

No. 1982-194

AN ACT

SB 1186

Amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, providing for enucleation of eyes by qualified eye bank technicians and qualified medical students to effect anatomical gifts.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 8604 of Title 20, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, is amended to read:

§ 8604. Manner of executing anatomical gifts.

(a) Gifts by will.—A gift of all or part of the body under section 8602(a) (relating to persons who may execute an anatomical gift) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) Gifts by other documents.—A gift of all or part of the body under section 8602(a) may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of two witnesses who must sign the document in his presence. If the donor is mentally competent to signify his desire to sign the document but is physically unable to do so, the document may be signed for him by another at his direction and in his presence in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) Specified and unspecified donees.—The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(d) Designation of person to carry out procedures.—Notwithstanding section 8607(b) (relating to rights and duties at death), the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person

authorized to accept the gift may employ or authorize any surgeon or physician for the purpose or, in the case of a gift of eyes, he may employ or authorize *a person who is* a funeral director licensed by the State Board of Funeral Directors [who], *an eye bank technician or medical student, if said person* has successfully completed a course in eye enucleation approved by the State Board of Medical Education and Licensure, *or an eye bank technician or medical student trained under a program in the sterile technique for eye enucleation approved by the State Board of Medical Education and Licensure* to enucleate eyes *for an eye bank* for the gift after certification of death by a physician. A qualified funeral director, *eyebank technician or medical student* acting in accordance with the terms of this subsection shall not have any liability, civil or criminal, for the eye enucleation.

(e) Documentation of gifts by others.—Any gift by a person designated in section 8602(b) (relating to persons who may execute an anatomical gift), shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message.

Section 2. This act shall take effect in 60 days.

APPROVED—The 17th day of November, A. D. 1982.

DICK THORNBURGH