

HOUSE BILL No. 4974

September 19, 2017, Introduced by Reps. Hertel, Sabo, Gay-Dagnogo, Zemke, Wittenberg, Yanez, Chirkun, Lasinski and Sowerby and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 10120a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 **SEC. 10120A. (1) THE PRESUMED CONSENT ORGAN DONATION**
2 **COMMISSION IS CREATED WITHIN THE DEPARTMENT.**
- 3 **(2) THE COMMISSION SHALL CONSIST OF THE FOLLOWING 11 MEMBERS:**
- 4 **(A) TWO STATE SENATORS WHO SERVE ON THE SENATE COMMITTEE ON**
5 **HEALTH POLICY. THE SENATE MAJORITY LEADER SHALL APPOINT THE**
6 **SENATORS DESCRIBED IN THIS SUBDIVISION.**
- 7 **(B) TWO STATE REPRESENTATIVES WHO SERVE ON THE HOUSE COMMITTEE**
8 **ON HEALTH POLICY. THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL**
9 **APPOINT THE REPRESENTATIVES DESCRIBED IN THIS SUBDIVISION.**

1 (C) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

2 (i) THE SECRETARY OF STATE OR HIS OR HER DESIGNEE.

3 (ii) ONE REPRESENTATIVE FROM THE MICHIGAN HEALTH AND HOSPITAL
4 ASSOCIATION.

5 (iii) ONE REPRESENTATIVE FROM THE MICHIGAN STATE MEDICAL
6 SOCIETY.

7 (iv) ONE REPRESENTATIVE FROM THE MICHIGAN NURSES ASSOCIATION.

8 (v) ONE REPRESENTATIVE FROM GIFT OF LIFE MICHIGAN.

9 (vi) ONE REPRESENTATIVE OF DONORS AND THEIR FAMILIES.

10 (vii) ONE REPRESENTATIVE OF RECIPIENTS AND THEIR FAMILIES.

11 (3) THE MEMBERS FIRST APPOINTED TO THE COMMISSION SHALL BE
12 APPOINTED WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
13 ACT THAT ADDED THIS SECTION.

14 (4) MEMBERS OF THE COMMISSION SHALL SERVE FOR TERMS OF 2 YEARS
15 OR UNTIL A SUCCESSOR IS APPOINTED, WHICHEVER IS LATER. HOWEVER, IF
16 A MEMBER OF THE COMMISSION IS A MEMBER OF THE MICHIGAN LEGISLATURE,
17 HE OR SHE SHALL NOT SERVE BEYOND THE END OF THE LEGISLATOR'S TERM
18 OF OFFICE DURING WHICH THE LEGISLATOR WAS APPOINTED TO THE
19 COMMISSION.

20 (5) IF A VACANCY OCCURS ON THE COMMISSION, THE GOVERNOR SHALL
21 MAKE AN APPOINTMENT FOR THE UNEXPIRED TERM IN THE SAME MANNER AS
22 THE ORIGINAL APPOINTMENT.

23 (6) THE GOVERNOR MAY REMOVE A MEMBER OF THE COMMISSION FOR
24 INCOMPETENCE, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR
25 NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

26 (7) THE GOVERNOR SHALL CALL THE FIRST MEETING OF THE
27 COMMISSION. AT THE FIRST MEETING, THE COMMISSION SHALL ELECT FROM

1 AMONG ITS MEMBERS A CHAIRPERSON AND OTHER OFFICERS AS IT CONSIDERS
2 NECESSARY OR APPROPRIATE. AFTER THE FIRST MEETING, THE COMMISSION
3 SHALL MEET AT LEAST QUARTERLY, OR MORE FREQUENTLY AT THE CALL OF
4 THE CHAIRPERSON OR IF REQUESTED BY 7 OR MORE MEMBERS.

5 (8) A MAJORITY OF THE MEMBERS OF THE COMMISSION CONSTITUTE A
6 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE
7 COMMISSION. A MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE
8 REQUIRED FOR OFFICIAL ACTION OF THE COMMISSION.

9 (9) THE BUSINESS THAT THE COMMISSION MAY PERFORM MUST BE
10 CONDUCTED AT A PUBLIC MEETING OF THE COMMISSION HELD IN COMPLIANCE
11 WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

12 (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR
13 RETAINED BY THE COMMISSION IN THE PERFORMANCE OF AN OFFICIAL
14 FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442,
15 MCL 15.231 TO 15.246.

16 (11) MEMBERS OF THE COMMISSION SERVE WITHOUT COMPENSATION.
17 HOWEVER, MEMBERS OF THE COMMISSION MAY BE REIMBURSED FOR THEIR
18 ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR
19 OFFICIAL DUTIES AS MEMBERS OF THE COMMISSION.

20 (12) THE COMMISSION SHALL DO ALL OF THE FOLLOWING:

21 (A) STUDY THE IMPACT OF ESTABLISHING A SYSTEM OF PRESUMED
22 CONSENT ORGAN DONATION IN THIS STATE ON ORGAN DONATION RATES IN
23 THIS STATE.

24 (B) STUDY COMPARISONS OF ORGAN DONATION RATES IN COUNTRIES
25 BEFORE AND AFTER THE INTRODUCTION OF A PRESUMED CONSENT LAW AND
26 COMPARISONS OF ORGAN DONATION RATES IN COUNTRIES WITH AND WITHOUT
27 PRESUMED CONSENT LAWS.

1 (C) STUDY AVAILABLE DATA ON THE ATTITUDES OF THE PUBLIC,
2 PROFESSIONALS, AND OTHER STAKEHOLDERS REGARDING PRESUMED CONSENT
3 ORGAN DONATION.

4 (D) STUDY THE FEASIBILITY OF ESTABLISHING A SYSTEM OF PRESUMED
5 CONSENT ORGAN DONATION IN THIS STATE THAT WOULD REQUIRE THE
6 SECRETARY OF STATE TO NOTIFY EACH APPLICANT FOR A DRIVER LICENSE OR
7 IDENTIFICATION CARD, EACH LICENSEE, AND EACH IDENTIFICATION CARD
8 HOLDER, IN PERSON OR BY MAIL, THAT THE INDIVIDUAL IS PRESUMED TO
9 HAVE CONSENTED TO HAVING HIS OR HER NAME PLACED ON THE DONOR
10 REGISTRY UNLESS THE INDIVIDUAL EXPRESSLY CHOOSES NOT TO CONSENT.

11 (E) STUDY ALTERNATE SYSTEMS OF PRESUMED CONSENT ORGAN
12 DONATION.

13 (F) STUDY THE MEDICAL, LEGAL, ETHICAL, ECONOMIC, AND SOCIAL
14 ISSUES RELATING TO PRESUMED CONSENT ORGAN DONATION.

15 (G) STUDY HOW NEW HEALTH TECHNOLOGY COULD SUPPORT A PRESUMED
16 CONSENT ORGAN DONATION SYSTEM.

17 (H) MAKE RECOMMENDATIONS ON THE ESTABLISHMENT OF A PRESUMED
18 CONSENT ORGAN DONATION SYSTEM IN THIS STATE AND ON HOW A PRESUMED
19 CONSENT ORGAN DONATION SYSTEM WOULD INCREASE ORGAN DONATION RATES
20 IN THIS STATE.

21 (13) THE COMMISSION SHALL SUBMIT THE FOLLOWING WRITTEN REPORTS
22 TO THE LEGISLATURE AND THE GOVERNOR:

23 (A) WITHIN 2 YEARS AFTER THE DATE THE MEMBERS ARE FIRST
24 APPOINTED TO THE COMMISSION, A PROGRESS REPORT ON THE COMMISSION'S
25 FINDINGS AND RECOMMENDATIONS UNDER SUBSECTION (12) AS OF THE DATE
26 OF THE REPORT.

27 (B) WITHIN 3 YEARS AFTER THE DATE THE MEMBERS ARE FIRST

1 APPOINTED TO THE COMMISSION, A FINAL REPORT ON THE COMMISSION'S
2 FINDINGS AND RECOMMENDATIONS UNDER SUBSECTION (12).

3 (14) AS USED IN THIS SECTION, "COMMISSION" MEANS THE PRESUMED
4 CONSENT ORGAN DONATION COMMISSION CREATED IN SUBSECTION (1).

5 Enacting section 1. This amendatory act takes effect 90 days
6 after the date it is enacted into law.