

HOUSE No. 4328

The Commonwealth of Massachusetts

By Ms. Stanley of West Newbury, for the committee on Health Care Financing, printed in Senate, No. 589, a Bill relative to insurance benefits of organ transplant recipients (House, No. 4328). November 9, 2009.

An Act relative to insurance benefits of organ transplant recipients.

FOR THE COMMITTEE:

NAME:	DISTRICT/ADDRESS:
Kay Khan	11th Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

An Act relative to insurance benefits of organ transplant recipients.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 **SECTION 1.** Section 6E of chapter 62 of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by inserting after the 4th paragraph the following paragraph:-

3 The commissioner shall establish a means for a resident who is filing a separate return or filing a
4 return jointly as husband and wife to register as an organ or tissue donor on the tax return. The
5 department of revenue shall provide to the federally- designated organ procurement
6 organizations serving the commonwealth access to names, dates of birth and other pertinent
7 information of taxpayers who have registered in their state tax returns as organ donors for the
8 sole purpose of identifying those tax filers as donors. Such access shall be provided, after referral
9 of the potential donor by a hospital, critical access hospital or medical examiner to an organ
10 procurement organization in accordance with federal regulations, in a manner and form to be
11 determined by the department of revenue following consultation with federally-designated organ
12 procurement organizations, which may include electronic transmission. On any registration used
13 by the department of revenue for organ donation, there shall be a disclaimer notice that informs
14 the donor that certain information shall be provided to federally designated organ procurement
15 organizations upon the donor's death. Neither the commissioner of the department of revenue or
16 any employee of the commonwealth shall be liable in a suit for damage as a result of his acts or
17 omissions or for any action under the provisions of this section.

18 **SECTION 2.** Section 21 of Chapter 62C of the General Laws, as appearing in the 2006 Official
19 Edition, is hereby amended by inserting at the end of thereof the following new subsection:

20 (23) the disclosure to the federally designated organ procurement organization serving the
21 commonwealth of the name and any other pertinent information of an individual who has
22 registered as an organ donor pursuant to section 6E of chapter 62, provided that such information
23 may be used for the sole purpose of identifying taxpayers as organ donors.

24 **SECTION 3.** Section 8 of chapter 90 of the General laws, as appearing in the 2006 Official
25 Edition, is hereby amended by inserting after the word “thereof” in line 27 the following words:-
26 including any online renewal.

27 **SECTION 4.** Section 8D of said chapter 90, as so appearing, is hereby amended by inserting
28 after the word “license” in line 2 the following words:- or registration.

29 **SECTION 5.** Said section 8D of said chapter 90, as so appearing, is hereby further amended by
30 inserting after the third paragraph the following paragraph:-

31 The registrar shall include on any license renewal form an option for renewing person to donate,
32 in addition to the fees for license renewal, a sum not less than 2 dollars to the Organ Donor
33 Registration Fund, established under section 35E ½ of chapter 10.

34 **SECTION 6.** Said section 8D of said chapter 90, as so appearing, is hereby amended by adding
35 the following paragraph:-

36 The registrar shall establish a means for a licensed driver in the commonwealth to register as an
37 organ or tissue donor through the registry website. Such means shall be in addition to, and
38 contain the same security provisions as, any online means of license or registration renewal.

39 **SECTION 7.** Chapter 10 of the General Laws is hereby amended by inserting after section 35E
40 the following section:-

41 Section 35E ½ There shall be established and set up on the books of the commonwealth a
42 separate fund to be known as the Organ Donor Registration Fund, to facilitate the registration of
43 residents of the commonwealth as organ donors. Said fund shall consist of all revenues by the
44 commonwealth: (1) under the provisions of section 8D of chapter 90 and section 15 of chapter
45 17; and (2) from public and private sources as gifts, grants, and donations to further such
46 facilitation.

47 All revenues credited under this section shall remain in said Organ Donor Registration Fund, not
48 subject to appropriation, to facilitate the registration of residents of the commonwealth as organ
49 donors. The state treasurer shall not deposit said revenues in or transfer said revenues to the
50 general fund or any other fund other than the Organ Donor Registration Fund.

51 The state treasurer shall deposit the fund in accordance with the provisions of section 34 and 34A
52 of chapter 29 in such manner as will secure the highest interest available consistent with safety of
53 the fund and with the requirement that all amounts on deposit be available for immediate
54 withdrawal at any time. The fund shall be expended only for the purposes stated above at the
55 direction of the commissioner of public health and any unexpended balances shall be
56 redeposited, as herein provided, for future use consistent with this section.

57 **SECTION 8.** Chapter 17 of the General Laws is hereby amended by striking out section 15 and
58 inserting in place thereof the following section:-

59 There shall be an advisory council on organ transplants and donations consisting of the
60 commissioner of public health, the president of the Massachusetts Medical Society, the registrar
61 of motor vehicles, the director of the division of organ transplants, a representative of a
62 federally-designated organ procurement organization serving Massachusetts, and 10 persons
63 experienced in the field of organ donations or transplants to be appointed by the governor, at
64 least 1 of whom shall be a recipient of a donated organ, at least 1 of whom shall be a donor or a
65 family member of a donated organ, and at least 1 of whom shall be a doctor experienced in organ
66 transplantation. Upon the expiration of the term of any appointive member, a successor shall be
67 appointed in like manner for a term of three years. The term of all appointive members shall be
68 three years and no such member shall be appointed to serve more than 2 consecutive terms.

69 The governor shall annually designate the chairman of the council from among its members.
70 The council shall meet at least 4 times each year, and shall convene special meetings at the call
71 of the chairman, a majority of the members of the council, the commissioner of public health, or
72 the director of the division of organ transplants. The director of the division of organ transplants
73 shall serve as executive secretary of the council and shall attend all meetings. The council shall
74 make an annual report to the governor, which shall include an account of all actions taken to
75 further organ donation, and shall file a copy of said report with the state secretary, the clerk of
76 the senate and the clerk of the house of representatives. Members of the council shall serve
77 without compensation.

78 Said advisory council shall (a) assist the commissioner of public health and the director of the
79 division of organ transplants in coordinating the efforts of all public and private agencies within
80 the commonwealth concerned with the donation and transplantation of human organs; (b) advise
81 the said commissioner and said director on policy and priorities of need in the commonwealth for
82 a comprehensive program relative to organ donations and transplants; (c) review the annual
83 plans, the proposed annual budget and the programs and services of the division and make
84 recommendations to the commissioner, including approval, modification, or disapproval in
85 regard thereto; (d) assist the direction of the division of organ transplants in developing strategies
86 to increase organ donation by any means which the council and director may find effective, the
87 funding for which shall come from the Organ Donor Registration Fund; (e) assist the director in
88 developing and updating an informational booklet about organ donation which shall be given to
89 an organ donor upon registration; provided that the council shall seek the assistance of the
90 federally-designated organ procurement organization of Massachusetts in developing said
91 booklet; (f) assist the director in establishing a website relative to organ donation, which shall
92 include, but not limited to, the information contained in the informational booklet, any other
93 information which the council and director consider beneficial in increasing public knowledge
94 about the need for organ donation, and a means by which the public may donate to the Organ
95 Donor Registration Fund; (g) facilitate and assist in establishment of a program by which

96 employers match the donations of their employees to the Organ Donor Registration Fund; and
97 (h) establish numerical goals for increasing organ donation rates in the commonwealth, which
98 shall include a baseline account of current organ donation rate, as well as periodic benchmarks
99 for success.

100 **SECTION 9.** Section 12D of Chapter 112 of the General Laws is hereby amended by adding at
101 the end thereof the following:

102 In the case where the patient is covered by MassHealth pursuant to MGL Chapter 118E, if said
103 patient is prescribed a narrow therapeutic index immunosuppressant drug for the treatment of an
104 organ transplant, the pharmacist shall be required to notify the prescribing physician when any
105 substitution to a narrow therapeutic index immunosuppressant drug for the treatment of an organ
106 transplant is made. As used in this section and chapter, “narrow therapeutic index
107 immunosuppressant drug” means an immunosuppressant drug for the treatment of an organ
108 transplant that has a narrow range in blood concentrations between efficacy and toxicity and
109 requires therapeutic drug concentration or pharmacodynamic monitoring.

110 **SECTION 10.** Chapter 118E of the general laws, as appearing in the 2002 official edition, is
111 hereby amended by inserting after section 17 the following section:-

112 Section 17A: Notwithstanding any general or special law to the contrary, prior authorization
113 shall not be required for any anti-hemophilic factor drugs prescribed for the treatment of
114 hemophilia and blood disorders.

115 **SECTION 11.** The Secretary of the Commonwealth shall study the feasibility of including a
116 means of registration as an organ donor on voter registration forms. Said study shall evaluate the
117 potential impact on the number of organ donors in the Commonwealth, the cost of implementing
118 such means, and the logistical requirements of transferring organ donor registration data from
119 those who register to vote at a city or town clerk’s office to the Registry of Motor Vehicles,
120 either directly to the Registry, directly to the federally-designated organ procurement
121 organization for Massachusetts, or through the Secretary’s office. The Secretary shall perform
122 this study in consultation with the Massachusetts Town Clerks’ Association, the Massachusetts
123 City Clerks’ Association, the Operational Services Division of the Executive Office of
124 Administration and Finance, the Registry of Motor Vehicles, and the federally-designated organ
125 procurement organization for Massachusetts. The Secretary shall report his findings to the clerks
126 of the House and Senate not later than six months after the passage of this act.

127 **SECTION 12.** This act shall take effect on January 1, 2011.