

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



Senate
Office of the Secretary

20 JAN 14 P5:56

SENATE

S. No. 1265

RECEIVED BY: _____

Introduced by SENATOR RAMON BONG REVILLA, JR.

**AN ACT
REGULATING THE DONATION AND TRANSPLANTATION OF HUMAN ORGANS
AND TISSUES FROM LIVING DONORS**

EXPLANATORY NOTE

At the outset, Republic Act No. 7170 authorizes the legacy or donation of all or part of a human body after death for specified purposes. The law recognizes that an individual has the option to become a hero, so to speak, via a will or other document said individual executed or through the decision of his/her next of kin. Hence, a mechanism has been set up to legitimize the donation of organs to take effect after death.

Moreover, in fulfilment of the country's commitment to the 63rd World Health Assembly and the Istanbul Declaration 2008, the government set up a national system of promoting organ donation from deceased donors and sharing of grafts through the Philippine Network for Organ Sharing or PHILNOS. The network aims at implementing a system of timely referral and processing of potential multiple organ donors, the equitable allocation and efficient procurement and transplantation of organs from them. It bears stressing, however, again that what is promoted presently is only deceased organ donation.

But, how about living organ donation? To date, there is no law addressing this specific concern. True, there is Republic Act No. 9208, otherwise known as the Anti-Trafficking in Persons Act of 2003 which punishes the exploitative removal or sale of organs as an act of trafficking. Thus, it raises the question: how about non-exploitative or when it may be considered as a valid act of donation.

The ratio between living and deceased donors cannot be over-emphasized. Statistics show that from 1999 to 2009, there has been an average of 178 (92.7%) living kidney donors as compared to 14 (7.3%) deceased donors for Filipino recipients. Out of the 178,102 (57%) are living non-related donors while 76 (43%) are living related donors.

Meanwhile, there are 9,184 Filipinos suffering from end-stage renal diseases, and only 477 (roughly 5%) of whom have undergone kidney transplant. Globally, every year, a million people develop end-stage renal disease but only a fraction of those receive any kind of renal placement therapy and even fewer receive kidney transplants. In fact, currently, there are 48 pay patients and 20 service patients on the active waiting list of the Human Organ Preservation Effort of the National Kidney and Transplant Institute (HOPE-NKTI), while there are 413 pay patients and 95 service patients on the inactive waiting list on the same hospital. Annually, 5 active pay patients, 3 active service patients, 10 inactive pay patients and 10 inactive service patients die while on the waiting list. For this reason, the demand for kidney donation is high.

It is undeniable that there are other successful strategies to expand kidney donor pools including passing around presumed-consent law, use of non-heart beating deceased donors, encouraging live donor, accepting non-directed kidney donations. Trends, globally however, prove that the waiting list for renal transplants has not significantly declined despite these efforts, with the single exception of the latest strategy, meaning, accepting non-directed type of living donation, which happened in Iran.

It is thus submitted that the availability of the source of the supply of organs should not be restricted to deceased donors but should include living and willing donors. It cannot be denied that living donors far outnumber the deceased ones and this situation can be taken advantage of, provided proper parameters are observed. These parameters must, in the end, not only increase potential donors but equally important is that it must help curb or curtail illegal organ commerce that only degrades the person of the donor but may also endanger their very lives leading therefore to exploitation.

In a country such as ours, culture and religion play important roles in decision-making. It is however submitted that becoming an organ or tissue donor is a personal decision. A decision that must likewise be guided by the constant fact that organ and tissue donations save lives and that in no instance should exploitation of either the donor or recipient be countenanced.

This bill, in the higher interest of public health, therefore, primarily ensures that the availability of organs and tissues, for donation, from living and willing donors, is carefully supervised and regulated. Supervision and regulation which includes the grant of reasonable support to donors, to include medical care, or educational, economic or livelihood projects, or other forms of assistance to promote the well-being of these donors.

In view of the foregoing, the approval of this bill is earnestly sought.


RAMON BONG REVILLA, JR.

20 JAN 14 P5 56

SENATE

S. No. 1265

RECEIVED BY: _____



Introduced by SENATOR RAMON BONG REVILLA, JR.

AN ACT
REGULATING THE DONATION AND TRANSPLANTATION OF HUMAN ORGANS
AND TISSUES FROM LIVING DONORS

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

1 **SECTION 1. Title.** – This Act shall be known as the “LIVING ORGAN DONORS
2 ACT OF 2020”.

3 **SEC. 2. Declaration of Policies.** – It is hereby declared the policy of the State
4 to promote and protect the health of its people and, in line with this policy, the State shall
5 enact measures creating programs including but not limited to:

6 (a) Recognizing and regulating the donation of human organs and tissues of
7 living donors to prevent their exploitation and, more importantly, ensure
8 their legal entitlement to reasonable medical support and other forms of
9 assistance;

10 (b) Granting patients with end-stage diseases access to human organs for
11 transplantation but at the same time ensuring that there is equitable
12 distribution in the allocation of available organs among qualified recipients;

13 (c) Encouraging donation of human organs and tissues, most especially the
14 directed living donation, without giving undue prejudice to non-directed or
15 directed living donation, and taking into consideration respect for the dignity
16 of human life, beneficence and non-maleficence, solidarity and
17 volunteerism, justice and equity;

1 (d) Developing and maintaining a national registry and reporting system of
2 donors and recipients of human organs and tissues, and the continuous
3 evaluation of the system.

4 **SEC. 3. Definition of Terms.** – As used in this Act, the following terms shall have
5 the following meanings:

6 (a) "Human Organ or Tissue" refers the kidney, liver, heart, lung, pancreas, bone
7 marrow, cornea, eye, bone, skin, nerve, muscle tissue and any other human organ
8 or tissue that may be transplanted to another living person.

9 (b) "Donation of Organ or Tissue" refers to a voluntary act of a person to give his
10 organs or tissues gratuitously in favor of another, who accepts it. In this case, the
11 recipient shall have no demandable or enforceable right over the organ or tissue
12 donated and in gratitude or acknowledgement of the donation, give anything of
13 value to the donor.

14 (c) "Related Donors" refers to relatives by consanguinity up to the fourth civil degree.

15 (d) "Non-Related Donors" include the following:

16 (i) Those who are related by consanguinity beyond the fourth civil degree;

17 (ii) Those not related within the fourth degree of family;

18 (iii) Those not related by consanguinity or affinity but bear emotional ties
19 with the organ or tissue recipient (e.g. friends, employees or employers,
20 colleagues, fiancé/fiancée); and

21 (iv) Strangers

22 (e) "Directed Living Donors" refer to donors who have a specific recipient in mind
23 whom he would want to donate to.

24 (f) "Non-directed Living Donors" refer to donors who would donate to whoever
25 matches on a list of waiting patients for organ transplants.

26 (g) "Transplant Facility" – refers to a facility or hospital in which the transplant shall
27 whoever matches on a list of waiting patients for organ transplant.

28 (h) "Indigent" – refers to an individual who has been certified by the local branch of
29 the Department of Social Welfare and Development of the area in which he/she is
30 a resident to be belonging to that sector living or earning below the poverty

1 threshold as determined from time to time by the National Economic and
2 Development Authority.

- 3 (i) "Medical Care" – refers to medicines and laboratory examinations necessary to be
4 made for purpose of, and pursuant to, transplantation. It however does not include
5 expense for the treatment of unrelated medical illness that is discovered during
6 evaluation procedures.

7 **SEC. 4. Acceptable Living Donations.** – Any individual, at least twenty one
8 (21) years of age, of sound mind, who underwent screening and counselling procedures
9 and has been found suitable as living donor based on the physical and psychological
10 evaluation and assessments made by the physicians of the transplant facility who are not
11 in any way directly connected with the transplant, and thus fully understands the risks,
12 benefit and consequences of transplanting organs and tissues from his/her body, may so
13 donate by way of written consent to such removal for purposes of transplanting the same
14 to another living human body. Such informed consent shall be in a document witnessed
15 by a relative of the donor and two (2) physicians neither of whom shall be a member of
16 the team of medical practitioners who will effect the removal of the organ or tissue from
17 the donor's body nor the physician or transplant team attending to the recipient of the
18 organ to be removed.

19 In no instance shall a minor be made a donor of any organ or tissue to anybody.
20 Further, no transplant shall be undertaken if it will result in a physical and/or psychological
21 harm to the donor. Furthermore, an individual is allowed to donate only one organ or
22 tissue in his/her lifetime. Finally, a foreigner is not allowed to become a recipient of any
23 organ or tissue unless it can be shown that he/she is a former Filipino citizen or that the
24 potential donor is related to the said former Filipino foreigner by consanguinity within the
25 fourth degree.

26 **SEC. 5. Choice of Type of Donation.** – It shall be the choice of the donor
27 whether to make a non-directed or directed type of donation, taking into consideration
28 the following:
29

1 (a) In making a non-directed type of living donation, a non-indigent donor is to
2 proceed to an accredited transplant facility of his/her choice, bringing with his
3 a verified certification from two (2) physicians to the effect that he/she is
4 physically and medically fit to donate the organ of his/her choice. The said
5 transplant facility shall then conduct the required pre-transplant psychological
6 screening to determine his/her suitability for donation. The cost of the
7 screening shall be free of charge. If found suitable to make the donation, the
8 transplant facility shall then register the name of the potential donor in the
9 Philippine Organ Donor and Recipient Registry System (PODRRS) maintained
10 by the Department of Health for matching with a recipient. In case of an
11 indigent donor intending to make a non-directed living donation, he/she shall
12 proceed to an accredited government transplant facility which shall conduct
13 initially a psychological screening, as adverted to in Section 4 thereof to
14 determine his mental fitness to make such a donation. If found suitable, the
15 same government transplant facility shall subject the potential donor to a test
16 to determine his physical fitness to undergo the donation. In both cases of
17 screening and physical testing, the procedure shall be free of charge. If the
18 potential donor is finally found psychologically, mentally and physically fit to
19 make the donation, his/her name shall then be registered by the same
20 transplant facility in the PODRRS for matching with a recipient.

21 It is understood that a non-directed living donor makes such donation out of
22 mere altruism but a grateful recipient who, after the transplant, had knowledge
23 of the identity of his/her donor, is not precluded from giving financial assistance
24 to the latter.

25 (b) In making a directed type of living donation, the potential donor shall undergo
26 psychological, mental and physical tests to determine his/her fitness to become
27 a donor, the costs of all which shall be borne by the intended recipient, unless
28 the recipient is an indigent in which case the said tests shall be conducted free
29 of charge in the government transplant facility in which the indigent is to be
30 scheduled for transplant.

1 **SEC. 6. Requirement of Registration.** – All patients in transplant shall also
2 register themselves in the Philippine Organ Donor and Recipient Registry System
3 (PODRRS) maintained by the Department of Health (DOH).

4 **SEC. 7. Duty of Non-indigent Recipients.** – In all cases of living donation,
5 whether directed or non-directed, and notwithstanding any agreement to the contrary ,
6 it shall be the responsibility of the non-indigent recipient to shoulder the cost of the
7 transplantation procedure and pre and post-operation medical care of the donor, who
8 has been found suitable mentally and physically to make the donation.

9 Further, the recipient shall cause the name of the donor to be registered in the
10 registry of the PODRRS. Furthermore, the recipient is obliged to shoulder the expenses
11 of travel and housing, if any, and lost wages, if applicable and other related expenses in
12 connection with the donation. Finally, the recipient shall be made to answer financially,
13 wholly or partly depending on their agreement, for any subsequent disease that may be
14 developed by the donor in connection with the organ or tissue donated.

15 Nothing in this Act, however, shall proscribe the voluntary act of the recipient in
16 providing additional assistance to the family of the donor either through livelihood
17 projects and/or educational support to the family of the donor.

18 **SEC. 8. Duty of the State.** – If the organ or tissue recipient is indigent, as
19 certified to by the local branch of the Department of Social Welfare and Development of
20 the area where the recipient is a resident, the actual transplant shall be made in any of
21 the accredited government transplant facilities and the pre and post-operation medical
22 care of the donor shall be shouldered by the said transplant facility while the expenses
23 of travel and housing, if any, and lost wages, if applicable, shall be shouldered by the
24 local government of which the recipient is a resident.

25 The local government unit concerned as well as the district representative of the
26 place where the donor is a resident shall likewise, as far as practicable, provide
27 preferential assistance in terms of educational, scholarship or other non-monetary
28 benefits to the family of the donor and/or his next of kin.

29

1 **SEC. 9. *Duty of Donors.*** – In all cases, it shall be the duty of the donor, for his
2 own protection, to ensure and verify that his name is registered in the national registry
3 of donors maintained by the PODRRS.

4 **SEC. 10. *Incentives for Donors.*** – An organ or tissue donor shall be entitled to
5 a leave of absence with pay for the period of his confinement for purposes of actual
6 transplantation and post-transplant recovery for a period not to exceed fifteen (15)
7 working days.

8 Should the donor develop a disability, as defined under the Social Security and
9 Government Service Insurance System charters, resulting from the transplantation
10 procedure, he/she shall be entitled to a disability pay, as therein defined and computed.

11 Further, should the donor eventually develop a disease or sickness necessitating a
12 transplant, the said donor shall be given priority in the registry of potential recipients.

13 Furthermore, airline companies are to provide at least ten percent (10%) discount
14 on airfare of potential donors, on their way to and from the actual transplant operation,
15 who have been found suitable, mentally and physically to make the donation.

16 Finally, pharmaceutical companies and their distributors to ensure that at least a
17 ten percent (10%) discount is likewise provided for post-transplant and transplant-related
18 medicines personally consumable by the donors.

19 **SEC. 11. *Unlawful Act.*** -It is hereby declared unlawful and punishable in its
20 severest from any act of any third person tending to broker, negotiate or engage in
21 transactions that will lead or cause to be lead the transplant of any organ from one person
22 to another, whether for a fee or for free.

23 **SEC. 12. *Philippine Network for Organ Sharing.*** – The Department of Health-
24 established Philippine Network Organ Sharing (PHILNOS) which promotes organ donation
25 from deceased donors is hereby recognized but in addition, it shall also come up with
26 mechanisms and guidelines on living organ donors, as herein provided.

27 The DOH shall report to Congress before June 30 of every year the analysis of
28 information derived from the registry.

29

1 **SEC. 13. *Regulatory Authority.*** – The Department of Health shall be
2 responsible for the following:

- 3 (a) Implementing the provisions of this Act:
4 (b) Issuing guidelines relative to the process of donor-screening and
5 evaluation as well as donor and recipient pre and post-transplant
6 counselling;
7 (c) Issuing guideline on the accreditation of transplant facilities, whether
8 government or private, thereby ensuring that all necessary equipment
9 and facilities are available as well as guaranteeing that the transplant
10 team have the necessary expertise and experience in conducting the
11 same;
12 (d) Issuing guidelines relatives to the duties of hospitals and their respective
13 physicians relative to the conduct of transplant and all its necessary
14 incidents.

15 **SEC. 14. *Penalties for Violation.*** – (a) A non-indigent recipient who fails to
16 perform any of the mandatory duties mentioned in Section 7 hereof as well as the local
17 chief executive and responsible officers of the local government unit concerned, the
18 officials and employees of hospitals and companies directly involved under Sections 8 and
19 10 respectively hereof shall be held individually liable and suffer the following penalties:

- 20 i. Fine of not less than One Hundred Thousand Pesos (P100,000.00)
21 but not exceeding Five Hundred Thousand Pesos (P500,000.00) or
22 imprisonment of not less than one (1) year but not more than five
23 (5) years, or both, at the discretion of the court.
24 ii. For any subsequent violation in case of public and private
25 corporations, a fine of not less than Two Hundred Thousand Pesos
26 (P200,000.00) but not exceeding Six Hundred Thousand Pesos
27 (P600,000.00) or imprisonment for not les than two years but not
28 more than six (6) years, or both, at the discretion of the court.
29

1 Upon filing of an appropriate complaint, and after notice and hearing,
2 the proper authorities may also cause the cancellation or revocation of
3 the business permit, permit to operate, franchise and other similar
4 privileges granted to any business entity that fails to abide by the
5 provisions of this Act.

6 (b) Any person found guilty of violating the provisions of Section 11 hereof shall
7 be penalized with imprisonment for not less than six (6) years nor more than
8 twelve (12) years and fine in an amount less than Five Hundred Thousand
9 Pesos (P500,000.00) nor more than One Million Pesos (P1,000,000.00).

10 **SEC. 15. *Funding.*** – An amount not exceeding Fifty Million Pesos
11 (P50,000,000.00) annually is hereby set aside from the charity funds of the Philippine
12 Charity Sweepstakes Office to cover the financial requirements of this Act.

13 **SEC. 16. *Repealing Clause.*** – All Acts or parts of Acts, executive orders and
14 their implementing rules inconsistent with the provisions of this Act are hereby repealed,
15 amended or modified accordingly.

16 **SEC. 17. *Separability Clause.*** – If any provision of this Act is declared invalid,
17 the remainder of this Act or any provisions not affected thereby shall remain in force and
18 effect.

19 **SEC. 18. *Effectivity.*** – This Act shall take effect after fifteen (15) days from
20 publication in two newspapers of general circulation.

21
22 *Approved,*