

116TH CONGRESS
2D SESSION

H. R. 7900

To amend the National Organ Transplant Act to clarify the definition of valuable consideration, to clarify that pilot programs that honor and promote organ donation do not violate that Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2020

Mr. CARTWRIGHT introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

To amend the National Organ Transplant Act to clarify the definition of valuable consideration, to clarify that pilot programs that honor and promote organ donation do not violate that Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Organ Donation Clari-
5 fication Act of 2020”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) As of June 2020, 111,000 people await an
2 organ transplant, with 93,000 of those people wait-
3 ing for a kidney, and average wait times are ap-
4 proaching five years for a kidney, with nearly twice
5 as many people being added to the waiting lists as
6 getting a transplant.

7 (2) Of the roughly two million Americans who
8 die annually, only 10,500 to 13,800, representing
9 less than one percent of all deaths each year, possess
10 major organs healthy enough for transplanting.

11 (3) On average, 22 people a day died while
12 waiting for an organ in 2019, with the majority of
13 those people waiting for a kidney.

14 (4) In 2019, approximately 4,200 people were
15 removed from kidney waiting lists and approximately
16 1,700 from liver, heart, and lungs waiting lists be-
17 cause they became permanently too sick to receive a
18 transplant.

19 (5) Ninety percent of dialysis patients are not
20 employed because dialysis requires multiple treat-
21 ments per week which last several hours and leave
22 patients drained, thus creating a huge financial bur-
23 den on the patients, their families, and the govern-
24 ment; moreover, lost tax revenue from these individ-
25 uals is not included in the cost estimates above, and

1 which can help lead to as few as 10 percent of dialy-
2 sis patients being employed.

3 (6) A patient receiving a kidney transplant, and
4 thus no longer needing dialysis, can enjoy a much
5 higher quality of life for another 10–15 years on av-
6 erage.

7 (7) As medical advances extend people’s lives on
8 dialysis, the number of patients on dialysis will in-
9 crease significantly, as will the costs for individuals
10 and the Federal Government.

11 (8) Roughly seven percent of the Medicare
12 budget goes to the End Stage Renal Disease Pro-
13 gram, with dialysis costing Medicare over \$90,000
14 per patient per year, as Federal law dictates that
15 Medicare will cover dialysis for everyone who has
16 made minimal Social Security tax payments.

17 (9) A kidney transplant pays for itself in less
18 than two years, with each transplant saving an aver-
19 age of over \$700,000 in medical costs over a 10-year
20 period, 85 percent of which is savings to the tax-
21 payers.

22 (10) Experts project that if the supply of trans-
23 plant kidneys could be increased to meet the de-
24 mand, taxpayers would save more than
25 \$12,000,000,000 per year in medical costs.

1 (11) The World Health Organization estimates
2 that 10 percent of all transplants take place on the
3 international black market, the last choice for des-
4 perate patients facing an alternative of death, how-
5 ever recipients often receive infected kidneys and
6 suffer poor health outcomes and donors are often
7 victimized.

8 (12) Present policy on domestic donation has
9 never been subject to studies or pilots to determine
10 effectiveness in increasing the availability of donated
11 organs and the effectiveness of safeguards that pre-
12 vent coercion or exploitation, precludes all but altru-
13 istic donation, prohibiting any form of incentive or
14 benefit for donors.

15 (13) In 2010, Israel implemented sweeping
16 changes to its national organ donation program in-
17 cluding reducing financial burdens on donors, giving
18 future transplantation priority to registered organ
19 donors and their families, and promoting donation
20 by reimbursing the donor's medical costs, 40 days of
21 lost wages, and five years of medical and life insur-
22 ance costs, and as a result saw organ donation ap-
23 proximately triple over a 10-year period.

24 (14) Experts are arriving at a consensus that
25 trials are necessary to find new methods of pro-

1 moting additional organ donation which will save
 2 lives and reduce organ trafficking.

3 **SEC. 3. CLARIFICATION OF CERTAIN PROVISIONS OF THE**
 4 **NATIONAL ORGAN TRANSPLANT ACT.**

5 (a) RELATION TO OTHER LAWS.—Section 301 of the
 6 National Organ Transplant Act (42 U.S.C. 274e) is
 7 amended by adding at the end the following:

8 “(d) RELATION TO OTHER LAWS.—

9 “(1) GOVERNMENTS ENCOURAGING ORGAN DO-
 10 NATION.—This section shall not—

11 “(A) apply to actions taken by the Govern-
 12 ment of the United States or any State, terri-
 13 tory, tribe, or local government of the United
 14 States to carry out a covered pilot program; or

15 “(B) prohibit acceptance of any noncash
 16 benefits provided by the pilot program under
 17 subparagraph (A).

18 “(2) NO PROHIBITION ON OTHER BENEFITS
 19 PROGRAMS.—Nothing in this subsection shall be con-
 20 strued to prohibit actions, other than actions de-
 21 scribed in this section, taken by any State, territory,
 22 tribe, or unit of local government in the United
 23 States to provide benefits for human organ donation.

24 “(3) COVERED PILOT PROGRAM.—For purposes
 25 of this subsection—

1 “(A) the term ‘covered pilot program’
2 means a pilot program approved by the Sec-
3 retary of Health and Human Services, subject
4 to an ethical review board process, with a term
5 of not more than 5 fiscal years, for the purpose
6 of measuring the effect of removing disincen-
7 tives or providing a noncash benefit that may
8 increase the organ pool. Distributions of organs
9 from deceased donors under the pilot program
10 shall be conducted only through the Organ Pro-
11 curement and Transplantation Network at a
12 transplant center approved by the United Net-
13 work for Organ Sharing or any other entity
14 designated by the Secretary of Health and
15 Human Services; and

16 “(B) the term ‘noncash benefit’ means any
17 benefit or thing of value received by an organ
18 donor that is impossible to sell, trade, or other-
19 wise transfer to another individual.”.

20 (b) VALUABLE CONSIDERATION.—Section 301(c)(2)
21 of the National Organ Transplant Act (42 U.S.C.
22 274e(c)(2)) is amended to read as follows:

23 “(2) The term ‘valuable consideration’ does not
24 include the following:

1 “(A) Reasonable payments associated with
2 the removal, transportation, implantation, proc-
3 essing, preservation, quality control, and stor-
4 age of a human organ.

5 “(B) Reimbursement for travel, lodging,
6 food during travel, and other logistical expenses
7 related to donation.

8 “(C) Provision of advanced payments or
9 reimbursement for dependent care needs for
10 pre-transplant appointments in addition to dur-
11 ing the period of donation and post-transplant
12 follow-up care related to the donation for up to
13 a 10-year period.

14 “(D) Reimbursement for lost wages related
15 to donation.

16 “(E) Medical expenses related to donation
17 and all related follow-up care including prevent-
18 ative follow-up care and medication for up to a
19 10-year period.

20 “(F) Paperwork or legal costs related to
21 donation.

22 “(G) Any term life insurance policy against
23 the risk of death or disability as a result of do-
24 nating an organ or the longer-term health ef-
25 fects of having donated an organ, that—

1 “(i) in the case of a life insurance pol-
2 icy, provides for payments in amounts less
3 than \$2,000,000, adjusted annually for in-
4 flation; and

5 “(ii) in the case of a disability insur-
6 ance policy, provides for payments equal to
7 or less than the reasonable earnings expec-
8 tations of the donor.”.

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