

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 5039



Introduced by Hon. John Marvin "Yul Servo" C. Nieto

EXPLANATORY NOTE

Article II, Section 15 of the 1987 Constitution provides that:

"The State shall protect and promote the right to health of the people and instill health consciousness among them."

Thousands of Filipinos die due to organ failure and the apparent lack of organ donors. Records from the Department of Health show at least one Filipino dies per hour from kidney failure, which is considered the ninth leading cause of death in the country.

This bill defines as prohibited, the act of entering into an agreement which has for its object the sale or supply of any organ or blood from his body, whether before or after his death, in exchange for valuable consideration. To eliminate organ trafficking, it is necessary for the House of Representatives to initiate a measure which also aims protect the donor and the donee from unlawful sale or removal of organs which is made through fraud, deceit, or other prohibited means, and taking advantage of the situation of the person in need.

This bill was previously filed by Senator Manny Villar in the 5th Congress.

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


JOHN MARVIN "YUL SERVO" C. NIETO

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AN ACT TO REGULATE ORGAN TRANSPLANTATION AND APPROPRIATING FUNDS THEREFOR

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

SECTION 1. Title. – This Act shall be known as the "Human Organ Transplant Act"

SEC 2. Declaration of Policy. – It is the policy of the state to protect and promote the health of the people.

SEC 3. Definition of Terms. – As used in the Act the following terms shall mean:

(a) "Advertisement" – includes every form of advertising, whether in a publication, or by the display of any notice or signboard, or by means of any catalogue price list, letter (whether circulated or addressed to a particular person) or other documents, or by words inscribed on any article, or by the exhibition of a photograph or a cinematograph film, or by way of sound recording, sound broadcasting or television, or in any other way, and any reference to the issue of an advertisement shall be construed according.

(b) "Authorized medical practitioner" – means a person who is registered, or deemed to be registered, as a medical practitioner under the law and who has been authorized to removed ay organ pursuant to section 9 or to transplant any such organ.

(c) "Death" – the irreversible cessation of circulatory and respiratory functions or the irreversible cessation of all functions of the entire brain, including the brain stem. A person shall be medically and legally dead if either: (1) In the opinion of the attending physician, based on the acceptable standards of medical practice there is an absence of natural respiratory and cardiac function and, attempts resuscitation would not be successful in restoring those functions. In this case, death shall be deemed to have occurred at the when these functions ceased; or (2) In the opinion of the consulting physician, concurred din by the attending physician, that on the basis of acceptable standards of medical practice, there is an irreversible cessation of all brain functions, and considering the absence of such functions, furthers attempts at resuscitation or continued supportive maintenance would not be successful in

restoring such natural functions. In this case, death shall be deemed to have occurred at the time when these conditions first appeared.

(d) "Decedent" a deceased individual, and includes a still born infant or fetus

(e) "Donor" – an individual authorized under this Act to donate all or part of the body of decedent

(f) "Hospital" – a hospital licensed, accredited, or approved under the law, and includes a hospital operated by the government

(g) "Investigating officer" – means an officer duly appointed by law to conduct investigation

(h) "Organ" – for the purpose of this Act includes transplantable organs, tissues, eyes, bones, arteries, blood, other fluids and other portions of the human body an individual, corporation, estate, trust, partnership, association, the Government or any of its subdivision, agencies or instrumentalities, including government owned or controlled corporations, or any other legal entity

(j) "Reward" – means any description of financial or other material advantage

NATIONAL ORGAN DONATION AND TRANSPLANTATION CENTER

SEC 4. Establishment. – There shall be established, under the supervision of the Department of Health, The National Organ Donation and Transplantation Center, herein referred to as NODTC.

This NODTC shall be administered by a Board of Trustees to be appointed by the President of the Philippines upon the recommendation of the Department of Health.

SEC 5. Functions. – The NODTC shall have the following powers and functions:

(a) Review and approve policies in support of a rational, ethical, accessible and equitable organ transplantation program in the country,

(b) Approve the issuances of the Certificate of Accreditation of transplant facilities;

(c) Established and maintain a register in which shall be entered the objection and withdrawal of objection of all person lodged in accordance with this Act;

(d) They may appoint a transplant ethics committee to be in charge of matters relating to the selection of proposed recipients of any organ removed pursuant to Section 17;

(e) Prescribed appointment, functions, responsibilities and procedures of transplant ethics committees, and

(f) To perform such other functions as may be necessary to achieve the objectives of this Act.

INFORMATION AND EDUCATION

SEC 6. Responsibility. – The Government, through the NODTC, shall take measures, including the design, development, and dissemination of information and education materials, to promote, protect and support the dissent approach in cadaveric organ donation.

It shall also ensure that information materials produced by all government agencies and private entities and persons are not inconsistent with the provisions of this Act.

DEATH AND REMOVAL OF ORGAN AFTER DEATH

SEC 7. When death occurs. – The death of the person shall be determined in accordance with the acceptable standards of medical practice and shall be diagnosed separately by the attending physician and another consulting physician, both of whom must be appropriately qualified and suitably experience in the care of such patients. The death shall be recorded in the patient's record.

SEC 8. Designated officers. – The NODTC may appoint, in writing, any medical practitioner to be the designated officer of a hospital for the purposes of this Act.

SEC 9. Authorities may remove organ after death. – The designated officer of a hospital may, subject to an in accordance with this section, authorize, in writing, the removal of any organ from the body of a person who has died in the hospital for the purpose of the transplantation of the organ to the body of a living person.

No authority shall be given under the preceding paragraph for the removal of the organ from the body of any deceased person:

- (a) who has during his lifetime registered his objection with the NODTC to the removal of the organ from his body after his death;
- (b) who is neither a citizen nor a permanent resident of the Philippines,
- (c) who is below 21 years of age unless the parent or guardian has consented to such removal;
- (d) who is above 60 years of age;
- (e) whom the authorized medical practitioners, after making such inquiries as are reasonable in the circumstances, has reason to believe was not of sound mind, unless the parent or guardian has consented to such removal, or
- (f) immediate relatives at time of death object to organ transplant.

SEC 10. Investigating Officer's consent. – If the designated officer of the hospital has reason to believe that the circumstances applicable to the death of person are such that the investigating officer has jurisdiction to hold an inquest into the manner and cause of death of the person, the designated officer shall not authorize the removal of any organ from the body of the deceased person unless the investigating officer has given his consent to the removal.

The consent by the investigating officer under this section may be expressed to be subject to such conditions as specified in the consent. The consent may be given orally by the investigating officer, and if so given be confirmed in writing.

SEC. 11. Organ to be removed and transplanted by authorized medical practitioners. – No person other than an authorized medical practitioner in a hospital accredited by the NODTC shall remove any organ which is authorized which is authorized to be removed pursuant to Section 9 or transplant any such organ,

SEC. 12. Operation of other laws. – Nothing in this part shall prevent the removal of any organ from the bodies of deceased persons in accordance with the provisions of any other written law.

RECIPIENT PROTECTION

SEC. 13. Recipient Protection. – Health and safety tests shall be conducted to protect the person receiving an organ. People with infectious disease or severe bacterial or fungal infections at the time of death may only donate their organs for lab research or education but not living recipient.

REGISTRATION OF OBJECTION

SEC. 14. Persons may register their objection. – Any person upon reaching the age of 18, who objects the removal of any organ from his body after his death for the purpose mentioned in Section 9 may register his objection in respect of that organ with the NODTC in the prescribed form.

Upon receipt of the written objection of a person, the NODTC shall issue to that person an acknowledgement in the prescribed form.

SEC. 15. NODTC to maintain register. – The NODTC shall establish and maintain a register in which shall be entered the objection of all persons lodged in accordance with the preceding section. The register herein referred to shall not be open to inspection by the public.

SEC. 16. Persons may withdraw their objection. – Any person who has registered his objection with the NODTC in respect of any organ may withdraw his objection in the prescribed form.

Upon receipt of the withdrawal under the preceding provision, the NODTC shall issue to that person an acknowledgment in the prescribed form and shall remove the objection form and shall remove the objection from the register referred to in the preceding section.

SEC. 17. Proposed recipients organ. – In the selection of a proposed recipient of any organ removed pursuant to Section 9:

(a) a person who has not registered any objection with the NODTC in respect of that organ shall have priority over a person who has registered such objection, and

(b) a person who has registered his objection with the NODTC in respect of that organ but has withdrawn such objection shall have the same priority as

a person who has not registered any such objection, over a person whose objection in respect of that organ is still registered with the NODTC, at the expiration of 2 years from the date of receipt of the withdrawal by the NODTC provided that he has not registered again any such objection since that date.

PROHIBITED ACTS

SEC. 18. Certain contracts or arrangements. – Subject to this section, a contract or arrangement under which a person agrees, for valuable consideration, whether given or to be given to himself or to another person, to the sale or supply of any organ or blood from his body or from the body of another person, whether before or after his death or the death of the other person, as the case may be, shall be void.

Any person is prohibited to enter into a contract or arrangement of the kind referred to in the preceding subsection.

Any person either as vendor or supplier is prohibited to enter into a contract or arrangement for the sale or supply of a product derived from any organ or blood that has been subjected to processing or treatment.

The contract or arrangement referred to in the first paragraph of this section shall not apply to or in relation to:

- (a) a contract or arrangement providing only for the reimbursement of any expenses necessarily incurred by a person in relation to the removal of any organ or blood in accordance with the provisions of any other written law; and
- (b) any scheme introduced or approved by the Government granting medical benefits or privileges to any organ or blood donor and any member of the donor's family or any person nominated by the donor.

Nothing in this section shall render inoperative a consent or authority given or purporting to have been given under this Act in relation to any organ or blood from the body of a person or in relation to the body of a person if a person acting in pursuance of the consent or authority did not know and had no reason to know that the organ or blood or the body was the subject-matter of a contract or arrangement referred to in the first paragraph of this section.

SEC. 19. Removal of organ. – No person shall remove any organ from the body of a deceased person for the purpose referred to in Section 9 except in pursuance of the authority therein given.

SEC. 20. Advertisements relating to buying or selling of organs or blood. – No person shall issue or cause to be issued any advertisement relating to the buying or selling of any organ or blood or of the right to take any organ or blood from the body of a person.

SEC. 21. Advertisements Organ trafficking. -- Any person is prohibited to perform acts which promote or facilitate organ trafficking which include but not limited to recruiting, hiring, adopting, transporting or abducting a person, by means of threat or use of force, fraud, deceit, violence, coercion or intimidation for the purpose of removal or sale of organs of said person.

SEC. 22. Destruction, Mutilation and Alteration in the Register. – No person shall willfully destroy, mutilate or make any unauthorized alteration in the register referred to the section 15.

SEC. 23. Disclosure of Information. – Subject to this section, a person shall not disclose or give to any other person any information or document whereby the identity of a person:

(a) from whose any body organ has been removed for the purpose of transplantation;

(b) with respect to whom or with respect to whose body a consent or authority has been given under this Act; or

(c) into whose body any organ has been, is being, or may be, transplanted, may become publicly known.

The preceding paragraph shall not apply to or in relation to any information disclosed:

(a) for the purpose of administering and enforcing this Act,

(b) for the purpose of referring any complaint or information concerning any registered medical practitioner under related laws;

(c) in pursuance of an order of a Court or when otherwise required by law,

(d) for the purposes of hospital administration or bona fide medical research:

(e) with the consent of the person to whom the information relates, or

(f) when the circumstances in which the disclosure is made are such that the disclosure is or would be privileged.

PENALTIES

SEC. 24. Penalties. — Any person who contravenes provisions of this act shall be guilty of an offense and shall be liable on conviction to a fine not exceeding P100,000.00 or to imprisonment for a term not exceeding 12 months or both.

MISCELLANEOUS

SEC. 25. Act does not prevent specified removal of organ, etc. – Nothing in this Act shall apply to or in relation to:

(a) the removal of any organ from the body of a living person in the course of procedure or operation carried out, in the interests of the health of the person, by a medical practitioner with the consent, express or implied, given by or on behalf of the person or in circumstances necessary for the preservation of the life of the person;

(b) the use of any organ so removed;

(c) the embalming of the body of a deceased person, or

(d) the preparation, including the restoration of any disfigurement or mutilation, of the body of a deceased person for the purpose of interment or cremation.

SEC. 26. Repealing Clause. – All laws, orders, issuance, and rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

Approved,