

By Mr. Kirby, a petition (accompanied by bill, Senate, No. 480) of Edward P. Kirby for legislation to further regulate organ donations. Health Care.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty-Seven.

AN ACT FURTHER REGULATING ORGAN DONATIONS.

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

1 Subsection (b) of section 8 of chapter 113 of the General Laws,  
2 as appearing in section 2 of chapter 360 of the acts of 1986, and  
3 inserting in place thereof the following section: —

4 Section 8. (a) A person of sound mind and who is eighteen  
5 years of age or older may make a gift of all or any part of his  
6 body for any purposes specified in section nine, said gift to take  
7 effect upon his death, or in the case of a living donor at such time  
8 prior to his death as he may specify in accordance with the  
9 requirements of subsection (b) of section ten, so long as such  
10 donation does not jeopardize in any way the life and health of  
11 the donor.

12 (b) On or before the occurrence of death of a person in a  
13 hospital, the director or other person in charge of such hospital,  
14 or his designated representative or a physician responsible for the  
15 care of such person whether or not in a hospital shall inform any  
16 of the persons listed below in the order of priority stated, when  
17 persons in prior classes are not available, of the opportunity of  
18 authorizing a gift of all or part of the decedent's body for purposes  
19 of organ and tissue transplantation as specified in section nine;  
20 provided, however, that (1) no actual notice of contrary intentions  
21 by such persons has been received, (2) such information shall not  
22 cause undue emotional stress to the next of kin and (3) consent  
23 to such transplantation would yield an organ or tissue donation  
24 suitable for use in accordance with medical criteria as defined by  
25 physicians engaged in clinical transplantation therapy and as

26 established by rules and regulations promulgated by the  
27 department which shall contain standards consistent with the  
28 standards set forth in the Manual of the New England Organ  
29 Bank. The order of priority of such persons shall be:

30 (1) the spouse,

31 (2) an adult son or daughter,

32 (3) either parent,

33 (4) an adult brother or sister,

34 (5) a guardian of the person of the decedent at the time of his  
35 death,

36 (6) any other person authorized or under obligation to dispose  
37 of the body.

38 (c) Such director or person in charge of such hospital or his  
39 designated representative or such physician shall record in a book  
40 kept for such purpose (1) the names of those patients for whom  
41 consent to an anatomical gift had been granted, (2) the organs  
42 or tissues donated, (3) the name of the person granting consent,  
43 and (4) the relationship of such person to the decedent.

44 (d) If the donee has actual notice of contrary indications by  
45 the decedent, or that a gift authorized by a member of a class is  
46 opposed by a member of the same or a prior class, the donee shall  
47 not accept the gift. The persons authorized by subsection (b) may  
48 make the gift after death or immediately before death.

49 (e) A gift of all or part of a body authorizes premortem tests,  
50 and any other examination necessary to assure medical  
51 acceptability of the gift for the purposes intended by the donor.

52 (f) The rights of the donee created by the gift are paramount  
53 to the rights of other except as provided by subsection (d) of  
54 section thirteen.

55 (g) The commissioner shall issue an annual report summarizing  
56 and evaluating the data collected pursuant to subsection (c).