

**HOUSE . . . . . No. 4328**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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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  
3 paragraph:-

4           The commissioner shall establish a means for a resident who is filing a separate return or  
5 filing a return jointly as husband and wife to register as an organ or tissue donor on the tax  
6 return. The department of revenue shall provide to the federally- designated organ procurement  
7 organizations serving the commonwealth access to names, dates of birth and other pertinent  
8 information of taxpayers who have registered in their state tax returns as organ donors for the  
9 sole purpose of identifying those tax filers as donors. Such access shall be provided, after referral  
10 of the potential donor by a hospital, critical access hospital or medical examiner to an organ  
11 procurement organization in accordance with federal regulations, in a manner and form to be  
12 determined by the department of revenue following consultation with federally-designated organ  
13 procurement organizations, which may include electronic transmission. On any registration used  
14 by the department of revenue for organ donation, there shall be a disclaimer notice that informs

15 the donor that certain information shall be provided to federally designated organ procurement  
16 organizations upon the donor's death. Neither the commissioner of the department of revenue or  
17 any employee of the commonwealth shall be liable in a suit for damage as a result of his acts or  
18 omissions or for any action under the provisions of this section.

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

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

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

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

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

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

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

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

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

43 Section 35E ½ There shall be established and set up on the books of the commonwealth a  
44 separate fund to be known as the Organ Donor Registration Fund, to facilitate the registration of  
45 residents of the commonwealth as organ donors. Said fund shall consist of all revenues by the  
46 commonwealth: (1) under the provisions of section 8D of chapter 90 and section 15 of chapter  
47 17; and (2) from public and private sources as gifts, grants, and donations to further such  
48 facilitation.

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

53 The state treasurer shall deposit the fund in accordance with the provisions of section 34  
54 and 34A of chapter 29 in such manner as will secure the highest interest available consistent with  
55 safety of the fund and with the requirement that all amounts on deposit be available for  
56 immediate withdrawal at any time. The fund shall be expended only for the purposes stated

57 above at the direction of the commissioner of public health and any unexpended balances shall  
58 be redeposited, as herein provided, for future use consistent with this section.

59 SECTION 8. Chapter 17 of the General Laws is hereby amended by striking out section  
60 15 and inserting in place thereof the following section:-

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

71 The governor shall annually designate the chairman of the council from among its  
72 members. The council shall meet at least 4 times each year, and shall convene special meetings  
73 at the call of the chairman, a majority of the members of the council, the commissioner of public  
74 health, or the director of the division of organ transplants. The director of the division of organ  
75 transplants shall serve as executive secretary of the council and shall attend all meetings. The  
76 council shall make an annual report to the governor, which shall include an account of all actions  
77 taken to further organ donation, and shall file a copy of said report with the state secretary, the

78 clerk of the senate and the clerk of the house of representatives. Members of the council shall  
79 serve without compensation.

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

100 commonwealth, which shall include a baseline account of current organ donation rate, as well as  
101 periodic benchmarks for success.

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

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

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

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

117 SECTION 11. The Secretary of the Commonwealth shall study the feasibility of  
118 including a means of registration as an organ donor on voter registration forms. Said study shall  
119 evaluate the potential impact on the number of organ donors in the Commonwealth, the cost of  
120 implementing such means, and the logistical requirements of transferring organ donor  
121 registration data from those who register to vote at a city or town clerk’s office to the Registry of

122 Motor Vehicles, either directly to the Registry, directly to the federally-designated organ  
123 procurement organization for Massachusetts, or through the Secretary's office. The Secretary  
124 shall perform this study in consultation with the Massachusetts Town Clerks' Association, the  
125 Massachusetts City Clerks' Association, the Operational Services Division of the Executive  
126 Office of Administration and Finance, the Registry of Motor Vehicles, and the federally-  
127 designated organ procurement organization for Massachusetts. The Secretary shall report his  
128 findings to the clerks of the House and Senate not later than six months after the passage of this  
129 act.

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