

# HOUSE BILL 1106

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5lr2694

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By: **Delegate Morhaim**

Introduced and read first time: February 16, 2015

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Electronic Advance Directives – Witness Requirements**

3 FOR the purpose of prohibiting a certain witness from being required to be physically  
4 present at the time a declarant signs or acknowledges the declarant's signature on  
5 an electronic advance directive; and generally relating to the witnessing of electronic  
6 advance directives.

7 BY repealing and reenacting, with amendments,  
8 Article – Health – General  
9 Section 5–602(c)  
10 Annotated Code of Maryland  
11 (2009 Replacement Volume and 2014 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
13 That the Laws of Maryland read as follows:

14 **Article – Health – General**

15 5–602.

16 (c) (1) A written or electronic advance directive shall be dated, signed by or at  
17 the express direction of the declarant, and subscribed by two witnesses.

18 (2) (i) Except as provided in subparagraphs (ii) and (iii) of this  
19 paragraph, any competent individual may serve as a witness to an advance directive,  
20 including an employee of a health care facility, nurse practitioner, physician assistant, or  
21 physician caring for the declarant if acting in good faith.

22 (ii) The health care agent of the declarant may not serve as a  
23 witness.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iii) At least one of the witnesses must be an individual who is not  
2 knowingly entitled to any portion of the estate of the declarant or knowingly entitled to any  
3 financial benefit by reason of the death of the declarant.

4 **(3) A WITNESS WHO USES AN ELECTRONIC SIGNATURE AT THE**  
5 **DIRECTION OF THE DECLARANT TO WITNESS AN ELECTRONIC ADVANCE DIRECTIVE**  
6 **MAY NOT BE REQUIRED TO BE PHYSICALLY PRESENT AT THE TIME THE DECLARANT**  
7 **SIGNS OR ACKNOWLEDGES THE DECLARANT'S SIGNATURE ON THE ELECTRONIC**  
8 **ADVANCE DIRECTIVE.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2015.