - a donor who is not related to the recipient by blood but who is willing to donate organs, tissues or parts thereof. The term also applies to those related emotionally.
An LNRD is further classified as:

i. Directed living organ donor - a donor who has a specific intended recipient to whom the organ shall be donated.

ii. Non-directed living organ donor - a living donor who is willing to donate an organ to any suitable recipient.

p) Organ transplant candidate refers to a patient diagnosed to have end stage organ disease who is qualified to undergo an organ transplant procedure.

q) Part refers to a portion of transplantable organ, tissue, eye, bone, artery, blood, fluid, and other portions of the human body;

r) Person refers to an individual, corporation, estate, trust, partnership, association, the government or any of its subdivisions, agencies or instrumentalities, including government-owned or -controlled corporations, or any other legal entity;

s) Philippine Organ Donor and Recipient Registry System refers to a national computerized database of all organ transplant candidates, recipients, organ donors, and all transplants performed in the Philippines;

t) Potential multiple organ donor refers to any patient who will imminently become brain dead or who currently meets the criteria for brain death;

u) Physician or surgeon refers to a physician or surgeon licensed or authorized to practice medicine under the laws of the Republic of the Philippines;

v) Referring hospital refers to any hospital that identifies and refers potential deceased organ donor to Philippine Network for Organ Sharing;

w) Transplant center refers to a hospital with transplant facilities duly accredited by the DOH; and

x) Valuable consideration refers to any financial gain or benefit but does not include “allowable reimbursement” as defined in sub-section (a) herein.

SEC. 4. Philippine Organ Donation and Transplantation Program. – There is established the Philippine Organ Donation and Transplantation Program that provides the overall direction and system of implementation of organ donation and transplantation in the country through the Philippine Organ and Transplantation Board under the Department of Health.

SEC. 5. Philippine Organ Donation and Transplantation Board. – There is established a Philippine Organ Donation and Transplantation Board, hereinafter referred to as the Board, composed of the following members:

a) Secretary of Health as Chairperson.
b) DOH Undersecretary for Policy and Standard Development Team for Service Delivery, as Vice Chairperson;

c) Chairperson of National Transplant and Ethics Committee or representative;

d) President of the Philippine Health Insurance Corporation (PhilHealth) or his/her or representative;

e) Representative of government transplant facilities appointed by the Secretary of Health;

f) Representative of private transplant facilities appointed by the Secretary of Health;

g) Representative of the professional societies involved in transplantation, including the Philippine Society of Transplant Surgeon, Philippine Society of Nephrology, Philippine Urology Association and Transplant Society of the Philippines designated by the societies on a rotational basis for a term of two (2) years;

h) Chairperson of the Professional Regulation Commission or his/her representative;

i) Representative of inter-faith organizations; and

j) Representative of non-government organizations involved in health advocacy, preferably on human organ donation.

The Secretary of Health may:

i. appoint additional members based on the recommendation of the Board;

ii. appoint additional members to the National Transplant Ethics Committee and the Philippine Network for Organ Sharing based on the recommendation of the Board; and

iii. designate any existing unit, office, center or bureau under DOH to serve as secretariat of the Board and for any other functions related to organ donation and transplantation.

SEC. 6. Functions. – The Board shall exercise the following functions:

a) Serve as the overall implementing body of the organ donation and transplantation program in the country;

b) Develop and implement policies on organ donation and transplantation within the framework of Philippine laws;

c) Review and approve programs in support of a rational, ethical, accessible and equitable organ transplantation program in the country;
c) Approve the issuance of the certificate of accreditation of transplant facilities;

d) Monitor compliance of transplant centers and organ recovery organizations with the policies prescribed by the Board; and

e) Perform other functions as may be ordered by the Secretary of Health related to the primary functions of the Board.

SEC. 7. **Philippine Network for Organ Sharing.** – There is established the Philippine Network for Organ Sharing (PhilNOS) under the Board to perform the following functions:

a) Oversee and facilitate donation and organ transplantation involving deceased and living donors in the country;

b) Act as the central coordinating body to ensure that all organs from deceased and living donors are allocated according to established criteria;

c) Promote organ donation from a deceased or living donor through the following means:

i. Public information and education drive

ii. Information and education for health and allied professionals

iii. Training of transplant coordinators

iv. Campaign to recruit volunteers to sign organ donor cards

d) Implement the policies on organ allocation from a deceased or living donor;

e) Maintain a national waiting list of patients seeking transplantation with organs from deceased and living donors;

f) Organize, fund, and regulate a national network of government hospital-based organ recovery organizations;

g) Assist in the development and accreditation of non-government organ recovery organizations;

h) Develop and update specific donor allocation scoring systems for the different organs for transplantation and use the same for the selection of deserving recipients from the waiting list of organ transplant candidates;

i) Provide relevant data in aid of legislation and in the formulation of health policies regarding deceased organ donation; and

j) Perform such other functions as may be ordered by the Secretary of Health or the Board for those related to its primary functions.

SEC. 8. **Secretariat.** – The PhilNOS shall be supported by a secretariat consisting of personnel with the necessary technical expertise and capability who will be designated by the Secretary of Health from the existing bureau or unit of the
DOH. The secretariat shall be headed by a Program Manager under the direct supervision of the Chairperson of the Board.

SEC. 9. **Transplant Centers.** – The Board, through its licensing and accreditation arm and the Bureau of Health Facilities and Services, shall establish accreditation criteria to determine the DOH-licensed hospitals that should be allowed to perform transplant operations. The Board and Bureau of Health Facilities and Services may limit a transplant center to the performance of transplants to specific organs or tissues. These accredited hospitals shall be accredited as transplant centers.

Each transplant center shall establish a Transplantation Section under its surgical department. The Section, at least, must have: (a) one (1) qualified transplant surgeon; (b) a transplant support team which includes a clinical transplant coordinator; (c) medical specialists; and (d) nurses knowledgeable in transplantation.

The Transplantation Section shall have the following functions over and above those determined by the transplant center:

a) Record all transplants performed in the center containing information required by the Board and submit a monthly report to the Board;

b) Monitor and provide medical follow-up care of transplant patients and living donors; and

c) Document donor outcomes, graft and patient survival and morbidities associated with transplant procedures. A summary of these documentations shall be submitted to the Board annually.

SEC. 10. **Organ Recovery Organization.** – In order for PhilNOS to effectively carry out its functions, organ special service units to be called organ recovery organization (ORO) shall be allowed and encouraged. An ORO is a non-profit organization, which may be independent or hospital-based and accredited by the DOH to obtain organs for transplantation. An ORO shall be responsible for identifying, evaluating and obtaining organ donations from deceased donors from hospitals, including the preservation and transportation of such organs.

The Secretary of Health shall formulate guidelines to ensure that an ORO is designated for each region and major hospitals in the country as well as in areas where transplant activity is concentrated.

SEC. 11. **National Transplant Ethics Committee.** – There is established a National Transplant Ethics Committee under the Department of Health. It shall perform the following functions:

a) Formulate national ethical standards or guidelines on organ donation and transplantation for approval by the Board.
b) Assist the Board in the resolution of ethical issues;

c) Assist in the monitoring of transplant facilities to ensure compliance
   with ethical standards or guidelines; and

d) Perform such other functions as may be ordered by the Secretary of
   Health or Board on ethical related issues.

SEC. 12. **Hospital Ethics Committee.** – All hospitals and medical
institutions shall create an ethics committee to improve health care delivery and
outcomes by helping to identify, analyze, and resolve ethical dilemmas as they
emerge predominantly through consultation, education, and policy development.

The Ethics Committee shall:

a) Make recommendations to the National Transplantation and Ethics
   Committee in formulating the ethical principles and policies on human organs,
   tissues, or parts thereof, in order to prevent and avoid participation of the hospital,
   whether directly or indirectly, in commercial dealings in human organs, tissues, or
   parts thereof;

b) Monitor and resolve ethical issues involving organ donation and
   transplantation;

c) Submit monthly reports of all its meetings and proceedings to the
   National Ethics Committee; and

d) Perform other functions as may be ordered by the National Ethics
   Committee.

The Ethics Committee shall review and evaluate all living non-related
donations. A report on each evaluation shall be submitted to the Board.

Living related donations with proof of relationship within the fourth civil degree
of consanguinity may, at the transplant center’s discretion, be exempted from the
Ethics Committee evaluation.

All hospitals, medical institutions, organ or tissue bank storage shall record all
transactions and vital information or documents on organ donations and shall be
made available and transparent to the public, whenever necessary.

**ARTICLE II – ORGAN DONATION FROM DECEASED DONORS**

SEC. 13. **Organ Donation from Deceased Donor.** – The recovery of organs
from deceased donors shall be prioritized over organs from living donors.
SEC. 14. Person Who May Execute a Legacy. — A person who is at least
eighteen (18) years of age and of sound mind, may give, by way of legacy, all or any
organ, tissue or part thereof for the same purpose that a person may be a recipient
thereof as specified in Section 17 hereunder.

SEC. 15. Person Who May Execute a Donation. — a) In the absence of
actual notice of contrary intentions by the decedent or actual notice of opposition by
a member of the immediate family of the decedent, any of the following persons in
the order of priority provided herein may donate all or any part of the decedent's
body for any purpose provided in Section 17 of this Act:

1. Spouse;
2. Son or daughter of legal age;
3. Either parent;
4. Brother or sister of legal age;
5. Legal guardian over the person of the decedent at the time of death.

b) The persons authorized by sub-section (a) of this section may make
the donation before or immediately after death.

Any donation by a person authorized under sub-section (a) shall be sufficient
if it complies with the formalities of a donation of a movable property.

SEC. 16. Examination of Human Body or Part Thereof. — A legacy or
donation of all or of any organ, tissue or part of a human body authorizes an
examination necessary to assure medical acceptability of the legacy or donation for
the purpose intended.

For purposes of this Act, the recovery of the human organ, tissue, or part
thereof from brain-dead but heart-beating donor who eventually dies from an
accident, trauma, or other medicolegal case shall be part of the autopsy to be
authorized by law enforcement authorities, including the police or the National
Bureau of Investigation.

SEC. 17. Persons Who May Become Legatees or Donees. — The following
persons may become legatees or donees of human organs, tissues or parts thereof
for any of the purposes stated hereunder:

a) Any hospital, physician or surgeon. — For medical or dental education,
research, advancement of medical or dental science, therapy or transplantation;

b) Any accredited medical or dental school, college or university. — For
education, research, advancement of medical or dental science, or therapy;

c) Any organ or tissue bank storage facility. — For medical or dental
education, research, therapy, or transplantation; and

d) Any specified individual. — For therapy or transplantation needed by the
individual.

SEC. 18. Duty of Hospitals. — A hospital authorized to receive organ
donations or to conduct transplantation shall train qualified personnel and staff to
handle the delicate task of introducing the organ donation program in a humane
manner to the immediate family of the decedent authorized to execute a donation
under Section 15 of this Act. The hospital shall accomplish the necessary routine
inquiry or the required request form or document that will elicit from the patient,
upon admission to the hospital, or the immediate family at the death of the patient,
about the instruction on organ donation, which information will be added to the
record of the patient.

All hospitals shall refer potential deceased donors to PhilNOS which shall
refer the organ recovery to an ORO.

A hospital that fails to comply with this section shall, after due hearing, be
penalized with a revocation of license to operate and PhilHealth’s accreditation.

SEC. 19. Manner of Executing a Legacy – a) A legacy on donation of all
or any organ, tissue or part of the human body may be made through a written duly
signed will. The legacy becomes effective upon the death of the testator even before
probate proceedings are conducted. If the will is not probated, or if it is declared
invalid for testamentary purposes, the legacy, to the extent that it was executed in
good faith, is nevertheless valid and effective.

b) A legacy on donation of all or any organ, tissue or part of the human
body may also be made in any document other than a will. The legacy becomes
effective upon death of the testator and shall be respected by and binding upon the
executor or administrator, heirs, assigns, successors-in-interest, and all members of
the family. The document, which may be a card or any paper designed to be carried
on one’s person, must be signed by the testator in the presence of two witnesses
who must sign the document in the presence of the testator. If the testator cannot
sign, the document may be signed at the discretion and presence of the testator and
two witnesses who must, likewise, sign the document in the presence of the testator.
Delivery of the document of legacy during the testator’s lifetime is not necessary to
make the legacy valid.

c) The legacy may be made to a specified legatee or unspecified legatee.
If the legacy is made to a specified legatee who is not available at the time and place
of the testator’s death, the attending physician or surgeon, in the absence of any
expressed indication that the testator desired otherwise, may accept the legacy as
legatee. If the legacy does not specify a legatee, the legacy may be accepted by the
attending physician or surgeon as legatee upon or following the testator’s death. The
physician who becomes a legatee under this subsection shall not participate in the
procedures for removing or transplanting the human organ, tissue or part thereof of
the decedent.

d) The testator may designate in the will, card or other document, the
surgeon or physician who will carry out the appropriate procedures for removing or
transplanting the human organ, tissue or part thereof of the decedent.

In the absence of a designation, or if the surgeon or physician designated is
not available, the legatee or other persons authorized to accept the legacy may
authorize any surgeon or physician for the purpose.
SEC. 20. Organ Donor Cards. – A donor may also indicate the willingness
to donate an organ, tissue or part thereof either through a donor card or the
government-issued identification (ID) cards and licenses, including the following:

a) Land Transportation Office (LTO) issued driver's license;
b) PhilHealth membership ID;
c) Government Service Insurance System (GSIS) membership ID;
d) Social Security System (SSS) membership ID;
e) Professional Regulation Commission (PRC) license card;
f) Bureau of Internal Revenue (BIR) tax identification number ID; or
g) Department of Foreign Affairs (DFA) issued Philippine passport.

The LTO, PhilHealth, GSIS, SSS, PRC, BIR and DFA, in coordination with the
Secretary of Health through the PhilNOS, shall devise their respective application
forms wherein the consent of the applicant to be an organ or tissue donor in case of
death will be asked. The response of the applicant shall be indicated in these cards,
and these government agencies shall furnish the PhilNOS of the applicant's
response, which will be recorded in the PhilNOS registry for the purpose of assigning
the level of priority in the organ transplant waiting list.

SEC. 21. Procedure in the Absence of a Donation. – In the absence of any
of the persons authorized to execute a donation under Section 15 hereof, and in the
absence of any document of organ donation, the physician in charge of the patient,
the head of the hospital or a designated officer of the hospital who has custody of the
body of the decedent who died in an accident or any traumatic incident, or other
medico-legal cases may authorize in a public document the transplantation of an
organ to the body of a living person: Provided, That the physician, head of the
hospital or officer designated by the hospital for this purpose exerted reasonable
efforts, within forty-eight (48) hours, to locate the nearest relative specified in Section
15 of this Act or the guardian of the decedent at the time of death.

The physician, head or designated officer of the hospital, or the medico-legal
officer of any government agency which has custody of the body may authorize the
removal of the cornea or corneas of the decedent within twelve (12) hours after
death and upon the request of qualified legatees or donees for the sole purpose of
transplantation: Provided, That the removal of the cornea or corneas will not
interfere with any subsequent investigation or alter the post-mortem facial
appearance of the decedent by means of placing eye caps after the cornea or
corneas have been removed.

In all donations, the decedent from whose body an organ will be removed for
the purpose of transplantation to a living person, shall be diagnosed separately and
certified by two (2) qualified physicians neither of whom is:

a) a member of the team of medical practitioners who will effect the
removal of the organ from the body; nor
b) the physician attending to the recipient of the organ to be removed; nor
c) the head of hospital or the designated officer authorizing the removal of
the organ.
SEC. 22. **Persons Authorized to Remove and Transplant Organs, Tissues and Corneas.**—Only authorized medical practitioners in a hospital shall remove or transplant any organ which is authorized to be removed or transplanted. The removal of corneal tissues shall be performed only by ophthalmic surgeons and ophthalmic technicians trained in the methodology of such procedure and duly certified by the accredited National Association of Ophthalmologists and specialty board.

SEC. 23. **Delivery of Document of Legacy or Donation.**—If the legacy or donation is made to a specified legatee or donee, the will, card or other document, or an executed copy thereof, may be delivered by the testator or donor, or the authorized representative of the testator or donor to the legatee or donee to expedite the appropriate procedures immediately after death. The will, card or other document, or an executed copy thereof, may be deposited in any hospital or organ bank storage facility that accepts it for safekeeping or for facilitation of procedures after death. On the request of any interested party upon or after the testator's death, the person in possession shall produce the document of legacy or donation for verification.

SEC. 24. **Amendment or Revocation of Legacy or Donation.**—a) If the will, card, or other document, or an executed copy thereof, has been delivered to a specific legatee or donee, the testator or donor may amend or revoke the legacy or donation either by:

1. the execution and delivery to the legatee or donee of a signed statement;
   or

2. a written statement addressed to an attending physician executed in the presence of two other persons and communicated to the legatee or donee;
   or

3. a written statement addressed to an attending physician during a terminal illness or injury, and communicated to the legatee or donee; or

4. a signed card or document found on the person or effects of the testator or donor.

b) Any will, card, or other document, or an executed copy thereof, which has not been delivered to the legatee or donee may be revoked by the testator or donor in the manner provided in subsection (a) of this section or by destruction, cancellation, or mutilation of the document and all executed copies thereof.

Any legacy or donation made through a will may also be amended or revoked in the manner provided for amendment or revocation of wills or as provided in subsection (a) of this section.

SEC. 25. **Rights and Duties After Death.**—The legatee or donee may accept or reject the legacy or donation. A legatee or donee who accepts the legacy or donation shall, upon the death of the testator and prior to embalming, authorize the removal of the organ, tissue or part avoiding unnecessary mutilation. After
removal of the human organ, tissue or parts thereof, the custody of the remainder of
the body vests in the surviving spouse, next of kin, or other persons under obligation
to dispose of the body of the decedent.

SEC. 26. **Allowable Reimbursements for Organ from Deceased Donor.** –
The human organ, tissue or part thereof shall be donated for free or without any
financial consideration. Reimbursements for reasonable expenses incurred during
the recovery, organ preservation, transport, and the ORO’s administrative and other
operational costs may be collected from the legatee or donee. This amount shall be
determined by the PhilNOS and shall be subject to annual review considering
inflationary and other economic factors.

SEC. 27. **Transport of Donated Organ.** – In view of the urgency to
immediately transport the donated organ to be utilized in a transplant operation, all
local airlines shall allocate a space in the passenger cabin to accommodate the
transport of such organ on the first available opportunity, free of charge. If the
package requires an accompanying transplant coordinator, such accompanying
person may be charged the regular or discounted rate at the discretion of the carrier.
In availing of this privilege, the following requirements shall be observed by the
transplant coordinator:

a) The sender must be a DOH or PhilNOS-accredited ORO represented
by any of its clinical transplant coordinators who must carry the official PhilNOS-
issued identification card;

b) The receiving party must also be a clinical transplant coordinator who
must also carry an Official PhilNOS-issued identification card; and

c) The packaging must comply with required medical standards and
contain a seal also issued by PhilNOS. The required packaging standards shall be
provided by PhilNOS to all local airlines.

ARTICLE III – ORGAN DONATION FROM LIVING DONORS

SEC. 28. **Living Donors.** – The Board shall establish policies and guidelines
to prevent organ trafficking and to ensure the safety of living donors and their
eventual recipients in accordance with the provisions of this Act.

SEC. 29. **Living Donors in Closed Settings.** – Individuals in closed
settings, such as prisons, rehabilitation centers and other similar facilities shall be
allowed to donate their organs, tissues, or parts thereof only to donees who are
related to them by blood within the fourth civil degree of consanguinity.

ARTICLE IV – ASSISTANCE AND PROTECTION TO DONORS
SEC. 30. Assistance and Protection to Donors. — A donor of a human organ, tissue, or part and immediate family shall be entitled to the following assistance, protection, and recognition:

a) Inclusion in the priority list of PhilNos if the donor should need an organ in the future. The immediate family of a living or deceased donor shall also be given priority if any member of immediate family, as enumerated in the order of priority in Section 15 of this Act, also needs an organ in the future;

b) Allowable reimbursement for reasonable expenses from the donee or when eligible, from PhilHealth, for the costs directly related or associated with the legal removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ, tissue, or parts thereof, including expenses for travel, housing, and lost wages incurred by the donor in connection with the donation of the organ, tissue, or parts thereof, medical insurance and periodic health monitoring, life insurance, and cost of medicines of the donor to attain full recovery;

c) Additional support voluntarily provided by a donee, a non-profit organization or government agencies, which include the Technical Education and Skills Development Authority, the Commission on Higher Education, and other agencies for educational or livelihood assistance courses through the DOH;

d) Memorialization through a 'Dugtong Buhay' award to be given by the Secretary of Health;

e) Paid leave for fifteen (15) days during the time of full recovery when donor is employed either in the government or private sector;

f) Priority in employment either in the government or private sector provided that a physician certifies that the living donor is fit for either strenuous or non-strenuous work or both. Provided, however, that this shall not apply to positions in the uniformed police and military personnel;

g) Disability pay from SSS or GSIS in case of post-operation disability;

h) Ten percent (10%) discount on airfare to and from the venue of actual operation for potential donors found suitable, mentally and physically, to make the donation; and

i) Ten percent (10%) discount from pharmaceutical companies and their distributors on transplant and post transplant related medicines prescribed for the donor's medication.

The Secretary of Health, in coordination with the concerned agencies, including the Civil Service Commission and the Department of Labor and Employment, shall formulate the necessary guidelines for the effective implementation of this Section.

SEC. 31. PhilHealth Assistance. — Pursuant to its mandate under the National Health Insurance Act of 1996, as amended, the PhilHealth shall:
a) Develop a benefit package to reimburse the host ORO for the acquisition cost of the organ, tissue, or part thereof, and

b) Increase its present benefit package for indigent-donee who cannot afford the entire cost before, during, and after organ transplantation, including related expenses such as anti-rejection drugs or immunosuppressants. For this purpose, the PhilHealth shall formulate a socialized medical and financial assistance scheme in relation to the annual family income to enable the indigent-recipient to pay for the transplant and ensure survival.

ARTICLE V – PUBLIC AWARENESS PROGRAM

SEC. 32. Information and Education Drive. – To ensure public awareness of the maximum benefits under this Act, the Department of Health, in cooperation with institutions such as the National Kidney and Transplantation Institute, civic and non-government health organizations, and other health related agencies involved in the donation and transplantation of human organs, as well as the Department of Education and the Commission on Higher Education (CHED) shall undertake a public information and education program for this purpose.

The Secretary of Health shall ensure that all health professionals both in government and private sectors, as well as media organizations from print, radio and television are encouraged to undertake massive public information campaign to emphasize the importance of human organ donation.

The importance of human organ donation shall be included in the Health and Science subjects in the curricula of both the elementary and secondary levels as well as in the general education curriculum in the collegiate level. The Secretary of Health shall coordinate with the Secretary of Education and the Chairperson of the CHED for the effective implementation of this provision. The Information and Advocacy Committee under the existing PhilNOS shall be in charge of the training program of the faculty members of the schools handling courses on human organ and tissue donation.

The Secretary of Health shall also endeavor to disseminate information on human organ and tissue donation through other means, including the internet, social media, and mails subject to franking privilege.

SEC. 33. National Organ Donation Awareness Month. – The month of April of every year is hereby declared as “National Organ Donation Awareness Month”. The Department of Health, in coordination with various government and private agencies, and organizations, including professional societies, OROs or associations related to human organ donation and transplantation, shall spearhead programs and activities that highlight the importance of organ donation in saving lives.

ARTICLE VI – PROHIBITED ACTS AND PENALTIES

SEC. 34. Prohibited Discriminatory Acts. – a) It shall be unlawful to discriminate against a living organ donor or an organ donee in any form from pre-employment to post-employment, including hiring, promotion, or assignment by
reason of the person being an organ donor or an organ donee, despite a certification
from a physician that the living donor or an organ donee is fit for work. Provided,
that this provision shall not apply to uniformed police and military personnel for
purposes of their pre-employment and hiring procedure and requirements;

b) It shall be unlawful for private health insurance companies under a
health maintenance organization (HMO) and life insurance companies to deny or
deprive a person of health or life insurance coverage on the basis of being an organ
donor or donee. Neither shall the insurance premiums of an insured donor or donee
be increased nor the insurance benefits of an insured donor or donee be decreased.
The Insurance Commission shall implement the provision covering life insurance and
shall develop the necessary policies to ensure compliance; and

c) It shall be unlawful for a carrier to refuse to transport or ship an organ,
tissue, or part thereof, whether accompanied or not. Such refusal shall be penalized
with a fine in the amount of Fifty thousand pesos (PhP50,000.00).

Any person who commits the discriminatory act mentioned in subsection (a) of
this section shall suffer the penalty of imprisonment for six (6) months to four (4)
years and a fine not exceeding Ten thousand pesos (PhP10,000.00), including the
cancellation or revocation of license or permit as may be applicable.

Any person who acts in good faith in accordance with the provisions of this
Act shall not be liable for damages in any civil action or be subject to criminal
prosecution.

SEC. 35. Other Prohibited Acts. – It shall be unlawful for any person,
natural or juridical, to commit any of the following acts:

a) Advertise in any manner, whether formally or informally through print,
broadcast media and other means of electronic media, an offer to sell, barter, deal
in or supply human organs, tissues or parts thereof or an offer to acquire, buy or to
receive human organs, tissues, or parts for consideration in whatever form;

b) Advertise, publish, print, broadcast or distribute, or cause the
advertisement, publication, printing, broadcasting or distribution by any means,
including the use of information technology and the internet, or any brochure, flyer,
or any propaganda material that promotes commercial dealings in human organs,
tissues, or parts thereof;

c) Recruit, transport, transfer, harbor, provide, or receipt of persons by
any means, for the sale, barter, or supply of human organs, tissues or parts thereof
which involves consideration in whatever form;

d) Offer consideration in money, kind or service for the purpose of
acquiring, buying, offering, selling, or trading human organs, tissues, or parts thereof;

e) Offer to supply human organs, tissues or parts thereof for consideration
or initiate or negotiate any arrangement for the supply thereof or for an offer to
supply human organs, tissues or parts thereof;
f) Act as a facilitator, middleman, broker or other similar role in the sale, barter or supply of human organs, tissues or parts thereof for consideration in whatever form;

g) Engage in the trade, sale, barter or supply of human organs, tissues or parts thereof for consideration in whatever form;

h) Store or handle human organs, tissues or parts thereof that have been acquired or transferred or sold for consideration in whatever form;

i) Deliver, transport, transfer or distribute human organs, tissues or parts thereof that have been acquired or transferred or sold for consideration in whatever form;

j) Remove or transplant human organs, tissues or parts thereof that have been acquired or transferred or sold for consideration in whatever form;

k) Consent to the transplantation of human organs, tissues, or parts thereof and be transplanted with the same with the knowledge that the human organs, tissues or parts thereof have been acquired or transferred or sold for consideration in whatever form;

l) Recruit or invite persons to supply human organs, tissues, or parts thereof for consideration;

m) Make or receive payment for the supply of or for an offer to supply human organs, tissues, or parts thereof; and

n) Deny or deprive an organ donor of private health insurance under a health maintenance organization (HMO) and life insurance coverage from insurance companies on the basis of being an organ donor or donee. The Insurance Commission shall implement the provision covering life insurance and shall develop the necessary policies to ensure compliance.

SEC. 36. Penalties for Other Prohibited Acts. — The following penalties and sanctions are imposed for the offenses enumerated in Section 35 of this Act:

a) Any person found guilty of committing any of the acts enumerated in Section 35 shall suffer the penalty of imprisonment of twenty (20) years and a fine of not less than One million pesos (P1,000,000.00) but not more than Two million pesos (P 2,000,000.00);

b) If the offender is a corporation, partnership, association, club, establishment or any juridical person, the penalty shall be imposed upon the owner, president, partner, manager, or any responsible officer who participated in the commission of the crime or who shall have knowingly permitted or failed to prevent its commission;

c) The registration with the Securities and Exchange Commission (SEC) and license to operate of an erring corporation, association, or group shall be cancelled and revoked permanently. The owner, president, partner or manager thereof shall not be allowed to operate similar establishments in a different name;
d) If the offender is a hospital, clinic or other similar licensed medical institution, the penalty shall be imposed upon its owner, president, director, members of the board, officials, doctors and medical staff with knowledge of the illegal acts and participates in the illegal acts;

e) If the offender is a hospital, clinic or medical institution under the Department of Health and other regulatory institutions, its license shall be cancelled and revoked and the license to practice of medical professionals working in such hospital, clinic, medical or regulatory institutions found guilty of the illegal acts shall be cancelled and revoked;

f) If the offender is a foreigner, the foreigner shall be immediately deported after serving the sentence and be barred permanently from entering the country;

g) If the offender is an employee or official of a government agency, such employee or official shall be held administratively liable, without prejudice to criminal liability under this Act. The government official or employee shall, upon conviction, be dismissed from the service and be barred permanently to hold public office. The retirement and other benefits of erring government official or employee shall likewise be forfeited.

ARTICLE VII – FINAL PROVISIONS

SEC. 37. Rules and Regulations. – Within thirty (30) days from the approval of this Act, the Secretary of Health, after consultation with all health professionals of both government and private, and non-government health organizations, shall promulgate the rules and regulations implementing the provisions of this Act. The implementing rules and regulations issued pursuant to this section shall take effect thirty (30) days after its publication in two (2) national newspapers of general circulation.

SEC. 38. Repealing Clause. – Republic Act No. 7170, as amended, also known as the “Organ Donation Act of 1991” is hereby repealed.

Sub-paragraph 7 of Paragraph V (General Policy Statements) of DOH Administrative Order No. 2010-0018 and Sub-paragraph 6.d. of Paragraph VII (Operational Guidelines) of DOH Administrative Order No. 2010-0019 are also hereby repealed.

All other laws, decrees, ordinances, rules and regulations, executive or administrative orders, and other presidential issuances inconsistent with this Act, are hereby repealed, amended or modified accordingly.

SEC. 39. Suppletory Application of Republic Act No. 9208 – The provisions of Republic Act No. 9208, otherwise known as the “Anti-Trafficking in Persons Act of 2003” and Section 4(g) of its implementing Rules and Regulations, insofar as they are not inconsistent with the provisions of this Act shall apply suppletorily.
SEC. 40. **Separability Clause.** – If any provision of this Act is declared unconstitutional or invalid, the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 41. **Effectivity.** – This Act shall take effect fifteen (15) days after its publication in the **Official Gazette** or in a newspaper of general circulation.

Approved,
5538
FACT SHEET

House Bills No. 593, 1405, 1790, 3165, 3228 and 4440
(Substitute Bill approved as of January 28, 2015)

AN ACT
PROVIDING FOR A REVISED HUMAN ORGAN DONATION AND TRANSPLANTATION PROGRAM AND PROVIDING PENALTIES FOR VIOLATION THEREOF, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 7170, AS AMENDED, ALSO KNOWN AS THE “ORGAN DONATION ACT OF 1991”


Committee Referral: COMMITTEE ON HEALTH (Primary)
Committee Chairperson: REP. EUFRANIO C. ERIGUEL, M.D.

OBJECTIVES:

- To strengthen the existing Human Organ Donation and Transplantation Program in the country
- To meet the increasing demands for human organs and save lives
- To improve the quality of life of those diagnosed with end-stage renal diseases

KEY PROVISIONS:
• Establishes the necessary infrastructure for the effective implementation of the country’s human organ and transplantation program such as the Philippines Organ Donation and Transplantation Board (PODTB), the Philippine Network for Organ Sharing (PhilNOS) and the National Transplant Ethics Committee under the Department of Health (DOH)
• Empowers the DOH-Bureau of Health Facilities and Services to establish accreditation criteria to determine the DOH-licensed hospitals that will be allowed to perform transplant operations
• Mandates the State to prioritize the recovery of organs from deceased donors over living donors
• Provides the legal mechanism for donation of organs, tissues and other parts of the body
• Allows living donors in closed settings such as prison, rehabilitation centers, and other facilities to donate organs to recipients related to him with the fourth civil degree of consanguinity
• Entitles the donor and immediate family members to recognition, protection and assistance benefits which include, among others, inclusion in the priority list of PhilNOS should a donor or a member of his family need an organ in the future, reasonable reimbursement of expenses from the recipient or from PhilHealth if eligible and paid leaves of absence from work
• Requires the Philippine Health Insurance Corporation (PhilHealth) to develop a benefit package to reimburse the human organ/tissue acquisition cost incurred by the organ recovery organizations
• Intensifies the information and education drive to promote organ donation
• Prohibits commercial dealings on organ donation with stiff penalties for its violation

RELATED LAWS:

• R.A. No. 7170 – (Organ Donation Act of 1991)
• R.A. No. 9108 – (Anti-Trafficking in Persons Act of 2003)
• R.A. No. 7885 – (Corneal Transplantation Act)