

title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 375 of act July 1, 1944, added by act Aug. 3, 1956, ch. 907, § 1, 70 Stat. 962, which related to definitions, was renumbered section 385 and classified to section 279 of this title, prior to repeal by Pub. L. 99-158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

AMENDMENTS

1990—Pub. L. 101-616, § 204(a), struck out “, during fiscal years 1985 through 1990,” after “The Secretary shall”.

Par. (3). Pub. L. 101-616, § 204(b)(1), struck out “receiving funds under section 273 of this title” after “organ procurement organizations”.

Par. (4). Pub. L. 101-616, § 204(b)(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “not later than April 1 of each of the years 1989 and 1990, submit to the Congress a report on the status of organ donation and coordination services and include in the report an analysis of the efficiency and effectiveness of the procurement and allocation of organs and a description of problems encountered in the procurement and allocation of organs.”

1988—Pub. L. 100-607, in introductory provisions, substituted “1985 through 1990” for “1985, 1986, 1987, and 1988” and, in par. (4), substituted “not later than April 1 of each of the years 1989 and 1990, submit to the Congress a report” for “one year after the date on which the Task Force on Organ Transplantation transmits its final report under section 104(c) of the National Organ Transplant Act, and annually thereafter through fiscal year 1988, submit to Congress an annual report”.

§ 274d. Report

Not later than February 10 of 1991 and of each second year thereafter, the Secretary shall publish, and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate,¹ a report on the scientific and clinical status of organ transplantation. The Secretary shall consult with the Director of the National Institutes of Health and the Commissioner of the Food and Drug Administration in the preparation of the report.

(July 1, 1944, ch. 373, title III, § 376, as added Pub. L. 98-507, title II, § 201, Oct. 19, 1984, 98 Stat. 2346; amended Pub. L. 100-607, title IV, § 406, Nov. 4, 1988, 102 Stat. 3116; Pub. L. 101-616, title II, § 205, Nov. 16, 1990, 104 Stat. 3285.)

PRIOR PROVISIONS

A prior section 376 of act July 1, 1944, added by act Aug. 3, 1956, ch. 907, § 1, 70 Stat. 962, which related to library facilities, was renumbered section 386 and classified to section 280 of this title, prior to repeal by Pub. L. 99-158, § 3(b), Nov. 20, 1985, 99 Stat. 879.

AMENDMENTS

1990—Pub. L. 101-616 substituted “Not later than February 10 of 1991 and of each second year thereafter, the Secretary shall publish, and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.” for “The Secretary shall, not later than October 1 of each year, publish”.

1988—Pub. L. 100-607 substituted “shall, not later than October 1 of each year,” for “shall annually”.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor,

and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§ 274e. Prohibition of organ purchases

(a) Prohibition

It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce. The preceding sentence does not apply with respect to human organ paired donation.

(b) Penalties

Any person who violates subsection (a) of this section shall be fined not more than \$50,000 or imprisoned not more than five years, or both.

(c) Definitions

For purposes of subsection (a) of this section:

(1) The term “human organ” means the human (including fetal) kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, and skin or any subpart thereof and any other human organ (or any subpart thereof, including that derived from a fetus) specified by the Secretary of Health and Human Services by regulation.

(2) The term “valuable consideration” does not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ or the expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ.

(3) The term “interstate commerce” has the meaning prescribed for it by section 321(b) of title 21.

(4) The term “human organ paired donation” means the donation and receipt of human organs under the following circumstances:

(A) An individual (referred to in this paragraph as the “first donor”) desires to make a living donation of a human organ specifically to a particular patient (referred to in this paragraph as the “first patient”), but such donor is biologically incompatible as a donor for such patient.

(B) A second individual (referred to in this paragraph as the “second donor”) desires to make a living donation of a human organ specifically to a second particular patient (referred to in this paragraph as the “second patient”), but such donor is biologically incompatible as a donor for such patient.

(C) Subject to subparagraph (D), the first donor is biologically compatible as a donor of a human organ for the second patient, and the second donor is biologically compatible as a donor of a human organ for the first patient.

¹ So in original. The period probably should be a comma.

(D) If there is any additional donor-patient pair as described in subparagraph (A) or (B), each donor in the group of donor-patient pairs is biologically compatible as a donor of a human organ for a patient in such group.

(E) All donors and patients in the group of donor-patient pairs (whether 2 pairs or more than 2 pairs) enter into a single agreement to donate and receive such human organs, respectively, according to such biological compatibility in the group.

(F) Other than as described in subparagraph (E), no valuable consideration is knowingly acquired, received, or otherwise transferred with respect to the human organs referred to in such subparagraph.

(Pub. L. 98-507, title III, §301, Oct. 19, 1984, 98 Stat. 2346; Pub. L. 100-607, title IV, §407, Nov. 4, 1988, 102 Stat. 3116; Pub. L. 110-144, §2, Dec. 21, 2007, 121 Stat. 1813.)

CODIFICATION

Section was enacted as part of the National Organ Transplant Act, and not as part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-144, §2(1), inserted at end “The preceding sentence does not apply with respect to human organ paired donation.”

Subsec. (c)(4). Pub. L. 110-144, §2(2), added par. (4).

1988—Subsec. (c)(1). Pub. L. 100-607 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The term ‘human organ’ means the human kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, and skin, and any other human organ specified by the Secretary of Health and Human Services by regulation.”

NO IMPACT ON SOCIAL SECURITY TRUST FUND

Pub. L. 110-144, §4, Dec. 21, 2007, 121 Stat. 1814, provided that: “Nothing in this Act [see Short Title of 2007 Amendment note set out under section 201 of this title] (or an amendment made by this Act) shall be construed to alter or amend the Social Security Act (42 U.S.C. 301 et seq.) (or any regulation promulgated under that Act).”

§ 274f. Reimbursement of travel and subsistence expenses incurred toward living organ donation

(a) In general

The Secretary may award grants to States, transplant centers, qualified organ procurement organizations under section 273 of this title, or other public or private entities for the purpose of—

(1) providing for the reimbursement of travel and subsistence expenses incurred by individuals toward making living donations of their organs (in this section referred to as “donating individuals”); and

(2) providing for the reimbursement of such incidental nonmedical expenses that are so incurred as the Secretary determines by regulation to be appropriate.

(b) Preference

The Secretary shall, in carrying out subsection (a) of this section, give preference to those individuals that the Secretary determines are more likely to be otherwise unable to meet such expenses.

(c) Certain circumstances

The Secretary may, in carrying out subsection (a) of this section, consider—

(1) the term “donating individuals” as including individuals who in good faith incur qualifying expenses toward the intended donation of an organ but with respect to whom, for such reasons as the Secretary determines to be appropriate, no donation of the organ occurs; and

(2) the term “qualifying expenses” as including the expenses of having relatives or other individuals, not to exceed 2, accompany or assist the donating individual for purposes of subsection (a) of this section (subject to making payment for only those types of expenses that are paid for a donating individual).

(d) Relationship to payments under other programs

An award may be made under subsection (a) of this section only if the applicant involved agrees that the award will not be expended to pay the qualifying expenses of a donating individual to the extent that payment has been made, or can reasonably be expected to be made, with respect to such expenses—

(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program;

(2) by an entity that provides health services on a prepaid basis; or

(3) by the recipient of the organ.

(e) Definitions

For purposes of this section:

(1) The term “donating individuals” has the meaning indicated for such term in subsection (a)(1) of this section, subject to subsection (c)(1) of this section.

(2) The term “qualifying expenses” means the expenses authorized for purposes of subsection (a) of this section, subject to subsection (c)(2) of this section.

(f) Authorization of appropriations

For the purpose of carrying out this section, there is authorized to be appropriated \$5,000,000 for each of the fiscal years 2005 through 2009.

(July 1, 1944, ch. 373, title III, §377, as added Pub. L. 101-616, title II, §206(a), Nov. 16, 1990, 104 Stat. 3285; amended Pub. L. 108-216, §3, Apr. 5, 2004, 118 Stat. 584.)

AMENDMENTS

2004—Pub. L. 108-216 amended section catchline and text generally, substituting provisions relating to reimbursement of travel and subsistence expenses incurred toward living organ donation for provisions requiring the Comptroller General to study and report on organ procurement and allocation.

§ 274f-1. Public awareness; studies and demonstrations

(a) Organ donation public awareness program

The Secretary shall, directly or through grants or contracts, establish a public education program in cooperation with existing national public awareness campaigns to increase awareness about organ donation and the need to provide for an adequate rate of such donations.