

**HOUSE . . . . . No. 4491**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Ten**  
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An Act relative to organ and tissue donation and transplantation. Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the promotion of organ and tissue donation and certain MassHealth drug coverage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience..

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

3 Section 35E ½. There shall be established and set up on the books of the commonwealth  
4 a separate fund to be known as the Organ and Tissue Donor Registration Fund, to facilitate the  
5 registration of organ and tissue donors. The fund shall consist of all revenues received by the  
6 commonwealth: (1) under clauses (e) and (f) of subsection (c) of section 15 of chapter 17 and  
7 section 8D of chapter 90; and (2) from public and private sources as gifts, grants, and donations  
8 to further organ and tissue donor registration.

9 All revenues credited under this section shall remain in the Organ and Tissue Donor  
10 Registration Fund, not subject to appropriation, for the registration of organ and tissue donors.  
11 The state treasurer shall not deposit these revenues in or transfer these revenues to the General  
12 Fund or any other fund other than the Organ and Tissue Donor Registration Fund.

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

19           SECTION 2. Chapter 17 of the General Laws is hereby amended by striking out section  
20 15, as appearing in the 2008 Official Edition, and inserting in place thereof the following  
21 section:-

22           Section 15. (a) There shall be an advisory council on organ and tissue donations and  
23 transplants consisting of the commissioner of public health, the president of the Massachusetts  
24 Medical Society, the registrar of motor vehicles, the director of the division of organ transplants,  
25 a representative of a federally designated organ procurement organization serving Massachusetts,  
26 and 10 persons experienced in the field of organ and tissue donations or transplants to be  
27 appointed by the governor, at least 1 of whom shall be a recipient of a donated organ or tissue, at  
28 least 1 of whom shall be a donor or a family member of a donor, and at least 1 of whom shall be  
29 a doctor experienced in organ and tissue transplantation. The term of all appointive members  
30 shall be 3 years and no such member shall be appointed to serve more than 2 consecutive terms.  
31 Upon the expiration of the term of any appointive member, a successor shall be appointed in like  
32 manner for a term of 3 years.

33           (b) The governor shall annually designate the chairman of the council from among its  
34 members. The council shall meet at least 4 times each year, and shall convene special meetings

35 at the call of the chairman, a majority of the members of the council, the commissioner of public  
36 health, or the director of the division of organ transplants. The director of the division of organ  
37 transplants shall serve as executive secretary of the council. The council shall make an annual  
38 report to the governor, that shall include an account of all actions taken to further organ and  
39 tissue donation, and shall file a copy of the report with the state secretary, the clerk of the senate  
40 and the clerk of the house of representatives. Members of the council shall serve without  
41 compensation.

42 (c) The advisory council shall: (a) assist the commissioner of public health and the  
43 director of the division of organ transplants in coordinating the efforts of all public and private  
44 agencies within the commonwealth concerned with the donation and transplantation of human  
45 organs and tissues; (b) advise the commissioner and the director on policy and priorities of need  
46 in the commonwealth for a comprehensive program relative to organ and tissue donations and  
47 transplants; (c) review the annual plans, the proposed annual budget and the programs and  
48 services of the division and make recommendations to the commissioner, including approval,  
49 modification, or disapproval in regard thereto; (d) assist the direction of the division of organ  
50 transplants in developing strategies to increase organ and tissue donation by any means which  
51 the council and director may find effective, the funding for which shall come from the Organ and  
52 Tissue Donor Registration Fund established by section 35E ½ of chapter 10; (e) assist the  
53 director in establishing a website that includes general information on organ and tissue donation  
54 and a means by which the public may donate to the Organ and Tissue Donor Registration Fund;  
55 (f) facilitate and assist in establishment of a program by which employers match the donations of  
56 their employees to the Organ and Tissue Donor Registration Fund; and (g) establish numerical  
57 goals for increasing organ and tissue donation rates in the commonwealth, which shall include a

58 baseline account of current organ and tissue donation rate, as well as periodic benchmarks for  
59 success.

60 SECTION 3. Section 6E of chapter 62 of the General Laws, as so appearing, is hereby  
61 amended by adding the following paragraph:-

62 The commissioner shall establish a means to facilitate voluntary registration by an  
63 individual who is filing a tax return under this chapter to register as an organ or tissue donor at  
64 the time of filing the return. The facilitation may include providing an electronic link or paper  
65 registration material in association with the preparation or filing of electronic or paper tax returns  
66 through which the individual may register as a donor with a federally designated organ  
67 procurement organization serving the commonwealth. Facilitation of such voluntary registration  
68 shall be permissible notwithstanding any confidentiality provisions under section 21 of chapter  
69 62C or section 2 of chapter 66A, provided that the department's records identifying filers who  
70 register as organ or tissue donors shall not be public records.

71 SECTION 4. Subsection (b) of section 21 of chapter 62C, as so appearing, is hereby  
72 amended by adding the following clause:-

73 (24) the disclosure to the federally designated organ procurement organization serving  
74 the commonwealth of the name and any other pertinent information of an individual who has  
75 voluntarily registered as an organ or tissue donor under section 6E of chapter 62 solely for the  
76 purpose of identifying that individual as an organ donor.

77 SECTION 5. Section 8D of chapter 90 of the General Laws, as so appearing, is hereby  
78 amended by inserting after the word "of", in line 2, the following words:- motor vehicle  
79 registration or.

80 SECTION 6. Said section 8D of said chapter 90, as so appearing, is hereby further  
81 amended by inserting after the third paragraph the following paragraph:-

82 The registrar shall include on any online license renewal form an option for renewing  
83 person to donate, in addition to the fees for license renewal, 2 dollars or more to the Organ or  
84 Tissue Donor Registration Fund, established by section 35E ½ of chapter 10. The registrar shall  
85 annually report the total amount designated under this paragraph to the state treasurer who shall  
86 credit that amount to the Organ or Tissue Donor Registration Fund.

87 SECTION 7. Said section 8D of said chapter 90, as so appearing, is hereby further  
88 amended by adding the following paragraph:-

89 The registrar shall establish a means for a person licensed to operate a motor vehicle by  
90 the registrar or holding an identification card issued under section 8E to register as an organ or  
91 tissue donor through the registry’s website. Such means shall be in addition to, and contain the  
92 same security provisions as, any online means of license or registration renewal.

93 SECTION 8. Section 12D of chapter 112 of the General Laws, as so appearing, is hereby  
94 amended by adding the following paragraph:-

95 If a patient covered by MassHealth pursuant to chapter 118E is prescribed a narrow  
96 therapeutic index immunosuppressant drug for the treatment of an organ or tissue transplant, the  
97 pharmacist shall be required to notify the prescribing physician when any substitution to a  
98 narrow therapeutic index immunosuppressant drug for the treatment of an organ or tissue  
99 transplant is made. For the purposes of this paragraph, “narrow therapeutic index  
100 immunosuppressant drug” means an immunosuppressant drug for the treatment of an organ or

101 tissue transplant that has a narrow range in blood concentrations between efficacy and toxicity  
102 and requires therapeutic drug concentration or pharmacodynamic monitoring.

103           SECTION 9. The state secretary shall study the feasibility of including a means of  
104 registration as an organ and tissue donor on voter registration forms. The study shall evaluate the  
105 potential impact an organ and tissue donor registration option on the number of organ and tissue  
106 donors in the commonwealth, the cost of implementing this option, and the logistical  
107 requirements of transferring organ and tissue donor registration data from those who register to  
108 vote at a city or town clerk's office to the registry of motor vehicles, either directly to the  
109 registry, directly to the federally-designated organ procurement organization for the  
110 commonwealth, or through the secretary's office. The secretary shall perform this study in  
111 consultation with the Massachusetts Town Clerks Association, Inc., the Massachusetts City  
112 Clerks Association, Inc., the operational services division, the registrar of motor vehicles, and the  
113 federally-designated organ procurement organization for the commonwealth. The secretary shall  
114 report findings to the clerks of the House of Representatives and the Senate not later than 6  
115 months after the effective of this section.

116           SECTION 10. Section 1 and sections 3 to 7, inclusive, shall take effect on January 1,  
117 2011.