

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 766

(Senator Conway)

Judicial Proceedings

Health and Government Operations

Maryland Anatomical Gift Donor Registry

This bill requires the Secretary of Health and Mental Hygiene to contract with a qualified nonprofit entity by April 1, 2009, using funds from the Organ and Tissue Donor Awareness Fund or any other appropriate funds, for the establishment, maintenance, and operation of a donor registry. The bill specifies requirements for this and other registries and specifies that a donor may make an anatomical gift by authorizing that a statement or symbol be included on a donor registry. The Motor Vehicle Administration must cooperate with the nonprofit entity contracted with for the purpose of transferring all relevant information regarding a donor's making, amendment to, or revocation of an anatomical gift to the donor registry.

Fiscal Summary

State Effect: Expenditures related to the establishment, operation, and maintenance of a donor registry are not expected to be significant and the bill authorizes the use of existing special funds for that purpose. Potential minimal increase in Transportation Trust Fund expenditures for Motor Vehicle Administration reprogramming costs in FY 2009 only.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Under the Maryland Anatomical Gift Act, any individual who is age 18 or older and competent to execute a will may make an anatomical gift of all or any part of

the individual's body for any one or more of the purposes specified under the act. The act includes provisions relating to:

- classifications of individuals, in order of priority, that may make an anatomical gift of a donor's body or part after the donor's death or during a terminal illness;
- individuals and entities eligible to receive anatomical gifts;
- methods of making and revoking anatomical gifts;
- rights of a donee;
- circumstances under which the Chief Medical Examiner, or deputy or assistant medical examiner, may provide an organ or tissue upon the request of a federally designated organ procurement organization or tissue bank and related protections from liability; and
- circumstances under which the Chief Medical Examiner, or deputy or assistant medical examiner, may provide corneal tissue upon the request of specified eye banks and related protections from liability.

The Organ and Tissue Donor Awareness Fund is a special, continuing, nonlapsing fund consisting of voluntary \$1 contributions made during the driver's license application and renewal process. The fund is intended to be used to promote public education and awareness about organ, tissue, and eye donations, and, pursuant to Chapter 457 of 2006, the Secretary of Health and Mental Hygiene has to contract with a qualified, independent, nonprofit third party to accomplish that purpose.

Background: The requirements applicable to a donor registry under the bill are similar to those included in the 2006 Revised Uniform Anatomical Gift Act promulgated and recommended for enactment in all states by the National Conference of Commissioners on Uniform State Laws. The comments accompanying the uniform act indicate that while a donor registry is one of many ways to facilitate the making of anatomical gifts, registries could, in time, prove to be the most effective way to make anatomical gifts, especially with coordination of records of a state department of motor vehicles and the donor registry.

According to the Organ Procurement and Transplantation Network, a nationwide network established by Congress that, among other things, facilitates the organ matching and placement process and collects and manages scientific data about organ donation and

transplantation, there are over 98,000 candidates on the nationwide waiting list for organ donations and in 2007, 28,354 transplants were performed in the United States.

The three procurement organizations serving Maryland, the Living Legacy Foundation of Maryland, The Washington Regional Transplant Community, and the Maryland Eye Bank are in the process of developing a donor registry in Maryland called “Donate Life.”

Currently, through the MVA’s Organ Donor Program, people can indicate on their driver’s license or identification card application or renewal that they wish to be an organ donor and a record of their intent is registered with the MVA and a designation is placed on their license or identification card.

State Fiscal Effect: It is anticipated that the bill’s requirement that the Secretary of Health and Mental Hygiene contract with a qualified nonprofit entity for the establishment, maintenance, and operation of a donor registry would be accounted for (as authorized under the bill) using funds from the Organ and Tissue Donor Awareness Fund, which has a balance of just over \$1 million. The Governor’s proposed fiscal 2009 budget contains a \$50,000 allowance from the fund for the Office of Health Care Quality within DHMH.

Legislative Services notes that a donor registry is currently under development by the three procurement organizations serving Maryland and the Living Legacy Foundation of Maryland indicates that costs of operation and maintenance of a donor registry would not be significant.

MVA advises that it would incur reprogramming costs of \$45,000 in fiscal 2009 to allow for information to be transferred to the donor registry as specified in the bill. Legislative Services advises that, if other legislation requires computer reprogramming changes, economies of scale could be realized, lowering the costs associated with changes to the MVA system. Further, Legislative Services advises that the increased computer expenditure is simply an estimate and that MVA may be able to handle the changes within existing resources.

Additional Information

Prior Introductions: None.

Cross File: HB 906 (Delegate Morhaim, *et al.*) - Health and Government Operations.

Information Source(s): Department of Health and Mental Hygiene, Maryland Department of Transportation, Living Legacy Foundation of Maryland, Department of Legislative Services

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