



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Twentieth Congress
First Regular Session

HOUSE BILL NO. **2226**



Introduced by **Hon. Charisse Anne C. Hernandez**

EXPLANATORY NOTE

Every week, approximately one person succumbs while awaiting an organ transplant. Despite organ transplantation being widely accepted for enhancing patients' quality of life, its application is constrained due to financial constraints and donor shortages. The National Kidney and Transplant Institute reports kidney diseases, particularly end-stage renal diseases, rank as the seventh leading cause of death among Filipinos.

To promote and manage organ donation, the Philippines implemented the Organ Donation Act in 1991, allowing posthumous donation of any or all parts of the human body. However, the scarcity of deceased organ donors continues to hinder transplantation efforts. Consequently, some individuals resort to alternate sources such as living donors. Yet, ethical concerns, including exploitation, abuse, and human trafficking, surround living organ donations. This issue has transcended borders, with affluent individuals from developed countries traveling to buy organs from vulnerable populations in countries like the Philippines. The World Health Organization urged member states in 2004 to shield the most underprivileged from transplant tourism and organ

trade. In 2008, the Declaration of Istanbul on Organ Trafficking and Transplant Tourism urged countries to establish laws and guidelines regulating organ donation, ensuring the safety of donors and recipients, and prohibiting unethical practices.

Therefore, it is crucial to enact legislation that safeguards patients' lives by establishing a national framework for encouraging organ donation from both deceased and living donors. Simultaneously, it must protect living donors from exploitation, abuse, and human trafficking. This proposed bill aims to secure organ and tissue availability for those in need while enforcing stricter regulations and vigilant supervision in the realm of organ donation.

This legislative measure aims to revamp the current national approach to organ donation and transplantation, shifting from the existing "opt-in" system to an "opt-out" model that fosters reciprocal altruism and better aligns with societal dynamics.

Under the "opt-in" donation system, only individuals who explicitly consent are considered donors. Conversely, the proposed "opt-out" donation model assumes everyone as a potential donor unless they specifically object. Both models empower individuals or their next of kin to decide the fate of their cadaveric organs. The key difference lies in the default treatment of individuals who haven't expressed a preference. Consequently, the opt-out model holds the potential to substantially increase donation rates by expanding the pool of available organs for patients urgently in need of transplants.

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



CHARISSE ANNE C. HERNANDEZ
Representative
Lone District, Calamba City



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AN ACT
STRENGTHENING THE HUMAN ORGANS AND TISSUE DONATION AND
TRANSPLANTATION PROGRAM, PROVIDING PENALTIES THEREFOR, AND FOR
OTHER PURPOSES

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

SECTION 1. *Short Title.* - This Act shall be known as the "**Human Organs and Tissues Donation Act of 2023**"

SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the State to promote and protect the health of its people and, in line with this policy, the State shall enact measures creating programs including but not limited to:

(a) Providing access to human organs for transplantation for patients with end-stage organ failures in order to prolong and improve the quality of their lives;

(b) Recognizing and regulating the donation of human organs and tissues of living donors to prevent their exploitation and, more importantly, ensure their legal entitlement to reasonable medical support and other forms of assistance;

(c) Granting patients with end-stage diseases access to human organs for transplantation but at the same time ensuring that there is equitable distribution in the allocation of available organs among qualified recipients;

(d) Developing and maintaining a national registry and reporting system of donors and recipients of human organs and tissues, and the continuous evaluation of the system;

(e) Enhancing existing Tissue Bank and identifying the hospitals where new Tissue Bank should be established.

SEC. 3. Definition of Terms. - As used in this Act, the following terms shall have the following meanings:

(a) *Department of Health – Philippine Network for Organ Sharing (PhilNOS)* refers to the implementing office of the national organ donation and transplantation program of the DOH, which oversees and facilitates organ and tissue donation and transplantation involving deceased donors in the country. It shall serve as the central coordinating body to ensure that all organs and tissues from deceased donors are allocated according to established criteria.

(b) *Donation of Organ or Tissue* refers to a voluntary act of a person to give his organs or tissues gratuitously in favor of another, who accepts it. In this case, the recipient shall have no demandable or enforceable right over the organ or tissue donated and may in gratitude or acknowledgement of the donation, give anything of value to the donor.

(c) *Related Donors* refers to relatives by consanguinity up to the fourth civil degree.

(d) *Donor* refers to an individual authorized under this Act who is the source of organs and/or tissues for the purpose of transplantation

(e) *Non-Related Donors* include the following:

(i) Those who are related by consanguinity beyond the fourth civil degree;

(ii) Those not related within the fourth degree of family;

(iii) Those not related by consanguinity or affinity but bear emotional ties with the organ or tissue recipient (e.g. friends, employees or employers, colleagues, fiance/fiancee); and

(iv) Strangers

- (f) *Directed Living Donors* refer to donors who have a specific recipient in mind whom he would want to donate to.
- (g) *Non-directed Living Donors* refer to donors who would donate to whoever matches on a list of waiting patients for organ transplants.
- (h) *Eye Bank Technician* refers to a board-eligible or board-certified nurse or medical technologist who underwent training in the science of eye banking which is conducted by an organization duly-accredited by the DOH. Provided that, the training is in accordance with accepted international standards of eye banking and shall include, but not limited to, retrieval, processing, storage, and distribution of eye tissue.
- (i) *Human Organ or Tissue* for the purpose of this Act refers to the kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, skin, nerve, muscle tissue and any other human organ or tissue that may be transplanted to another living person.
- (j) *Indigent* refers to an individual who has been certified by the local branch of the Department of Social Welfare and Development of the area in which he/she is a resident to be belonging to that sector living or earning below the poverty threshold as determined from time to time by the National Economic and Development Authority.
- (k) *Medical Care* refers to medicines and laboratory examinations necessary to be made for the purpose of, and pursuant to, transplantation. It however does not include expense for the treatment of unrelated medical illness that is discovered during evaluation procedures.
- (l) *Medical Practitioner* – Any physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists).
- (m) *Opt-Out* shall mean the positive act of a person categorically registering themselves to the appropriate office as indicated herein that he or she does not consent to subject his organs, tissues, remains and / or any part of his body to be subject for transplantation to another persons.

- (n) *Tissue Bank* refers to a hospital unit where activities of processing, preservation, storage, and distribution of human tissues are undertaken. It may also be responsible for procurement of testing tissues.
- (o) Philippine Organ Donor and Recipient Registry System (PODRRS) refers to the national computerized and strictly confidential database of all organ transplant candidates, recipients, organ donors, and transplants performed in the Philippines. The system shall also contain the list of individuals who chose and expressed to opt-out from donating organs and/or tissue, as provided in this Act.
- (p) Transplantation – The transfer (engraftment) of human cells, tissues, or organs from a donor to a recipient with the aim of restoring function/s in the body.
- (q) *Transplant Facility* refers to a facility or hospital in which the transplant shall whoever matches on a list of waiting patients for organ transplant.

SEC 4. *Establishment of Organ and Tissue Retrieval Organizations (OTROs).* – The DOH, in coordination with the DOH-PhilNOS, shall accredit and ensure the establishment of OTROs in tertiary hospitals, government and private, as part of the national organ and tissue procurement network.

The OTROs shall establish affiliations with facilities/ institutions that provide ancillary/ support services such as, but not limited to, laboratory diagnostic capability in virology, tissue typing, imaging facility, to include at least an ultrasound machine with Doppler capability, and ambulance services for donor/s, organ/s, and tissue/s transport.

Provided that, each OTRO shall have an Organ Retrieval Team whose members are licensed and board-certified surgical and medical experts. Provided that, collaborations with other retrieval teams of other transplant facilities without an OTRO can be entertained on a case-by-case basis.

Each OTRO shall be mandated to serve its designated Donor Service Area (DSA) which shall be determined by DOH and DOH-PhilNOS, through population-based designation, in coordination with the Philippine Statistics Authority (PSA).

All Tertiary Hospitals and Trauma Centers, with or without OTROs, shall be required to have CDC and CTC in order to optimize the identification and referral of donors and/or PMODs.

SEC 5. *Retrieval of Organs and Tissue After Death.* – The designated medical practitioner of a hospital may, subject to and in accordance with this Act, authorize, in writing, the removal of any organ and/or tissue of a dead person unless he/she has opted-out to organ and tissue donation, as confirmed by DOH-PhilNOS through the PODRRS.

Organ procurement may be performed in any hospital provided that is well-equipped and capable of performing such operation while tissue procurement shall be performed by the appropriate Tissue Bank, as accredited by the DOH.

Provided that, for possible medicolegal cases and unidentified dead individuals, no procurement of organ and/or tissue shall be performed and the OTRO shall immediately communicate and inform the Medicolegal Division and Crime Laboratory of the Philippine National Police (PNP) and/or National Bureau of Investigation (NBI).

Moreover, no authority shall be given for the removal of organs and/or tissues from the body of the deceased if:

1. During his/her lifetime, he/she has registered an objection to organ and/or tissue donation, as provided in this Act, after his/her death;
2. He/she is not a citizen of the Philippines. Provided that, Filipinos who have lost their citizenship and obtained citizenship in another country, and are residents in the Philippines, may also be given authority to donate their organs to a living related transplant recipient, in accordance with the Opt-In System provided in Section 8 hereof; unless with explicit consent to donate;
3. He/she is below eighteen (18) years of age unless both living parent(s) or legal next-of-kin or legal guardian has consented to such removal; or
4. He/she is an incompetent person, unless the living parent(s) or legal next-of- kin or legal guardian has consented to such removal.

SEC. 6. *Opt-Out System* – Upon the effectivity of this Act, any person who objects to the removal of his/her organ and/or tissue after his death may register his objection, in respect of that organ and/or tissue, with the DOH-PhilNOS at any time or with the following agencies:

- a. Land Transportation Office (LTO) upon driver's license renewal;
- b. Government Services Insurance System (GSIS);
- c. Social Security System (SSS);
- d. Philippine Health Insurance Corporation (PhilHealth);
- e. Commission on Elections (COMELEC); or
- f. Such other department or agency assigned by the PSA.

Such objection shall be registered and recorded real-time in the PODRRS. Upon the receipt of the duly-signed written objection, the concerned agency shall thereafter issue a certification and an opt-out card to the person which shall serve as a proof that his objection was duly registered and recorded.

Provided that, any person who has registered his/her opt-out may cancel his/her registration at any time in the prescribed form, as may be determined by the DOH- PhilNOS, in coordination with the abovementioned agencies. Such cancellation shall be recorded real-time in the PODRRS.

SEC. 7. *Opt-In System*. – Upon the effectivity of this Act, any person who desires to donate his/her organs and/or tissues, may register, in respect of such organ and/or tissue, with the DOH-PhilNOS shall be considered.

SEC. 8. *Allocation of Organs and Tissues*. – In the allocation of any organ and/or tissues retrieved pursuant to this Act, matching and other circumstances, as may be determined by DOH and DOH-PhilNOS shall be considered.

SEC. 9. *Organ Donation from Deceased Donors*. – The recovery and transplantation of organs from deceased donors as provided in the preceding sections shall be prioritized over organs from living donors.

SEC. 10. *Organ and Tissue Donation from Living Donors.* - Any individual, at least twenty one (21) years of age, of sound mind, who underwent screening and counseling procedures and has been found suitable as living donor based on the physical and psychological evaluation and assessments made by the physicians of the transplant facility who are not in any way directly connected with the transplant recipient, and thus fully understands the risks, benefit and consequences of transplanting organs and tissues from his/her body, may so donate by way of written consent to such removal for purposes of transplanting the same to another living human body. Such informed consent shall be in a document witnessed by a relative of the donor and two (2) physicians neither of whom shall be a member of the team of medical practitioners who will effect the removal of the organ or tissue from the donor's body nor the physician or transplant team attending to the recipient of the organ to be removed.

In no instance shall a minor be made a living donor of any organ or tissue to anybody. Further, no transplant shall be undertaken if it will result in a physical and/or psychological harm to the donor. Furthermore, an individual is allowed to donate only one organ or tissue in his/her lifetime. Finally, a foreigner is not allowed to become a recipient of any organ or tissue unless it can be shown that he/she is a former Filipino citizen or that the potential donor is related to the said former Filipino foreigner by consanguinity within the fourth degree.

SEC. 11. *Choice of Type of Donation.* - It shall be the choice of the donor whether to make a non-directed or directed type of donation, taking into consideration the following:

(a) In making a non-directed type of living donation, a non-indigent donor is to proceed to an accredited transplant facility of his/her choice, bringing with him a verified certification from two (2) physicians to the effect that he/she is physically and medically fit to donate the organ of his/her choice. The said transplant facility shall then conduct the required pre-transplant psychological screening to determine his/her suitability for donation. The cost of the screening shall be free of charge. If found suitable to make the donation, the transplant facility shall then register the name of the potential donor in the Philippine Organ Donor and Recipient Registry System (PODRRS) maintained by the Department of Health for matching with a recipient. In case

of an indigent donor intending to make a non-directed living donation, he/she shall proceed to an accredited government transplant facility which shall conduct initially a psychological screening, determine his mental fitness to make such a donation. If found suitable, the same government transplant facility shall subject the potential donor to a test to determine his physical fitness to undergo the donation. In both cases of screening and physical testing, the procedure shall be free of charge. If the potential donor is finally found psychologically, mentally and physically fit to make the donation, his/her name shall then be registered by the same transplant facility in the PODRRS for matching with a recipient.

It is understood that a non-directed living donor makes such donation out of mere altruism but a grateful recipient who, after the transplant, had knowledge of the identity of his/her donor, is not precluded from giving financial assistance to the latter.

(b) In making a directed type of living donation, the potential donor shall undergo psychological, mental and physical tests to determine his/her fitness to become a donor, the costs of all which shall be borne by the intended recipient, unless the recipient is an indigent in which case the said tests shall be conducted free of charge in the government transplant facility in which the indigent is to be scheduled for transplant.

SEC. 12. *Requirement of Registration.* - All patients in transplant shall also register themselves in the Philippine Organ Donor and Recipient Registry System (PODRRS) maintained by the Department of Health (DOH).

SEC. 13. *Duty of Non-indigent Recipients.* - In all cases of living donation, whether directed or undirected, and notwithstanding any agreement to the contrary, it shall be the responsibility of the non-indigent recipient to shoulder the cost of the transplantation procedure and pre and postoperative medical care of the donor, who has been found suitable mentally and physically to make the donation.

Further, the recipient shall cause the name of the donor to be registered in the registry of the PODRRS. Furthermore, the recipient is obliged to shoulder the expenses of travel and housing, if any, and lost wages, if applicable and other related expenses in connection with the donation.

Finally, the recipient shall be made to answer financially, wholly or partly depending on their agreement, for any subsequent disease that may be developed by the donor in connection with the organ or tissue donated. Nothing in this Act, however, shall proscribe the voluntary act of the recipient in providing additional assistance to the family of the donor either through livelihood projects and/or educational support to the family of the donor.

SEC. 14. *Duty of the State.* - If the organ or tissue recipient is indigent, as certified to by the local branch of the Department of Social Welfare and Development of the area where the recipient is a resident, the actual transplant shall be made in any of the accredited government transplant facilities and the pre and postoperative medical care of the donor shall be shouldered by the said transplant facility while the expenses of travel and housing, if any, and lost wages, if applicable, shall be shouldered by the local government of which the recipient is a resident. The local government unit concerned as well as the district representative of the place where the donor is a resident shall likewise, as far as practicable, provide preferential assistance in terms of educational, scholarship or other non-monetary benefits to the family of the donor and/or his next of kin.

SEC. 15. *Duty of Living Donors.* - In all cases, it shall be the duty of the living donor, for his own protection, to ensure and verify that his name is registered in the national registry of donors maintained _____ by _____ the _____ PODRRS.

SEC. 16. *Incentives for Living Donors.* - An organ or tissue donor shall be entitled to a leave of absence with pay for the period of his confinement for purposes of actual transplantation and post-transplant recovery for a period not to exceed fifteen (15) working days.

Should the donor develop a disability, as defined under the Social Security and Government Service Insurance System charters, resulting from the transplantation procedure, he/she shall be entitled to a disability pay, as therein defined and computed.

Further, should the donor eventually develop a disease or sickness necessitating a transplant, the said donor shall be given priority in the registry of potential recipients.

Furthermore, airline companies are to provide at least twenty percent (20%) discount on airfare of potential donors, on their way to and from the actual transplant operation, who have been found suitable, mentally and physically to make the donation.

Finally, pharmaceutical companies and their distributors ensure that at least a twenty percent (20%) discount is likewise provided for post-transplant and transplant- related medicines personally consumable by the donors.

SEC. 17. *Regional Tissue Bank.* - There shall be a Tissue Bank in every region, established in a DOH-accredited hospital, to be supervised by the Department of Health which shall provide effective mechanisms on storage, donation, transportation and transplantation of tissues stored in the facility.

SEC. 18. *Persons Authorized to Perform the Retrieval and Transplantation of Organs and Tissues.* – The retrieval and transplantation of organ and tissues shall only be performed by transplant surgeons duly accredited and certified by the Philippine Society of Transplant Surgeons. Provided that, the removal of the eye and eye tissues shall be performed only by the Eye Bank Technicians who undergo training in the science of eye banking conducted by an organization duly-accredited by the DOH. Such trainings shall be in accordance with the accepted international standards of eye banking and shall include, but not limited to, retrieval, processing, storage, and distribution of eye tissue.

SEC. 19. *Transport of Donated Organs and Tissues.* – In order to maintain the quality and integrity of organs and tissues for transplantation, to ensure traceability, and to minimize any potential risk, it is vital that donor organs and tissues and their accompanying blood and tissue samples are packaged, labelled, and transported to the Transplant Facility appropriately, and in a speedy and timely manner.

SEC. 20. *Philippine Network for Organ Sharing.* - The Department of Health- established

Philippine Network Organ Sharing (PHILNOS) which promotes organ donation from deceased donors is hereby recognized but in addition, it shall also come up with mechanisms and guidelines on living organ donors, as provided herein.

The DOH shall report to Congress before June 30 of every year the analysis of information derived from the registry.

SEC. 21. *Regulatory Authority.* - The Department of Health shall be responsible for the following:

- (a) Implementing the provisions of this Act:
- (b) Issuing guidelines relative to the process of donor-screening and evaluation as well as donor and recipient pre and post-transplant counseling;
- (c) Issuing guideline on the accreditation of transplant facilities, whether government or private, thereby ensuring that all necessary equipment and facilities are available as well as guaranteeing that the transplant team have the necessary expertise and experience in conducting the same;
- (d) Issuing guidelines relative to the duties of hospitals and their respective physicians relative to the conduct of transplant and all its necessary incidents.

SEC 22. *Prohibited Acts.* – The following acts shall be prohibited:

- a. Entering into a contract or agreement under which a person agrees, for valuable consideration, whether given or to be given to himself/herself or to another person, the sale or supply of any organ or tissue, whether before or after his/her death or the death of another person, as the case may be;
- b. Giving or offering to give valuable consideration for the sale or supply of, or for an offer to sell or supply, any organ from the body of another person;
- c. *Performing organ and/or tissue removal and/or transplantation of an unauthorized person*
- d. *Advertising and promoting the buying and selling of organs and/or tissues in the Philippines; and*
- e. *Destroying, forging, mutilating, and altering the PODRRS or any related documentation wilfully.*

SEC. 23. *Penalties.* – The following penalties are hereby provided:

- a. Any person found guilty of committing any of the acts enumerated in Section 22 (a), (b), and (c) shall suffer the penalty of imprisonment of twenty (20) years and a fine of not less than One million pesos (P1,000,000.00) but not more than Two million pesos (P2,000,000.00)
- b. Any person found guilty of committing any of the acts under Section 22 (d) and (e) shall suffer the penalty of imprisonment of two (2) years and a fine not less than One hundred thousand pesos (P100,000.00) but not more than Five hundred thousand pesos (P500,000.00)
- c. A non-indigent recipient who fails to perform any of the mandatory duties mentioned in Section 13 hereof as well as the local chief executive and responsible officers of the local government unit concerned, the officials and employees of hospitals and companies directly involved under Sections 14 and 16 respectively hereof shall be held individually liable and suffer the following penalties:
- d. Fine of not less than One Hundred Thousand Pesos (P100,000.00) but not exceeding Five Hundred Thousand Pesos (P500,000.00) or imprisonment of not less than one (1) year but not more than five (5) years, or both, at the discretion of the court.
- e. For any subsequent violation in case of public and private corporations, a fine of not less than Two Hundred Thousand Pesos (P200,000.00) but not exceeding Six Hundred Thousand Pesos (P600,000.00) or imprisonment for not less than two years but not more than six (6) years, or both, at the discretion of the court.

Upon filing of an appropriate complaint, and after notice and hearing, the proper authorities may also cause the cancellation or revocation of the business permit, permit to operate, franchise and other similar privileges granted to any business entity that fails to abide by the provisions of this Act.

SEC. 24. *Data Management.* – The DOH and DOH-PhilNOS, in coordination with the National Privacy Commission (NPC) and other concerned agencies, shall ensure that all data compiled under this Act shall be strictly confidential through the implementation of appropriate

organizational, physical, and technical security measures in accordance to existing laws, rules, and regulations.

SEC. 25. *Implementing Rules and Regulations.* – The DOH and DOH- PhilNOS, in coordination with the concerned departments and agencies, shall within sixty (60) days from the effectivity of this Act, promulgate rules and regulations to faithfully implement the provisions of this Act.

SEC. 26. *Appropriation.* – The amount of One Billion Pesos (P1,000,000,000.00) shall be appropriated for the management and implementation of this Act which shall be included in the General Appropriations Act (GAA).

SEC. 27. *Repealing Clause.* - All laws, executive orders, presidential decrees, presidential proclamations, letters of instructions, issuances, rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 28. *Separability Clause.* - Any portion or provision of this Act that is declared unconstitutional or invalid shall not have the effect of nullifying other portions or provisions hereof as long as such remaining portions can still subsist and be given effect in their entirety.

SEC. 29. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,