

SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session



'16 FEB -3 NO :09

SENATE

RECEIVED BY: *J.*

COMMITTEE REPORT NO. 477

Submitted jointly by the Committees on Health and Demography and
Finance on FEB 03 2016

Re: Senate Bill No. 3221

Recommending its approval in Substitution of S.B. Nos. 187, 666, 1058,
2840 and 3078, taking into consideration P.S.R No. 546 and H.B. No.
5538

Sponsor: Senator Teofisto "TG" L. Guingona III

MR. PRESIDENT:

The Committees on Health and Demography and Finance to which were referred

S. B. No. 187, introduced by Senator Miriam Defensor Santiago, entitled:

**"AN ACT PROHIBITING THE COMMERCIALIZATION OF
HUMAN ORGANS, TISSUES, OR PARTS OF LIVING PERSONS, PROVIDING
PENALTIES FOR ITS VIOLATIONS, AND ESTABLISHING A PHILIPPINE BOARD OF
ORGAN DONATION AND TRANSPLANTATION AND A NATIONAL
TRANSPLANT AND ETHICS"**

S. B. No. 666, introduced by Senator Loren B. Legarda, entitled:

**"AN ACT TO REGULATE THE DONATION AND TRANSPLANT OF
HUMAN ORGANS AND TISSUES AND FOR OTHER PURPOSES"**

S. B. No. 1058, introduced by Senator Jinggoy Ejercito Estrada, entitled:

**"AN ACT TO REGULATE THE PROCUREMENT AND TRANSPLANT OF
HUMAN ORGANS AND TISSUES AND FOR OTHER PURPOSES"**

S. B. No. 2840, introduced by Senator Teofisto "TG" Guingona III, entitled:

**"AN ACT PROVIDING FOR A REVISED HUMAN ORGAN AND TISSUE
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"**

S. B. No. 3078, introduced by Senator Miriam Defensor Santiago, entitled:

"AN ACT PROMOTING ORGAN DONATION AWARENESS"

P.S.R. No. 546, introduced by Senator Miriam Defensor Santiago, entitled:

**"RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE
TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE REPORTED
INCREASE OF FILIPINOS UNDERGOING DIALYSIS TREATMENT
AND KIDNEY TRANSPLANT"**

and H. B. No. 5538, introduced by Representatives Lopez (C.J.), Abayon, Rodriguez (R.), Rodriguez (M.), Relampagos, Lanete, Aggabao, Calixto-Rublano, Velasco, Alvarez (M.), Acharon, Escudero, Bataoil, Cojuangco (E.), Bulut-Begtang, Arnaiz, Lacson-Noel, Dy, Enverga, Aumentado, Fuentabella, Celeste, Tan (A.), Mercado-Revilla, Belmonte (J.), Gatchalian (W.), Suansing, Ting, Kho, Pernes, Gullas, Paquiz, Oaminal, Espina and Eriguel, entitled:

**"AN ACT PROVIDING FOR A REVISED HUMAN ORGAN AND TISSUE
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"**

have considered the same and have the honor to report them back to the Senate
with the recommendation that the attached S.B No. 3221

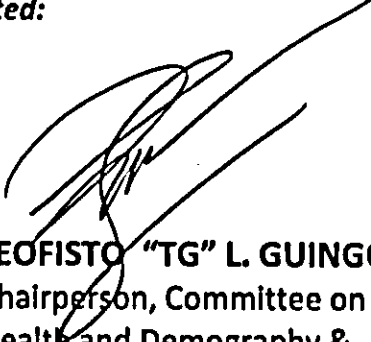
prepared by the Committees, entitled:

**"AN ACT
STRENGTHENING THE HUMAN ORGAN AND TISSUE DONATION AND
TRANSPLANTATION PROGRAM AND PROVIDING PENALTIES FOR VIOLATION
THEREOF, AMENDING FOR THIS PURPOSE REPUBLIC ACT NO. 7170, AS
AMENDED, ALSO KNOWN AS THE "ORGAN DONATION ACT OF 1991"**

be approved in substitution of S. B. Nos. 187, 666, 1058, 2840 and 3078 taking into consideration P.S.R. No. 546 and H. B. No. 5538 with Senators Santiago, Legarda, J.E. Estrada and Guingona as authors thereof.

Respectfully submitted:

LOREN B. LEGARDA
Chairperson, Committee on
Finance




TEOFISTO "TG" L. GUINGONA III
Chairperson, Committee on
Health and Demography &
Vice-Chair, Committee on Finance

SERGIO R. OSMEÑA III
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PIA S. CAYETANO
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Health & Demography



CYNTHIA A. VILLAR
Vice Chairperson
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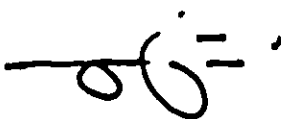


FRANCIS "Chiz" G. ESCUDERO

GREGORIO B. HONASAN II



MARIA LOURDES NANCY S. BINAY



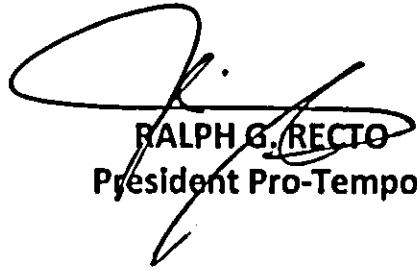
JOSEPH VICTOR G. EJERCITO

JINGGOY EJERCITO ESTRADA



VICENTE C. SOTTO III

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RALPH G. RECTO
President Pro-Tempore

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Minority Leader

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Majority Leader

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Senate President
Senate of the Philippines
Pasay City

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S. B. No. 3221

(In substitution of S. B. Nos. 187, 666, 1058, 2840 and 3078, taking into consideration P.S.R.
No. 546 & H.B No. 5538)

RECEIVED BY: 

Prepared Jointly by the Committees on Health and Demography and Finance with Senators
Santiago, Legarda, J.E. Estrada and Guingona as authors thereof

AN ACT
STRENGTHENING THE HUMAN ORGAN AND TISSUE DONATION AND TRANSPLANTATION
PROGRAM AND PROVIDING PENALTIES FOR VIOLATION THEREOF, AMENDING FOR THIS
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:*

1 SECTION 1. Republic Act No. 7170, otherwise known as the "Organ Donation Act of 1991", is
2 hereby further amended to read as follows:

3

4 "SEC 1. *Short Title.* – This Act shall be known as the "Organ and Tissue Donation Act
5 of 2016".

6

7

ARTICLE I
GENERAL PROVISIONS

8

9

10 "SEC. 2. *Coverage.* – This Act covers all government and private hospitals, health
11 facilities, organ procurement organizations, medical and allied medical practitioners or
12 professionals, foundations and nongovernment organizations that are involved in
13 organ and tissue transplantation in the Philippines.

14

15 "This Act also covers organ and tissue donations for transplantation purposes from
16 deceased and living donors.

17

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

19 "(a) *Advertisement* includes any form of advertising or the promotion of goods,
20 services or ideas through paid or unpaid announcements in print, broadcast, or
21 electronic media whether to the public generally or to any section of the public
22 or individually to selected persons for the purpose of promoting commercial
23 dealings in human organs, tissues or parts;

24 "(b) *Allowable reimbursement* refers to the reasonable costs incurred for organ and
25 tissue donation and transplantation;

26 "(c) *Brain death* refers to the irreversible cessation of all functions of the entire
27 brain;

28 "(d) *Commercial dealings* refer to:

- 1 (1) The sale, barter, or supply of human organ, tissue, or part thereof
2 involving valuable consideration in whatever form;
3 (2) Acts involving trafficking of a human organ, tissue, or part thereof
4 through whatever means; and
5 (3) The brokering for sale, barter or supply of a human organ, tissue, or
6 part thereof whether for money or any other consideration in violation of
7 this Act;
- 8 *(e) *Death* refers to the irreversible cessation of circulatory and respiratory
9 functions or the irreversible cessation of all functions of the entire brain,
10 including the brain stem. A brain dead person is dead, although his or her
11 cardiopulmonary functioning may be artificially maintained for some time;
- 12 *(f) *Donor* refers to an individual who voluntarily donates organ, tissue, or part
13 thereof, gratuitously to another who accepts it;
- 14 *(g) *Donor Allocation Scoring System (DASS)* refers to the national scoring system
15 by which allocation of organs from deceased donors shall be based;
- 16 *(h) *Donor Service Area (DSA)* refers to the territorial jurisdiction of an organ
17 procurement organization as may be designated by PhilNOS;
- 18 *(i) *Hospital* refers to an institution licensed, accredited or approved by the
19 Department of Health (DOH) devoted primarily to the maintenance and
20 operation of facilities for the diagnosis, treatment and care of individuals from
21 illness, disease, injury or deformity, or in need of obstetrical or other medical
22 and nursing care. The term "hospital" shall also be construed as any building
23 or place where there are installed beds, or cribs, or bassinets for twenty-four-
24 hour use or longer by patients in the treatment of diseases, diseased
25 conditions injuries, deformities, or abnormal physical and mental states,
26 maternity cases, and all institutions such as those for convalescence, sanitarium
27 care, infirmaries, nurseries, dispensaries and such other means by which they
28 may be designated;
- 29 *(j) *Human organ* refers to the differentiated and vital part of the human body,
30 formed by different tissues, that maintains its structure, vascularization and
31 capacity to develop physiological functions with an important level of
32 autonomy.
33 This includes, but not limited to the human kidney, liver, heart, lung, intestines,
34 pancreas, eye, bone, bone marrow, and any other part of the human body.;
- 35 *(k) *Human tissue* refers to all constituent parts of the human body formed by cells
36 that includes, but not limited to the skin, human hair, cornea, sclera, whole
37 blood, blood plasma, blood products, blood derivatives, or blood reagents, or
38 other self-replicating body fluids;
- 39 *(l) *Human organ and tissue bank storage facility* refers to a facility for the storage
40 of human organs, tissues, or parts thereof;
- 41 *(m) *Immediate family* refers to the spouse, son or daughter of legal age,
42 either parent, brother or sister of legal age and legal guardian over the person,
43 at the time of death;
- 44 *(n) *Indigent* refers to an individual who has no visible means of income or whose
45 income is insufficient for the subsistence of his family, and identified, listed or
46 certified by the Department of Social Welfare and Development (DSWD) as
47 poor pursuant to the National Household Targeting System for Poverty
48 Reduction;
- 49 *(o) *Living donor (LD)* refers to an individual who is willing to donate an organ,
50 tissue, or part of the body while still alive, and may be either a:
51 (1) *Living related donor (LRD)* – a donor who is related to the recipient by
52 blood within the fourth civil degree of consanguinity;
53 (2) *Living non-related donor (LNRD)* – a donor who is not related to the
54 recipient by blood or related by blood beyond the fourth civil degree of
55 consanguinity but who is willing to donate organs, tissues, or parts
56 thereof. The term also applies to those related emotionally.
- 57 *(p) *Organ Procurement Organization (OPO)* is an organization engaged in the
58 process of identifying, screening and eventual retrieval of suitable organs and
59 tissues for transplantation;

- 1 *(q) *Organ transplant candidate* refers to a patient diagnosed to have end stage
2 organ disease, acute organ failure or a metabolic disorder requiring organ
3 replacement, and is found qualified to undergo an organ transplant procedure;
4 *(r) *Organ and Tissue Procurement* is the process that includes donor
5 identification, evaluation, obtaining consent for donation, donor maintenance
6 and retrieval of cells, tissues or organs;
7 *(s) *Person* refers to an individual, corporation, estate, trust, partnership,
8 association, the government or any of its subdivisions, agencies or
9 instrumentalities, including government-owned or -controlled corporations, or
10 any other legal entity;
11 *(t) *Philippine Organ Donor and Recipient Registry System (PODRRS)* refers to a
12 national computerized database of all organ transplant candidates, recipients,
13 organ donors, and all transplants performed in the Philippines;
14 *(u) *Potential multiple organ donor (PMOD)* refers to any patient who will
15 imminently become brain dead or who currently meets the criteria for brain
16 death who may donate more than one organ;
17 *(v) *Physician or surgeon* refers to a physician or surgeon licensed to practice
18 medicine under the laws of the Republic of the Philippines;
19 *(w) *Referring hospital* refers to any hospital that identifies and refers
20 potential deceased organ and tissue donor to the PhilNOS; or to the
21 appropriate tissue bank;
22 *(x) *Transplant Coordinator (TC)* refers to the designated trained health care
23 professional who takes the central role and acts as liaison between the
24 referring hospital and the retrieval and transplant team members.
25 (1) *Clinical Transplant Coordinator (CTC)* refers to the TC who shall have
26 the responsibility of coordinating the transplant candidate's evaluation,
27 management, and follow-up care.
28 (2) *Procurement Transplant Coordinator (PTC)* refers to a healthcare
29 professional of organ procurement organization, designated to
30 coordinate with the donor family and facility in order to facilitate a
31 donation and proper transport of donated organ or tissue.
32 *(y) *Transplant facility* refers to a hospital accredited by the DOH to perform organ
33 and tissue transplantation; and
34 *(z) *Valuable consideration* refers to any financial gain or benefit but does not
35 include "allowable reimbursement" as defined in subsection (b) herein.

36
37 ***SEC. 4. *Philippine Organ and Tissue Donation and Transplant Program (POTDTP).*** –
38 There is hereby established the Philippine Organ and Tissue Donation and Transplant
39 Program that provides the overall direction and system of implementation of organ
40 donation and transplantation in the country through the Philippine Organ and
41 Transplantation Board under the Department of Health.

42
43 ***SEC. 5. *Philippine Organ and Tissue Donation and Transplantation Board (POTDTB).***
44 – There shall be established a Philippine Organ and Tissue Donation and
45 Transplantation Board, hereinafter referred to as the Board, that shall serve as
46 overseer in the implementation of policies related to organ and tissue donation and
47 transplantation, composed of the following members:

- 48
49 *(a) Secretary of Health, as Chairperson;
50 *(b) Secretary of Justice in her capacity as the Chairperson of the Inter-Agency
51 Council Against Trafficking (IACAT);
52 *(c) Chairperson of National Transplant Ethics Committee or representative;
53 *(d) President of the Philippine Health Insurance Corporation (PhilHealth);
54 *(e) Chairperson of the Professional Regulation Commission;
55 *(f) One (1) Representative of government transplant facilities appointed by the
56 Secretary of Health;

1 *(g)One (1) Representative of private transplant facilities appointed by the
2 Secretary of Health;

3 *(h)Three (3) Representatives of the professional societies involved in
4 transplantation appointed by the Secretary of Health;

5 *(i) One (1) Representative of nongovernment organizations involved in health
6 advocacy, preferably on human organ and tissue donation appointed by the
7 Secretary of health; and
8

9 *The Vice-Chairperson shall be elected by its members from among themselves, and
10 shall serve for a term of two (2) years. For members representing transplant facilities,
11 medical/health professional organization, and non-government organization, they shall
12 serve for a term of three (3) years.
13

14 *SEC. 6. *Functions of the Board.* – *The Board shall perform the following functions:*

15 *(a)Serve as overseer in the implementation of policies related to organ and tissue
16 donation and transplantation;

17 *(b)Review and approve policies in support of a rational, ethical, accessible and
18 equitable organ and tissue transplantation in the country;

19 *(c)Review and recommend the issuance of Certificate of Accreditation of eye and
20 tissue banks, transplant facilities and organ procurement organizations.
21
22

23 *SEC. 7. *Philippine Network for Organ Sharing.* – There is established the Philippine
24 Network for Organ Sharing (PhilNOS) under the Board to perform the following
25 functions:
26

27 *(a)Oversee and facilitate donation and organ transplantation involving deceased
28 donors in the country;

29 *(b)Act as the central coordinating body to ensure that all organs from deceased
30 donors are allocated according to established criteria;

31 *(c)Promote organ donation

32 *(d)Implement the policies on organ allocation from a deceased donor;

33 *(e)Maintain a national waiting list of patients seeking transplantation with organs
34 from deceased donors;

35 *(f) Assist in the development and accreditation of organ procurement
36 organizations;

37 *(g)Develop and update specific donor allocation scoring systems for the different
38 organs for transplantation. For eye and tissue banks, tissue assignments for
39 recipients shall be based on a first come, first served basis and based on the
40 type of tissue as specified by the surgeon for a particular recipient; and

41 *(h)Perform such other functions as may be ordered by the Secretary of Health or
42 the Board for those related to its primary functions.
43

44 *SEC. 8. *Secretariat.* – The PhilNOS shall be supported by a secretariat consisting of
45 personnel with the necessary technical expertise and capability who will be designated
46 by the Secretary of Health from the existing bureau or unit of the DOH. The secretariat
47 shall be headed by a Program Manager under the direct supervision of the
48 Chairperson of the Board.
49

50 *SEC. 9. *Transplant Facilities.* – The Board and the Health Facilities and Services
51 Regulatory Bureau (HFSRB), shall establish accreditation criteria to determine the
52 DOH-licensed hospitals that should be allowed to perform transplant operations. The

1 Board and the Health Facilities and Services Regulatory Bureau may limit a transplant
2 facility to the performance of transplants to specific organs or tissues.

3
4 **"SEC.10. *Organ Procurement Organization (OPO)*.** – In order for the PhilNOS to
5 effectively carry out its functions, Organ Procurement Organizations, whether
6 government or private, shall be allowed and encouraged. An OPO is an organization,
7 which may be independent or hospital-based and accredited by the DOH.

8
9 **"SEC. 11. *National Transplant Ethics Committee*.** – There shall be established a
10 National Transplant Ethics Committee (NTEC) under the DOH. It shall perform the
11 following functions:

12
13 *(a)Formulate national ethical standards or guidelines on organ donation and
14 transplantation for approval by the Board;

15 *(b)Assist the Board in the resolution of ethical issues;

16 *(c)Assist in the monitoring of transplant facilities and Hospital Ethics Committee to
17 ensure compliance with ethical standards or guidelines;

18 *(d)Coordinate with the Department of Justice and Inter-Agency Council Against
19 Trafficking in formulating and implementing policies and procedures for
20 suspected cases of organ trafficking; and

21 *(e)Perform such other functions as may be ordered by the Secretary of Health or
22 the Board on ethical related issues.

23
24 **"SEC. 12. *Hospital Ethics Committee*.** – All transplant facilities shall have an Ethics
25 Committee that shall evaluate all candidates for organ transplant with living donors,
26 and resolve ethical issues related to transplantation based on the guidelines and
27 policies of the National Transplant Ethics Committee.

28
29 **"All transplant facilities, referring hospitals, OPOs, and tissue banks shall keep**
30 **documents pertaining to all organ and tissue donations and transplantation. These**
31 **shall be made available and transparent to the public, whenever necessary.**

32
33
34
35 **ARTICLE II**
36 **ORGAN DONATION FROM DECEASED DONORS**

37
38 **"SEC. 13. *Organ Donation from Deceased Donor*.** – All transplant candidates shall be
39 given the option to receive an organ from a deceased donor.

40
41 **"SEC. 14. *Person Who May Execute a Donation*.** In the absence of actual notice of
42 contrary intentions by the PMOD or actual notice of opposition by a member of the
43 immediate family of the PMOD, any of the following persons in the order of priority
44 provided herein may donate all or any part of the PMOD's body for any purpose
45 provided in Section 16 of this Act:

46
47 *(a)Spouse;

48 *(b)Son or daughter of legal age;

49 *(c)Either parent;

50 *(d)Brother or sister of legal age; and

51 *(e)Legal guardian over the person of the PMOD at the time of death.

52

1 *The persons authorized by as stated in this section may make the donation only after
2 brain death has been certified.

3
4 *Any donation by a person authorized under this section shall be sufficient if it
5 complies with the formalities of a donation of a movable property.

6
7 *SEC. 15. *Examination of Human Body or Part Thereof.* – A legacy or donation of all
8 or of any organ, tissue, or part of a human body authorizes a thorough evaluation to
9 be performed by the OPO necessary to assure medical acceptability of the legacy or
10 donation for the purpose intended.

11
12 *For purposes of this Act, in medico-legal cases, the operative report pertaining to the
13 recovery of the human organ, tissue, or part thereof from the brain-dead donors
14 submitted by the surgeons shall be recognized as part of the autopsy report by law
15 enforcement authorities, including the police or the National Bureau of Investigation.

16
17 *SEC. 16. *Persons Who May Become Recipients.* – The following persons may
18 become recipients of human organs, tissues, or parts thereof for any of the purposes
19 stated hereunder:

20
21 *(a)An individual in the national transplant waiting list, as allocated by PhilNOS –
22 for therapy or transplantation needed by the individual;

23 *(b)An accredited medical or dental school, college or university – for education,
24 research, advancement of medical or dental science, or therapy; and

25 *(c)A tissue bank storage facility – for medical or dental education, research,
26 therapy or transplantation.

27
28 *SEC. 17. *International Sharing of Organs or Tissues.* – With regard to international
29 sharing of human organs or tissues from deceased donor, this Act provides that
30 sharing of human organs or tissues shall be made only through exchange programs
31 duly approved by the DOH; provided that overseas tissue bank storage facilities and
32 similar establishments grant reciprocal rights to their Philippine counterparts to draw
33 human organs or tissues at any time. Organs may be shared with overseas transplant
34 programs only when there is no suitable Filipino recipient in the Philippines and that
35 the grant ischemia time, inclusive of transport of the organ, shall remain within the
36 acceptable standards. Provided further, that in cases of corneal and scleral tissues,
37 which can be divided into different usable tissues, such sharing shall be made to avoid
38 waste of precious tissues and subject to international rules of eye banking and ethical
39 tissue sharing.

40
41 *The DOH shall regularly monitor compliance with the conditions set forth under this
42 Section.

43
44 *SEC. 18. *Duty of Hospitals.* – All hospitals are potential referring hospitals that shall
45 develop the capacity to identify Potential Multiple Organ Donors (PMODs) and are
46 required to refer to the PhilNOS, which shall activate the organ donation process
47 through an OPO that is designated with Donor Service Areas.

48
49 *A hospital that fails to comply with this section shall, after due hearing, be penalized
50 in accordance with PhilHealth regulations.

1 ***SEC. 19. *Person Who May Execute a Legacy.*** – A person who is at least eighteen
2 (18) years of age and of sound mind may give, by way of legacy, all or any organ,
3 tissue, or part thereof.

4
5 ***SEC. 20. *Manner of Executing a Legacy.***

6
7 **“(a)**A legacy on donation of all or any organ, tissue, or part of the human body may
8 be made through a written duly signed will. The legacy becomes effective upon
9 the death of the testator even before probate proceedings are conducted. If the
10 will is not probated, or if it is declared invalid for testamentary purposes, the
11 legacy, to the extent that it was executed in good faith, is nevertheless valid
12 and effective.

13 **“(b)**A legacy on donation of all or any organ, tissue, or part of the human body may
14 also be made in any document other than a will. The legacy becomes effective
15 upon death of the testator and shall be respected by and binding upon the
16 executor or administrator, heirs, assigns, successors-in-interest, and all
17 members of the family. The document, which may be a card or any paper
18 designed to be carried on one’s person, must be signed by the testator in the
19 presence of two (2) witnesses who must sign the document in the presence of
20 the testator. If the testator cannot sign, the document may be signed at the
21 discretion and presence of the testator and two (2) witnesses who must,
22 likewise, sign the document in the presence of the testator. Delivery of the
23 document of legacy during the testator’s lifetime is not necessary to make the
24 legacy valid.

25
26 ***SEC. 21. *Organ Donor Cards.*** – A donor may also indicate the willingness to donate
27 an organ, tissue, or part thereof either through an organ donor card, or the
28 government-issued identification (ID) cards and licenses, including but not limited to
29 the following:

30
31 **“(a)**Land Transportation Office (LTO)-issued driver’s license;

32 **“(b)**PhilHealth membership ID;

33 **“(c)**Government Service Insurance System (GSIS) membership ID;

34 **“(d)**Social Security System (SSS) membership ID;

35 **“(e)**Professional Regulation Commission (PRC) license card;

36 **“(f)** Bureau of Internal Revenue (BIR) tax identification number ID; or

37 **“(g)**Department of Foreign Affairs (DFA)-issued Philippine passport.

38
39 **“The LTO, PhilHealth, GSIS, SSS, PRC, BIR and the DFA, in coordination with the**
40 **Secretary of Health through the PhilNOS, shall devise their respective application**
41 **forms wherein the consent of the applicant to be an organ or tissue donor in case of**
42 **death will be asked. The response of the applicant shall be indicated in these cards,**
43 **and these government agencies shall furnish the PhilNOS of the applicant’s response,**
44 **which will be recorded in the PODRRS. Provided, that the identification cards issued**
45 **by the foregoing government agencies prior to the effectivity of this Act shall remain**
46 **valid as such and need not indicate the consent of the holder to be an organ or tissue**
47 **donor in case of death.**

48
49 ***SEC. 22. *Procedure in the Absence of a Donation.*** – In the absence of any of the
50 persons authorized to execute a donation under Section 12 hereof, and in the absence
51 of any document of organ donation, the physician in charge of the patient, the head of
52 the hospital or a designated officer of the hospital who has custody of the body of the

1 PMOD may authorize in a public document the procurement of organs and tissues
2 from the PMOD. *Provided*, That the physician, head of the hospital or a designated
3 officer of the hospital for this purpose exerted reasonable efforts, within forty-eight (48)
4 hours, to locate the nearest relative specified in Section 12 of this Act or the legal
5 guardian of the donor at the time of death.
6

7 "The physician, head of the hospital or a designated officer of the hospital, or the
8 medico-legal officer of any government agency which has custody of the body may
9 authorize the removal of the cornea or corneas of the donor within twelve (12) hours
10 after death and upon the request of qualified recipients for the sole purpose of
11 transplantation: *Provided*, That the removal of the cornea or corneas will not interfere
12 with any subsequent investigation or alter the post-mortem facial appearance of the
13 donor by means of placing eye caps after the cornea or corneas have been removed.
14

15 "Removal of organs or tissues as described in this section shall be limited only to
16 those OPOs that are recognized by the DOH. Furthermore, Memoranda of
17 Agreements between the OPOs and government agencies that have custody of
18 decedents who would fall under the conditions enumerated in this section shall be
19 entered into in order to ensure proper compliance with the implementing rules and
20 regulations of this Act.
21

22 "SEC. 23. *Brain Death Certification.* – The diagnosis of brain death of the PMOD shall
23 be certified by two (2) qualified physicians, neither of whom is:
24

25 "(a) A member of the team of medical practitioners who will effect the removal of
26 the organ from the body; nor

27 "(b) The physician attending to the recipient of the organ to be removed; nor

28 "(c) The head of the hospital or the designated officer authorizing the removal of
29 the organ.
30

31 "The official time of death shall be the time of brain death certification and the death
32 certificate shall be signed by the last physician who has declared the brain death at
33 the time of brain death certification.
34

35 "SEC. 24. *Persons Authorized to Remove and Transplant Organs, Tissues and*
36 *Corneas.* – Only authorized and trained medical practitioners in an accredited hospital
37 facility shall remove or transplant any organ. The removal of eyes and corneal tissues
38 shall be performed only by ophthalmic surgeons qualified in performing such
39 procedures and duly certified and accredited by the National Association of
40 Ophthalmologists and specialty board, and eye bank technicians qualified in
41 performing such procedures and duly certified by a DOH accredited eye bank and the
42 National Association of Ophthalmologists. Likewise, the removal of other tissues, e.g.
43 bone, cartilage, skin, heart valves, etc. shall be performed only by duly accredited
44 surgeons or by technicians who are especially trained and certified for the purpose.
45

46 "SEC. 25. *Delivery of Document of Legacy or Donation.* – If the legacy or donation is
47 made to a specified recipient, the will, card or other document, or an executed copy
48 thereof, may be delivered by the testator or donor, or the authorized representative of
49 the testator or donor to the recipient to expedite the appropriate procedures
50 immediately after death. The will, card or other document, or an executed copy
51 thereof, may be deposited in any hospital or organ bank storage facility that accepts it
52 for safekeeping or for facilitation of procedures after death. On the request of any

1 interested party upon or after the testator's death, the person in possession shall
2 produce the document of legacy or donation for verification.

3
4 ***SEC. 26. *Amendment or Revocation of Legacy or Donation.***

5
6 **"(a)**If the will, card or other document, or an executed copy thereof, has been
7 delivered to a specific recipient, the testator or donor may amend or revoke the
8 legacy or donation either by:

9 (1) The execution and delivery to the recipient or recipient of a signed
10 statement; or

11 (2) A written statement addressed to an attending physician executed in
12 the presence of two (2) other persons and communicated to the
13 recipient; or

14 (3) A written statement addressed to an attending physician during a
15 terminal illness or injury, and communicated to the recipient; or

16 (4) A signed card or document found on the person or effects of the
17 testator or donor.

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

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

25
26 ***SEC. 27. *Post Mortem Care.*** – Upon death, the medical staff shall treat the body of
27 the testator with utmost care and respect throughout the whole process of organ
28 procurement avoiding unnecessary mutilation. Restoration, if needed, shall be
29 performed for aesthetic acceptability. After removal of the human organ, tissue, or
30 part thereof, the custody of the body vests on the surviving spouse, next-of-kin, or
31 other persons under obligation to prepare the body for interment.

32
33 ***SEC. 28. *Allowable Reimbursements for OPO.*** – The human organ, tissue, or part
34 thereof shall be donated for free or without any financial consideration. The OPO shall
35 be reimbursed for reasonable expenses incurred during the recovery, organ and tissue
36 preservation, transport, and other operational costs. This amount shall be determined
37 by the PhilNOS and shall be subject to regular review.

38
39 ***SEC. 29. *Transport of Donated Organ.*** – In view of the urgency to immediately
40 transport the donated organ or tissues, all local airlines shall allocate a space in the
41 passenger cabin to accommodate the transport of such organ or tissues on the first
42 available opportunity, free of charge. The Civil Aviation Authority of the Philippines
43 (CAAP) under the DOTC and the DOH shall jointly formulate guidelines that shall
44 govern the transport of procured organs through commercial airlines. The CAAP shall
45 ensure the compliance of all registered commercial airlines with the regulations
46 allowing transport of procured organs.

47
48 **"This section shall equally apply to the transport of blood and/or tissues for purpose of
49 cross-matching.**

50
51 **"PhilNOS shall take charge of monitoring and tracking the transport of all donated
52 organs and tissues.**

1
2
3 **ARTICLE III**
4 **ORGAN DONATION FROM LIVING DONORS**
5

6 *SEC. 30. *Living Donors.* – The Board shall establish policies and guidelines to
7 prevent organ trafficking and to ensure the safety of living donors and their eventual
8 recipients in accordance with the provisions of this Act.
9

10 *SEC. 31. *Living Donors in Closed Settings.* – Individuals in closed settings, such as
11 prisons, rehabilitation centers and other similar facilities, shall be allowed to donate
12 their organs, tissues, or parts thereof, only to recipients or recipients who are related
13 to them by blood within the fourth civil degree of consanguinity.
14

15 *SEC. 32. *Assistance to and Protection to Donors.* – A living donor of a human organ,
16 tissue, or part thereof shall be entitled to the following assistance, protection, and
17 recognition:
18

19 *(a) Inclusion in the priority list of PhilNos if the donor should need an organ in the
20 future;

21 *(b) Allowable reimbursement for a living donor may include expenses for travel,
22 housing, child care for the donor family and lost wages incurred by the donor in
23 connection with the pre-donation work-up, donation of the organ, medical
24 insurance, periodic health monitoring, and medical care in the immediate peri-
25 operative period;

26 *(c) Paid leave for thirty (30) days during the time of full recovery when donor is
27 employed either in the government or private sector;

28 *(d) Disability pay from SSS or GSIS;

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

32 *(f) Ten percent (10%) discount from pharmaceutical companies and their
33 distributors on transplant and post transplant related medicines prescribed for
34 the donor's medication.
35

36 **ARTICLE IV**
37 **PHILHEALTH BENEFITS**
38

39 *SEC. 33. *PhilHealth Assistance.* – Pursuant to its mandate under the National Health
40 Insurance Act of 1995, as amended, the PhilHealth shall develop benefit packages
41 and/or expand current packages for both the living donor and the recipient in case of
42 cadaveric donors, as well as cover the reimbursement for the cost of processing of
43 organ and tissues incurred by OPOs duly recognized by the DOH, thereby mitigating
44 financial burden of organ and tissue retrieval, processing and transplantation.
45

46 **ARTICLE V**
47 **PUBLIC AWARENESS PROGRAM**
48

49 *SEC. 34. *Information and Education Drive.* – To ensure public awareness of the
50 maximum benefits under this Act, the DOH, in cooperation with institutions such as the
51 National Kidney and Transplantation Institute (NKTI), civic and nongovernment health
52 organizations, and other health-related agencies involved in the donation and
53 transplantation of human organs and tissues, as well as the Department of Education
54 and the CHED shall undertake a public information and education program for this
55 purpose.

1
2 *The Department of Health shall ensure that all health professionals, both in
3 government and private sectors, as well as media organizations from print, radio and
4 television are encouraged to undertake massive public information campaign to
5 emphasize the importance of organ donation. In addition, the DOH shall encourage
6 and assist hospitals to upgrade to be transplant-capable.
7

8 *The Department of Education shall mandate the inclusion of organ donation
9 awareness in the national high school curriculum. The CHED shall mandate the
10 inclusion of organ donation awareness in all medical and paramedical courses.
11

12 *The importance of organ and tissue donation shall be included in the Health and
13 Science subjects in the curricula of both the elementary and secondary levels as well
14 as in the general education curriculum in the collegiate level. The Secretary of Health
15 shall coordinate with the Secretary of Education and the Chairperson of the CHED for
16 the effective implementation of this provision.
17

18 *The DOH shall also endeavor to disseminate information on human organ and tissue
19 donation through other means, including the internet, social media, and mails subject
20 to franking privilege.
21

22 *SEC. 35. *National Organ Donation Awareness Month.* – The month of April of every
23 year is hereby declared as the "National Organ Donation Awareness Month". The
24 DOH, in coordination with various government and private agencies, and
25 organizations, including professional societies, OPOs or associations related to human
26 organ and tissue donation and transplantation, shall spearhead programs and
27 activities that highlight the importance of organ and tissue donation in saving lives.
28

29 ARTICLE VI

30 DISCRIMINATORY AND PROHIBITED ACTS 31 AND PENALTIES 32

33 *SEC. 36. *Discriminatory Acts.*

34 *(a)It shall be unlawful to discriminate against a living organ donor or an organ
35 recipient in any form from pre-employment to post-employment, including
36 hiring, promotion, or assignment solely on the basis of the person being an
37 organ donor or an organ recipient despite a certification from a physician that
38 the living donor or an organ recipient is fit for work: *Provided,* That this
39 provision shall not apply to uniformed police and military personnel for
40 purposes of their pre-employment and hiring procedure and requirements.
41
42

43 *(b)It shall be unlawful for a Health Maintenance Organization (HMO) and life
44 insurance companies to permanently deny a person of health or life insurance
45 coverage solely on the basis of being an organ donor or recipient. *Provided*
46 that, the organ donor or recipient has not misrepresented or concealed the
47 fact to the HMO or life insurance company. Also, application for coverage shall
48 be subject to the life insurance company's or the HMO's underwriting policies
49 and processes, including but not limited to policy/program inclusions,
50 limitations, exclusion, concealment provisions, risk assumptions and risk-
51 protection or price consideration. The Insurance Commission shall implement
52 the provision covering life insurance and shall develop the necessary policies
53 to ensure compliance.
54

1 "(c) It shall be unlawful for a carrier to refuse to transport or ship an organ, tissue,
2 or part thereof, whether accompanied or not. Such refusal shall be penalized
3 with a fine in the amount of Five Hundred Thousand Pesos (P500,000.00).
4

5 "(d) Any person who commits the discriminatory act mentioned in subsection (a)
6 and (b) of this section shall suffer the penalty of imprisonment for six (6)
7 months to four (4) years and a fine not exceeding ten thousand pesos
8 (P10,000.00), including the cancellation or revocation of license or permit as
9 may be applicable.
10

11 "Any person who acts in good faith in accordance with the provisions of this Act shall
12 not be liable for damages in any civil action or be subject to criminal prosecution.
13

14 "**SEC. 37. Prohibited Acts.** – It shall be unlawful for any person, natural or juridical, to
15 commit any of the following acts:
16

17 "(a) Recruit, transport, transfer, harbor, provide, or receipt of persons by any
18 means, for the sale, barter, or supply of human organs, tissues, or parts
19 thereof which involves consideration in whatever form;
20

21 "(b) Offer consideration in money, kind or service for the purpose of acquiring,
22 buying, offering, selling, or trading human organs, tissues, or parts thereof;
23

24 "(c) Offer to supply human organs, tissues, or parts thereof for consideration or
25 initiate or negotiate any arrangement for the supply thereof or for an offer to
26 supply human organs, tissues or parts thereof;
27

28 "(d) Act as a facilitator, middleman, broker or other similar role in the sale, barter, or
29 supply of human organs, tissues, or parts thereof for consideration in whatever
30 form;
31

32 "(e) Engage in the trade, sale, barter, or supply of human organs, tissues, or parts
33 thereof for consideration in whatever form;
34

35 "(f) Store or handle human organs, tissues, or parts thereof that have been
36 acquired or transferred or sold for consideration;
37

38 "(g) Deliver, transport, transfer or distribute human organs, tissues, or parts thereof
39 that have been acquired or transferred or sold for consideration in whatever
40 form;
41

42 "(h) Remove or transplant human organs, tissues, or parts thereof that have been
43 acquired or transferred or sold for consideration in whatever form;
44

45 "(i) Consent to the transplantation of human organs, tissues, or parts thereof and
46 be transplanted with the same with the knowledge that the human organs,
47 tissues, or parts thereof have been acquired or transferred or sold for
48 consideration in whatever form;
49

50 "(j) Recruit or invite persons to supply human organs, tissues, or parts thereof for
51 consideration; and
52

1 *(k) Make or receive payment for the supply of or for an offer to supply human
2 organs, tissues, or parts thereof.

3
4 *SEC. 38. *Other Prohibited Acts* – It shall be unlawful for any person, natural or
5 juridical, to commit any of the following acts:

6
7 *(a) Advertise in any manner, whether formally or informally through print,
8 broadcast media and other means of electronic media, an offer to sell, barter,
9 deal in or supply human organs, tissues, or parts thereof or an offer to acquire,
10 buy or to receive human organs, tissues, or parts thereof for consideration in
11 whatever form;

12
13 *(b) Advertise, publish, print, broadcast or distribute, or cause the advertisement,
14 publication, printing, broadcasting or distribution by any means, including the
15 use of information technology and the internet, or any brochure, flyer, or any
16 propaganda material that promotes commercial dealings in human organs,
17 tissues, or parts thereof;

18
19
20 *SEC. 40. *Penalties and Sanctions* – The following penalties and sanctions are
21 imposed for the offenses enumerated in Sections 38 and 39 of this Act:

22
23 *(a) Any person found guilty of committing any of the acts enumerated in Section
24 38 of this Act shall suffer the penalty of imprisonment of twenty (20) years and
25 a fine of not less than one million pesos (P1,000,000.00) but not more than two
26 million pesos (P2,000,000.00);

27 *(b) Any person found guilty of committing any of the acts enumerated in Section
28 39 of this Act shall suffer the penalty of imprisonment of fifteen (15) years and
29 a fine of not less than five hundred thousand pesos (P500,000.00) but not
30 more than one million pesos (P1,000,000.00);

31 *(c) When the objects of the prohibited acts enumerated in Sections 38 and 39 of
32 this Act are human tissues only, the offender shall suffer the penalty of
33 imprisonment of not less than two (2) years but not more than five (5) years
34 and a fine of not more than Five Hundred Thousand Pesos (P500,000.00);

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

40 *(e) The registration with the Securities and Exchange Commission (SEC) and
41 license to operate of an erring corporation, partnership, association, or group
42 shall be cancelled and revoked permanently. The owner, president, partner or
43 manager thereof shall not be allowed to operate similar establishments in a
44 different name;

45 *(f) If the offender is a hospital, clinic or other similar licensed medical institution,
46 the penalty shall be imposed upon its owner, president, director, members of
47 the board, officials, doctors or medical staff who participates in the illegal acts;

48 *(g) If the offender is a hospital, clinic or medical institution under the DOH and
49 other regulatory institutions, its license shall be cancelled and revoked, and the
50 license to practice of medical professionals working in such hospital, clinic,
51 medical or regulatory institution found guilty of the illegal acts shall be
52 cancelled and revoked;

1 "(h) If the offender is a foreigner, the foreigner shall be immediately deported after
2 serving the sentence and be barred permanently from entering the country;
3 and

4 "(i) If the offender is an official or employee of a government agency, such official
5 or employee shall, after notice and hearing, be held administratively liable,
6 without prejudice to criminal liability under this Act. The government official or
7 employee shall, upon conviction, be dismissed from the service and be
8 permanently disqualified to hold public office. The retirement and other
9 benefits, excluding personal contribution to GSIS and accrued leave credits, of
10 erring government official or employee shall likewise be forfeited.

11
12 **ARTICLE VII**
13 **FINAL PROVISIONS**
14

15 "**SEC. 41. Appropriation** - The amount of Forty Million Pesos (P40,000,000.00) is
16 hereby appropriated for the initial implementation of this Act. Thereafter, such sum as
17 may be necessary for its continued implementation shall be included in the regular
18 budgetary allocation for the Department of health.

19
20 "**SEC. 42. Rules and Regulations.** - Within ninety (90) days from the approval of this
21 Act, the Secretary of Health, after consultation with all health professionals of both
22 government and private, and nongovernment health organizations, shall promulgate
23 the rules and regulations implementing the provisions of this Act. The implementing
24 rules and regulations issued pursuant to this Act shall take effect thirty (30) days after
25 its publication in two (2) national newspapers of general circulation."

26
27 **SEC. 43. Repealing Clause.** - All other laws, decrees, ordinances, rules and regulations,
28 executive or administrative orders, and other presidential issuances inconsistent with this Act
29 are hereby repealed, amended or modified accordingly.
30

31 **SEC. 44. Suppletory Application of Republic Act No. 9208, as amended** - The provisions of
32 Republic Act No. 9208, otherwise known as the "Anti-Trafficking in Persons Act of 2003", as
33 amended by Republic Act No. 10364, otherwise known as the "Anti-Trafficking in Persons
34 Act of 2012, and its Implementing Rules and Regulations on Trafficking in Persons for the
35 Removal or Sale of Organs, and Section 4(g) of its Implementing Rules and Regulations
36 insofar as they are not inconsistent with the provisions of this Act, shall apply suppletorily.
37

38 **SEC. 45. Separability Clause.** - If any provision of this Act is declared unconstitutional or
39 invalid, the remaining parts or provisions not affected shall remain in full force and effect.
40

41 **SEC. 46. Effectivity.** - This Act shall take effect fifteen (15) days after its publication in the
42 Official Gazette or in a newspaper of general circulation.
43

44 Approved,