

110TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To prohibit human organ trafficking, to prohibit the misuse of immigration and government identification documents in furtherance of organ trafficking, to prohibit attempted organ trafficking, to mandate restitution for victims of organ trafficking, to create a civil remedy for victims of organ trafficking, and to clarify that laws that honor and reward organ donation are not preempted by Federal criminal law and acceptance of such government benefits is not criminal.

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IN THE SENATE OF THE UNITED STATES

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\_\_\_\_\_ introduced the following bill; which was read twice  
and referred to the Committee on \_\_\_\_\_

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## **A BILL**

To prohibit human organ trafficking, to prohibit the misuse of immigration and government identification documents in furtherance of organ trafficking, to prohibit attempted organ trafficking, to mandate restitution for victims of organ trafficking, to create a civil remedy for victims of organ trafficking, and to clarify that laws that honor and reward organ donation are not preempted by Federal criminal law and acceptance of such government benefits is not criminal.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Organ Donation Clari-  
3 fication and Antitrafficking Act of 2008”.

4 **SEC. 2. PROHIBITION OF TRAFFICKING IN HUMAN ORGANS.**

5 (a) IN GENERAL.—Chapter 77 of title 18, United  
6 States Code, is amended—

7 (1) by inserting after section 1590 the fol-  
8 lowing:

9 **“§ 1590A. Prohibition of trafficking in human organs**

10 “(a) IN GENERAL.—Whoever knowingly, in or affect-  
11 ing interstate or foreign commerce, or within the special  
12 maritime and territorial jurisdiction of the United States,  
13 brokers the sale or purchase of another person’s organ for  
14 transplantation to or from another person and benefits (fi-  
15 nancially or by receiving anything of value) from participa-  
16 tion in such a commercial venture, shall be fined under  
17 this title, imprisoned not more than 7 years, or both.

18 “(b) RELATION TO OTHER LAWS.—

19 “(1) IN GENERAL.—Nothing in this section  
20 shall be construed to—

21 “(A) affect the jurisdiction of a State to  
22 enact or enforce laws to prohibit the sale or  
23 purchase of a human organ for use in human  
24 transplantation; or

25 “(B) provide for penalties for the violation  
26 of laws described in subparagraph (A).

1           “(2) GOVERNMENTS ENCOURAGING ORGAN DO-  
2           NATION.—This section and section 301 of the Na-  
3           tional Organ Transplant Act (42 U.S.C. 274e) shall  
4           not—

5                   “(A) apply to actions taken by the Govern-  
6                   ment of the United States or any State, terri-  
7                   tory, tribe, or local government of the United  
8                   States to encourage organ donation; or

9                   “(B) prohibit acceptance of such a govern-  
10                  ment benefit.

11           “(3) CERTAIN STATE LAWS.—This section shall  
12           be construed to preempt any State law that author-  
13           izes the payment of cash to induce organ donation  
14           or otherwise authorizes the sale or purchase of a  
15           human organ for use in human transplantation.”;

16                   (2) in section 1592 (a)(1) and (a)(2), by insert-  
17                   ing “1590A,” after “1590,”;

18                   (3) in section 1594(a), by inserting “1590A,”  
19                   after “1590,”; and

20                   (4) in section 1595(a), by inserting “1590A,”  
21                   after “1590,”.

22           (b) TECHNICAL AND CONFORMING AMENDMENT.—  
23           The table of sections for chapter 77 of title 18, United  
24           States Code, is amended by inserting after the item relat-  
25           ing to section 1590 the following:

“1590A. Prohibition of trafficking in human organs.”.