

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

House Bill 318 (Delegate Hammen. *et al.*)

Environmental Matters

The William H. Amoss Organ and Tissue Donation Act of 1998

This emergency bill provides for change in current law to ensure that the wishes of organ and tissue donors are implemented, to increase the number of potential donors, and to effectively communicate with potential organ donors and their families.

Fiscal Summary

State Effect: FY 1999 general fund expenditures increase by \$75,100 and special fund expenditures increase by \$32,500 in FY 1999 only. General fund expenditures could be lower to the extent that hospital death record review is delegated. Future year expenditures increase with annualization and inflation. Special fund revenues from the \$1 donation increase by an indeterminate amount in FY 1999 and in future years.

(in dollars)	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003
SF Revenues	----	----	----	----	----
GF Expenditures	\$75,100	\$89,200	\$92,300	\$95,500	\$98,900
SF Expenditures	32,500	0	0	0	0
Net Effect	(\$107,600)	(\$89,200)	(\$92,300)	(\$95,500)	(\$98,900)

Note: () - decrease; GF - general funds; FF - federal funds; SF - special funds

Local Effect: None.

Small Business Effect: Potential meaningful.

Fiscal Analysis

Bill Summary:

- Establishes a 16-member State Advisory Council on Organ and Tissue Donation Awareness and creates an Organ and Tissue Donation Awareness Fund. Monies to support the fund are to come from a voluntary \$1 donation made at the time of driver's license application and renewal. The Department of Health and Mental Hygiene (DHMH) is to manage the fund, with advice from the council, and to designate staff needed to support the council and the fund.
- Requires the Motor Vehicle Administration (MVA) to offer an individual applying for or renewing a driver's license the option of making a voluntary contribution of \$1 to the Organ and Tissue Donation Awareness Fund.
- Requires hospitals to contact an appropriate organ recovery agency to determine a patient's suitability for donation and to document specified actions in a patient's medical record. An organ recovery agency must determine a patient's suitability for donation, in consultation with the attending physician. If the patient's organs or tissues are found suitable for donation, a representative of the organ recovery agency or a "designated requestor" must initiate a request of a decedent's representative. The bill adds to the list of individuals authorized to donate body parts of a decedent, if the decedent has not made a gift, and provides that failure of the decedent to make a gift is not a contrary direction. The bill clarifies that a decedent's next-of-kin should not be asked to consent to organ donation if the decedent has already consented to organ donation through a driver's license, an advance directive, or the Maryland Anatomical Gift Act.
- Provides that an organ procurement organization or the designated requestor acting in good faith are entitled to protection from civil and criminal liability.
- Requires DHMH, or a designated organ recovery agency, to conduct annual death record reviews at each hospital to determine the hospital's compliance with the bill's provisions regarding referral to an organ recovery agency and requesting consent from a patient's representative.
- Clarifies language in health care decision making forms for living wills and advanced medical directives. Language provides a person with the option of authorizing the specific organs to be donated and for what purposes and indicates that the person's estate won't be charged for the costs associated with removal of the organ.
- Authorizes a donor designation to be made on the driver's license of a minor who is at

least 16 years old if a parent consents in writing.

- Requires DHMH to report to the General Assembly by January 1 of each year on the results of hospital death record reviews. The MVA is required to report to the General Assembly by December 31 of each year on the number of driver's licenses and identification cards issued, the number with a donor designation, and the number of minors designated as donors. DHMH is to publish guidelines to implement the determination of a patient's suitability for donation and the request for organ or tissue donation by January 1, 1999 and report to the General Assembly on implementation of the guidelines by July 1, 1999.

Background: The Joint Legislative Task Force on Organ and Tissue Donation met during 1997 to review and evaluate current organ and tissue donation practice and law and to recommend changes to practice and law.

State Revenues: Special fund revenues from the \$1 driver's license donations could increase by an indeterminate amount. There is no basis upon which to reliably estimate the number of people who might donate \$1 towards the Organ and Tissue Donation Awareness Fund.

State Expenditures: General fund expenditures could increase by an estimated \$75,063 in fiscal 1999, which accounts for a 90-day start-up delay. This estimate reflects the cost of hiring two Nurse Surveyors to: (1) conduct annual death record reviews at each hospital to determine whether appropriate requests were made for organ or tissue donations and whether the requests and their dispositions are documented in the patient's medical records; and (2) staff the advisory council. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Current law requires DHMH to inspect hospitals on a periodic basis and to inspect hospitals receiving complaints. Therefore, DHMH staff do not currently visit each of the 74 hospitals in Maryland on an annual basis. The information and assumptions used in calculating the estimate are stated below:

- the number of annual hospital deaths is estimated at 15,000; and
- each surveyor would review an average of 29 hospital records a day (assuming 260 working days a year).

Salaries and Fringe Benefits	\$64,200
Other Operating Expenses	<u>10,863</u>

Total FY 1999 State Expenditures

\$75,063

Future year expenditures reflect (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

The bill authorizes DHMH to delegate its hospital death records review duties to an appropriate organ procurement agency. To the extent that delegation takes place, DHMH expenditures could be less than \$75,063.

Advisory council members would serve without compensation but would be reimbursed for expenses under the standard State travel regulations. Any such expenditures would depend on the time, location, and frequency of the advisory council's meetings. These expenses could be absorbed with DHMH's existing budgeted resources.

The MVA advises that computer programming special fund expenditures could increase on a one-time basis by an estimated \$32,500 to modify its computer programs to permit the collection of a \$1 donation. The Department of Legislative Services (DLS) advises that if other legislation is passed requiring computer reprogramming changes, economies of scale could be realized. This would reduce computer programming costs associated with this bill and other legislation affecting the MVA system. Further, DLS advises that the increased computer expenditure is simply an estimate and the MVA may be able to handle the changes with either less money than it estimates or existing resources.

Small Business Effect: Small business organ procurement organizations could be favorably affected to the extent that the bill spurs an increase in the number of donors. The bill also provides that organ procurement organizations are entitled to protection from civil and criminal liability. Although the bill increases the workload for organ procurement organizations (in determining a patient's suitability for donation and initiating requests of a decedent's representative), it should also serve to increase the number of donors and thereby provide additional business.

Information Source(s): Department of Health and Mental Hygiene (Licensing and Certification), Register of Wills, Department of Transportation (Motor Vehicle Administration), Maryland Hospital Association, Department of Legislative Services

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