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Introduced by Senator Loren Legarda

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**EXPLANATORY NOTE**

This bill seeks to uphold the nobility and dignity of donating human organ and tissue by establishing a unified national system of organ sharing encompassing a donor and patient registry to eliminate for-profit marketing of organ donation and to facilitate the success of organ transplants and survival of patients.

The prevalence of illicit marketing of human organs and tissues for profit in the Philippines, which has become a source of livelihood for some poor families, has drawn the attention of the world in the CNN report last November 6, 2007 on kidney sale in the country. Out of the 45,000 urban poor dwellers of Isla Baseco, it is projected that approximately 3,000 have donated one of their kidneys in exchange for a price ranging from P70,000.00 to P120,000. Despite this trade being an immediate answer to their desperate need for money, the compensated organ donors may not be fully aware of the long-term health, psychosocial and economic implications of their decisions.

A study conducted at Kermanshah University of Medical Sciences in Iran of 300 kidney vendors reported harsh effects 6 to 132 months after the transplant. The findings show that 90% of the vendors complained of impaired physical ability and ill-health which, includes palpitations, chest pains, backache, nervousness and fatigue. 65% reported that the sale of their kidney has led to negative effects on their employment; 38% largely representing uninsured manual laborers had lost their jobs as they were unable to continue working at the same job after the transplant; and 70% suffered from post-operative depression. For a needy person, however, the sum of P100,000.00 makes it difficult to say no and think of what is best for him in the long run. In view of this, there is an urgent call to prevent organ donations from being commercialized and protecting potential organ donors from the negative consequences of illegal organ trade.

Another problem in organ transplant is the unfair allocation of organ and tissue donations. At present, the highest bidder for an organ obtains a status of privilege because of his wealth. At least 30,000 Filipinos have diseased kidneys, but many of them cannot afford the expense of transplants, widely regarded by the World Health Organization as the best solution to end stage-organ failure. In five leading hospitals in Manila, including the state-run National Kidney and Transplant Institute, about 250 kidney transplants are performed every year, many of them for wealthy Filipino families and foreigners. According to the New England Journal of Medicine, Americans, about 200 to 300 patients a year go to China, the Philippines and South America for transplants. Moreover, according to Norbert Lameire of the International Society of Nephrology, the United Arab Emirates sends its kidney patients to the Philippines for transplants. From WHO estimates, the Philippines

hosted up to 200 "transplant tourists" in the recent years. Of the 468 kidney transplants in the country in 2003 alone, 110 were for patients from abroad.

The lucrateness of the illegal organ trade persists despite the existing regulations that prohibit the same. Though we already enacted Republic Act No. 7170 or the Organ Donation Act of 1991, the law covers only cadaver donors (CAD) and the concept of brain death. Department of Health Administrative Order No. 124 clearly prohibits the sale and purchase of kidney organs by kidney donors with penalties laid down for violations. Despite these measures, kidney sale is still commonplace in depressed communities, proving that a strong proposal is needed that will put an end to this.

This bill establishes a system by which valuable human organs and tissues, which are desperately needed by waiting patients of end-stage organ failure could be readily and lawfully obtained and equitably distributed. Some of the salient features of this bill are the following:

1. The establishment and maintenance of a Human Organ and Tissue Transplantation Coordinating Network, which shall be a national system to facilitate the location of a possible donor of human organs and tissue to patients in need of receiving life-saving organ transplantation. Further, the Network will coordinate the transportation of organs and tissues from donation organizations to transplant including those from other countries.
2. The formation of a Human Organ and Tissue Transplantation Coordinating Office in strategic locations in the country that will arrange for the acquisition and preservation of donated human organs and tissues and provide quality standards for the acquisition of human organs and tissues consistent with the standards adopted by the Network.
3. The creation of a Task Force that will conduct a study on all issues and common problem areas in the human organ and tissue donation and transplantation.
4. The prohibition and punishment of individuals engaged in the marketing of human organs and tissues for profit.
5. The enhancement and promotion of programs for organ and tissue donations.

The problem of for-profit marketing and unfair distribution of organ and tissue donations will persist or even aggravate if not properly addressed with a legislation that answers the need for effective regulation of the practice of human organ donation and tissue transplantation.

In view of the foregoing, the passage of this bill is earnestly sought

  
**LOREN LEGARDA**  
Senator



- 1 h) Support and direct the development of a rational and fair national health  
2 policy regarding the appropriate government and private sector roles in  
3 human organ and tissue donation and transplantation; and  
4 i) Prohibit and penalize the for-profit marketing of human organs and tissues.  
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6 **SEC. 3. *Definition of Terms.*** - As used in this Act, the term

- 7 a) "Human Organ and Tissue" refers to the kidney, liver, heart, lung, pancreas,  
8 bone marrow, cornea, eye, bone, skin, nerve, muscle tissues, and any other  
9 human organ or tissue that may be specified by the Secretary of Health by  
10 regulation;  
11 b) "For-profit Marketing" refers to a transaction whereby a person agrees for  
12 valuable consideration in whatever nature or form, whether given or to be  
13 given to himself or to another person to the sale or supply of any human  
14 organ or tissue from his body or from the body of another person, whether  
15 before or after his death or the death of the other person, as the case maybe;  
16 c) "Valuable Consideration" does not include the reasonable payments  
17 associated with the removal, transportation, implantation, processing,  
18 preservation, quality control and storage of a human organ or tissue or other  
19 hospitalization expenses or the expense of travel housing and last wage or  
20 funeral expenses incurred by the donor of a human organ or tissue in  
21 connection with the donation of the organ or tissue. It will not also include  
22 any reasonable incentives to be given by the donee or other government or  
23 non-governmental organizations;  
24 d) "Transplant Center" refers to health care facility in which transplants of  
25 organs and tissues are performed.  
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27 **SEC 4. *For-Profit Marketing.*** - The for-profit marketing of human organs and  
28 tissues is hereby declared unlawful.  
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30 **SEC 5. *Human Organ and Tissue Transplantation Coordinating Network***  
31 **(*Network*).** - The Secretary of Health shall encourage the establishment and  
32 maintenance of the Human Organ and Tissue Transplantation Coordinating  
33 Network in various strategic geographical areas of the country to be determined by  
34 the Task Force as hereinafter created.  
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1           **SEC 6. *Composition.*** - The Human Organ and Tissue Transplantation  
2 Coordinating Network shall be a non-profit entity which is not engaged in any  
3 activity not related to organ and tissue donation and transplantation, and shall have  
4 a Board of directors which include representatives of organ and tissue donation and  
5 transplantation organizations.  
6

7           **SEC 7. *Function of the Network.*** - The Network shall establish a list of  
8 individuals in one location who needs organs or tissues, and a national system in  
9 accordance with established medical criteria, to match organs or tissues and  
10 individuals included in the list especially individuals whose immune system makes  
11 it difficult for them to readily or successfully receive organs or tissues.

12           In addition, the Network shall:

- 13       a) Maintain a twenty-four hour telephone service to facilitate matching organs  
14       or tissues with individuals included in the list;
- 15       b) Assist local organ and tissue donation and transplantation organizations in  
16       the distribution of organs and tissues which cannot be placed within the  
17       service areas of the organizations;
- 18       c) Adopt and use standards of quality for the acquisition and transportation of  
19       donated organs and tissues;
- 20       d) Prepare and distribute, on a regionalized basis, samples of blood sera from  
21       individuals who are included on a list and whose immune system makes it  
22       difficult for them to receive organs or tissues, in order to facilitate matching  
23       the compatibility of such individuals with organ and tissue donors;
- 24       e) Coordinate the transportation of organs and tissues from donation  
25       organizations to transplant including those from other countries. In case, the  
26       latter shall be facilitated in accordance with Section 14 of Republic Act No.  
27       7170, otherwise known as the Organ Donation Act of 1991 under the  
28       provision on International Sharing of Human Organs or Tissues;
- 29       f) Provide information to physicians and other health professionals regarding  
30       organ and tissue donations; and
- 31       g) Collect, analyze and publish data concerning organ and tissue donations and  
32       transplants.  
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34           **SEC 8. *Human Organ and Tissue Transplantation Coordinating Office.*** - A  
35 human organ and tissue transplantation coordinating office may be established in

1 strategic locations in the country subject to the approval of the Secretary of Health.

2 Such organization shall:

- 3 a) Be a non-profit entity;
- 4 b) Have an accounting and other fiscal procedures necessary to assure the  
5 fiscal stability of the organization;
- 6 c) Have a Board of Directors or Advisory Board, the composition of which  
7 shall be determined by the Task Force as may be hereinafter be created;
- 8 d) Have a director and such other staff, including the human organ donation  
9 and tissues coordinators and human organ and tissue transplantation  
10 specialist necessary to effectively obtain human organs and tissues from  
11 donors in its service area.

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13 **SEC 9. *Functions of the Human Organ and Tissue Transplantation***  
14 ***Coordinating Office.*** - A human organ and tissue transplantation coordinating  
15 office shall:

- 16 a) Conduct and participate systematic efforts, including professional education,  
17 to acquire all useable organs and tissues from potential donors;
- 18 b) Arrange for the acquisition and preservation of donated human organs and  
19 tissues and provide quality standards for the acquisition of human organs  
20 and tissues which are consistent with the standards adopted by the Network;
- 21 c) Arrange for the appropriate tissue typing of donated human organs;
- 22 d) Have a system to allocate donated human organs and tissues among  
23 transplant centers and patients according to medical criteria;
- 24 e) Participate in the Network authorized to be established under this Act; and
- 25 f) Make arrangements to cooperate with human organ and tissue banks for the  
26 retrieval, processing, preservation, storage and distribution of human organs  
27 and tissues as may be appropriate to assure that all useable human organs  
28 and tissues are obtained from potential donors.

29  
30 **SEC 10. *Registry of Recipients/ Report.*** - The Secretary of Health shall require  
31 the network to develop and maintain a scientific registry of the recipients of human  
32 organ and tissue transplants. The registry shall include such information respecting  
33 patients and transplant procedures as he may deem necessary to an on-going  
34 evaluation of the scientific and clinical status of human organ and tissue  
35 transplantation.

1 The Secretary of Health shall regularly report to Congress on the analysis of  
2 information derived from registry.

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4 **SEC 11. *Advisory Panel or Board.*** - The Secretary of Health shall form an  
5 advisory panel or board in the Department of Health which shall assist him in:

- 6 a) Supervising the private sector in the human organ and tissue donation and  
7 transplantation activities provided for in this Act;  
8 b) Conducting a program of public information to inform the public of the need  
9 for human organ and tissue donations;  
10 c) Providing technical assistance to human organ and tissue transplantation to  
11 coordinating offices established in accordance with this Act;  
12 d) The preparation of an annual report to be submitted to Congress on the status  
13 of human organ and tissue donation and coordination services, including an  
14 analysis of the efficiency and effectiveness of the donation and allocation of  
15 human organs and tissues, a description of problems encountered in the  
16 donation and allocation of human organs and tissues, and clinical and  
17 scientific status of human organ and tissue transplantation;

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19 **SEC 12. *Task Force.*** - Within two (2) months from the effectivity of this Act,  
20 the Secretary of Health shall establish a Task Force on Human Organs and Tissue  
21 Donation and Transplantation (hereinafter referred to as the Task Force).

22  
23 **SEC 13. *Composition/Appointment and Business.*** -

- 24 a) The Task Force shall be composed of the following:  
25 (1) Five (5) physicians or scientist who are eminent in various medical and  
26 scientific specialties related to human organ and tissue transplantation;  
27 (2) One (1) person who is not a physician or a scientist and who represent the  
28 field of human organ and tissue donation;  
29 (3) Three (3) individuals who are not physicians and who as a group have  
30 expertise in the fields of law, theology, ethics, health care financing and  
31 social and behavioral sciences;  
32 (4) Two (2) individuals who are not physicians or scientists and who are  
33 members of the general public.  
34 b) The members of the Task Force shall be appointed by the President which  
35 need not be submitted for confirmation by the Commission on Appointments;

- 1 c) No individual who is a full-time officer or employee of the Philippine  
2 Government may be appointed by the Task Force. A vacancy in the Task  
3 Force shall be filled in the manner of an original appointment, as provided for  
4 in this Act;
- 5 d) The members shall be appointed for the life of the Task Force;
- 6 e) The Task Force shall elect its Chairman from among its members;
- 7 f) One -half plus one of the members of the Task Force shall constitute a  
8 quorum to do business, but may hold hearings;
- 9 g) The Task Force shall hold its first meeting on the date specified by the  
10 Secretary of Health which shall not be later than thirty (30) days from the  
11 establishment of the Task Force. Thereafter, the Task Force shall meet at the  
12 call of the Chairman or a majority of its members but shall meet at least  
13 twelve (12) times during the lifetime of the Task Force.
- 14 h) The Secretary of Health shall provide the Task Force with administrative and  
15 support services as the Task Force may require to carry out effectively its  
16 duties.

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18 **SEC 14. Honorarium.** - The members of the Task Force shall receive  
19 honorarium in such amount as the President of the Philippines shall determine for  
20 each meeting actually attended by each member of the Task Force, but in no case  
21 shall the honorarium exceed the sum of Twenty-Four Thousand Pesos (P24,000.00)  
22 for each member for the whole life of the Task Force.

- 23
- 24 **SEC 15. Functions.** - The Task Force shall perform the following functions:
- 25 a) Conduct comprehensive examinations of the medical, legal, ethical, economic  
26 and social issues presented by human organ and tissue donation and  
27 transplantation;
- 28 b) Make an assessment of immunosuppressive medications used to prevent  
29 organ and tissue rejection in transplant patients, including:
- 30 1. An analysis of the safety, effectiveness, and cost (including cost savings  
31 from improved success rates of transplantation) of different modalities of  
32 treatment.
- 33 2. An identification of problems that patients encounter in obtaining  
34 immunosuppressive medications;



- 1           3. An analysis of the extent of insurance reimbursement for long-therapy for  
2           organ and tissue transplant patients by private insurers and the public  
3           sector;
- 4           4. An analysis of the comparative advantages of grants, coverage under  
5           existing programs or other means to assure that individuals who need  
6           such medications can obtain them.
- 7           c) Make an assessment of public and private efforts to obtain human organs  
8           and tissues for transplantation and identification of factors that diminish  
9           the number of human organs and tissues available for transplantation;
- 10          d) Make an assessment of problems in coordinating the donation of viable  
11          human organs and tissues, including skin and bone for transplantation;
- 12          e) Make recommendations for the education and training of health  
13          professionals, including physicians, nurses and hospital and emergency  
14          care personnel, with respect to human organ and tissue donation and  
15          transplantation;
- 16          f) Make recommendations for the education of the general public, health  
17          workers, the clergy, law enforcement officers, members of the local fire  
18          departments and other agencies and individuals that may be instrumental  
19          in affecting human and tissue donation;
- 20          g) Make recommendations for assuring equitable access by patients to organ  
21          and tissue transplantation and for assuring equitable allocation of donated  
22          human organs and tissues among transplant centers and among patients  
23          medically qualified for an organ and tissue transplant;
- 24          h) Identify the barriers to the donation of human organs and tissues to  
25          patients (with special emphasis upon pediatric patients), including an  
26          assessment of:
  - 27               1. Barriers to the improved identification of human organ and tissue  
28               donors and their families and organ and tissue recipients;
  - 29               2. The number of potential human organ and tissue donors and their  
30               geographical distribution;
  - 31               3. Current health care services provided for patients who need human  
32               organ and tissue transplantation and human organ and tissue donation  
33               procedures, systems and programs which affect such patients;
  - 34               4. Cultural factors affecting the family with respect to the donation of  
35               human organs and tissues; and

1           5. Ethical and economic issues relating to human organ and tissue  
2           needed by chronically-ill patients.

- 3           i) Make recommendations for the conduct and coordination of continuing  
4           research concerning all aspects of the transplantation of human organs  
5           and tissues;
- 6           j) Make an analysis of the factors involved in insurance reimbursement for  
7           transplant procedures by private insurers and the public sector; and
- 8           k) Make an analysis of the manner in which human organ and tissue  
9           transplantation technology is diffused among and adopted by qualified  
10          medical centers, including a specification of the number and geographical  
11          distribution of qualified medical centers, of whether using such  
12          technology is sufficient and of whether the public has sufficient access to  
13          medical procedures using such technology.

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15           **SEC 16. *Designation of Hospitals and Medical Centers.*** - The Secretary of  
16          Health may, upon the recommendation of the Task Force, designate hospitals and  
17          medical centers equipped with the appropriate state-of-the-art facilities as training  
18          centers for human organ donation and transplantation.

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20           **SEC 17. *Reports.*** - The Task Force, not later than three (3) months after its  
21          establishment, shall transmit a report to the Secretary of Health and to Congress of  
22          its assessment of immune-suppressive medications to prevent organ and tissue  
23          rejection.

24           Not later than six (6) months after the date on which the Task Force is  
25          established, the Task Force shall transmit a final report to the Secretary of Health  
26          and the Congress, which shall include -

- 27          a) A description of any findings and conclusions of the Task Force made  
28          pursuant to any study conducted under this Act;
- 29          b) Such recommendations as the Task Force considers appropriate;

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31           **SEC 18. *Penalty.*** - Any person who shall buy or sell human organs or tissues  
32          for profit-marketing shall, upon conviction suffer the penalty of imprisonment for  
33          not less than two (2) years nor more than five (5) years and to pay a fine of not less  
34          than Ten Thousand Pesos (P10,000.00), nor more than Fifty Thousand Pesos  
35          (P50,000.00), at the discretion of the court: *Provided*, That if the offender is a public  
36          officer or belongs to the medical profession, he shall, in addition, suffer the penalty

1 of perpetual absolute disqualification from holding a public office or forfeiture of his  
2 license to practice medicine, respectively. Provided further, that if the offender is an  
3 alien, he shall be deported after service of sentence without further proceedings.

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5 **SEC 19. Appropriation.** - The sum of Three Million Pesos (P3,000,000.00) not  
6 otherwise appropriated from the funds of the National Treasury is hereby  
7 appropriated to implement the provisions of this Act. Thereafter, the same shall be  
8 included in the General Appropriations Act.

9  
10 **SEC 20. Rules and Regulations.** - The Secretary of Health, after consultation  
11 with health professionals, both government and private, and non-governmental  
12 health organizations shall promulgate such rules and regulations as may be  
13 necessary for the proper implementation of this Act.

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15 **SEC 21. Repealing Clause.** - All laws, decrees, ordinances, rules and  
16 regulations, executive or administrative orders, and other presidential issuances  
17 inconsistent with the provisions of this Act are hereby repealed, amended or  
18 modified accordingly.

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20 **SEC 22. Separability Clause.** - If any provision of this Act should be declared  
21 invalid or unconstitutional, other provisions hereof not affected thereby shall remain  
22 in full force and effect.

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24 **SEC 23. Effectivity.** - This Act shall take effect fifteen (15) days after its  
25 publication in at least two (2) newspapers of general circulation.

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27 Approved.