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House action: Adopted

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CHAPTER _____

1 AN ACT concerning

2 **Medical Decision Making Act of 2005**

3 FOR the purpose of establishing life partnerships in the State for certain purposes;
 4 prohibiting an individual from claiming the benefits of a life partnership except
 5 under certain circumstances; establishing certain crimes and penalties;
 6 requiring individuals to register with the Secretary of Health and Mental
 7 Hygiene in order to enter into a life partnership; requiring the Secretary to
 8 develop certain forms and make the forms available at certain locations;
 9 establishing certain procedures for applying for and obtaining a certificate of life
 10 partnership; requiring the Secretary to set certain fees; requiring the Secretary
 11 to provide certain information concerning the identity of individuals on the life
 12 partnership registry under certain circumstances; requiring the Secretary to
 13 adopt certain regulations; providing certain procedures for the termination of a
 14 life partnership; requiring a life partner that qualified for and claimed certain
 15 third party benefits to provide notice to the third party on the termination of a
 16 life partnership; establishing certain rights for certain third parties; requiring
 17 the Secretary to keep ~~a certificate of life partnership book~~ records concerning
 18 life partnerships containing certain information; requiring certain health care
 19 facilities to allow life partners and certain relatives of life partners to visit a life
 20 partner except under certain circumstances; requiring two adults to be treated
 21 as life partners under certain circumstances related to medical emergencies;
 22 providing for the scope of this Act; providing that this Act may not be construed

1 to recognize, condone, or prohibit a domestic partnership, civil union, or
 2 marriage recognized in other states or jurisdictions; providing that a health care
 3 agent retains certain authority to make certain decisions notwithstanding
 4 certain provisions of law; prohibiting the Department of Health and Mental
 5 Hygiene from denying a life partner the right to inspect a record to permit a
 6 disinterment or reinterment of a body; authorizing a life partner to give consent
 7 to conduct a postmortem examination of a certain body; authorizing the life
 8 partner to arrange for the final disposition of the body of a decedent under
 9 certain circumstances; authorizing a life partner to make the health care
 10 decisions for certain persons; authorizing a life partner of a certain patient to
 11 petition a court to enjoin the actions of a certain health care provider;
 12 authorizing a life partner to accompany an individual being transported from
 13 one health care facility to another health care facility under certain
 14 circumstances; establishing that a life partner may be a representative of a
 15 deceased from whom a hospital may ask for authorization for a human organ
 16 donation; prohibiting a hospital from billing a life partner for the costs
 17 associated with the deceased life partner's organ donation; requiring that life
 18 partners be given the opportunity to share a room in a certain facility under
 19 certain circumstances; requiring certain related institutions to allow a resident
 20 who is a party to a life partnership to have privacy during a visit by the other
 21 life partner; authorizing the life partner to arrange the final disposition of the
 22 body of a decedent with a mortician under certain circumstances; establishing
 23 that for purposes of an interest in the property of a burial site, a life partner is
 24 a person in interest; establishing that a life partner is a next of kin for purposes
 25 of making anatomical gifts of a decedent; defining certain terms; making the
 26 provisions of this Act severable; and generally relating to the Medical Decision
 27 Making Act of 2005.

28 BY repealing and reenacting, without amendments,
 29 Article - Health - General
 30 Section 4-215(a), 5-501(a), 5-509(a), 5-605(a)(1), 10-807(a), 19-310(a) and (j),
 31 19-343(a) and (b), and 19-344(a)
 32 Annotated Code of Maryland
 33 (2000 Replacement Volume and 2004 Supplement)

34 BY repealing and reenacting, with amendments,
 35 Article - Health - General
 36 Section 1-101, 4-215(e), 5-501(b), 5-509(c), 5-605(a)(2), 5-612, 10-807(e),
 37 19-310(d) and (g), and 19-344(h), (k), and (q)(1)
 38 Annotated Code of Maryland
 39 (2000 Replacement Volume and 2004 Supplement)

40 BY adding to
 41 Article - Health - General
 42 Section 6-101 through ~~6-401~~ 6-402 to be under the new title "Title 6. Life
 43 Partnerships"

1 Annotated Code of Maryland
2 (2000 Replacement Volume and 2004 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article - Health Occupations
5 Section 7-410(a)
6 Annotated Code of Maryland
7 (2000 Replacement Volume and 2004 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article - Health Occupations
10 Section 7-410(c)
11 Annotated Code of Maryland
12 (2000 Replacement Volume and 2004 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Real Property
15 Section 14-121(a)
16 Annotated Code of Maryland
17 (2003 Replacement Volume and 2004 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Estates and Trusts
20 Section 4-501
21 Annotated Code of Maryland
22 (2001 Replacement Volume and 2004 Supplement)

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

25 **Article - Health - General**

26 1-101.

27 (a) In this article the following words have the meanings indicated.

28 (b) "County" means a county of this State and, unless expressly provided
29 otherwise, Baltimore City.

30 (c) "Department" means the Department of Health and Mental Hygiene.

31 (d) "Health officer" means, unless expressly provided otherwise, the Baltimore
32 City Commissioner of Health or the health officer of a county.

33 (e) "Includes" or "including" means includes or including by way of illustration
34 and not by way of limitation.

1 (F) "LIFE PARTNER" MEANS AN INDIVIDUAL WHO HAS REGISTERED FOR A
2 CERTIFICATE OF LIFE PARTNERSHIP WITH THE SECRETARY UNDER TITLE 6 OF THIS
3 ARTICLE.

4 [(f)] (G) "Local health planning agency" means the health department of a
5 jurisdiction or a body designated by the local health department to perform health
6 planning functions.

7 [(g)] (H) "Medical examiner" means:

8 (1) The Chief Medical Examiner;

9 (2) The Deputy Chief Medical Examiner;

10 (3) Any assistant medical examiner; or

11 (4) Any deputy medical examiner.

12 [(h)] (I) "Person" means an individual, receiver, trustee, guardian, personal
13 representative, fiduciary, or representative of any kind and any partnership, firm,
14 association, corporation, or other entity.

15 [(i)] (J) "Physician" means an individual who is authorized under the
16 Maryland Medical Practice Act to practice medicine in this State.

17 [(j)] (K) "Secretary" means the Secretary of Health and Mental Hygiene.

18 [(k)] (L) "State" means:

19 (1) A state, possession, or territory of the United States;

20 (2) The District of Columbia; or

21 (3) The Commonwealth of Puerto Rico.

22 4-215.

23 (a) In this section, "cemetery" includes a crematory or other place for final
24 disposition.

25 (e) (1) A permit for disinterment and reinterment is required before the
26 disinterment of human remains if reinterment is not to be made in the same
27 cemetery. The Secretary or a health officer shall issue the permit after receipt of an
28 application on the form that the Secretary requires.

29 (2) If all human remains in a cemetery are to be disinterred for purposes
30 of relocation or abandonment of the cemetery, one application is sufficient for that
31 purpose.

32 (3) The Department shall keep a record of each permit issued for the
33 disinterment and reinterment of human remains.

1 (4) Except as provided in paragraph (5) of this subsection, the
2 Department may not disclose or allow public inspection of information in a permit
3 record about the location of the site of a disinterment or reinterment if a local burial
4 sites advisory board or the Director of the Maryland Historical Trust determines that:

5 (i) The site is historic property, as defined in Article 83B, § 5-601
6 of the Code; and

7 (ii) Disclosure would create a substantial risk of harm, theft, or
8 destruction to the site.

9 (5) The Department may not deny inspection of a permit record to:

10 (i) The owner of the site of the disinterment or reinterment;

11 (ii) A governmental entity that has the power of eminent domain; or

12 (iii) The spouse, LIFE PARTNER, next of kin, or appointed personal
13 representative of the deceased whose human remains have been disinterred or
14 reinterred.

15 5-501.

16 (a) Consent for a postmortem examination of a body by a physician is
17 sufficient if the consent is given as provided in this section.

18 (b) (1) The consent may be given by any one of the following persons if that
19 person, whether alone or with another, has assumed control of the body for its final
20 disposition:

21 (i) A parent;

22 (ii) A spouse;

23 (III) A LIFE PARTNER;

24 [(iii)] (IV) A child;

25 [(iv)] (V) A guardian;

26 [(v)] (VI) A next of kin; or

27 [(vi)] (VII) In the absence of these persons, any other person.

28 (2) If a person does not assume control of a body under paragraph (1) of
29 this subsection, the consent may be given by the State Anatomy Board.

30 5-509.

31 (a) Any individual who is 18 years of age or older may decide the disposition of
32 the individual's own body after that individual's death without the predeath or

1 post-death consent of another person by executing a document that expresses the
2 individual's wishes regarding disposition of the body or by entering into a pre-need
3 contract.

4 (c) Unless a person has knowledge that contrary directions have been given by
5 the decedent, if a decedent has not executed a document under subsection (a) of this
6 section, the following persons, in the order of priority stated, have the right to arrange
7 for the final disposition of the body of the decedent, including by cremation under §
8 5-502 of this subtitle:

9 (1) The surviving spouse OR LIFE PARTNER of the decedent;

10 (2) An adult child of the decedent;

11 (3) A parent of the decedent;

12 (4) An adult brother or sister of the decedent;

13 (5) A person acting as a representative of the decedent under a signed
14 authorization of the decedent;

15 (6) The guardian of the person of the decedent at the time of the
16 decedent's death, if one has been appointed; or

17 (7) In the absence of any person under paragraphs (1) through (6) of this
18 subsection, any other person willing to assume the responsibility to act as the
19 authorizing agent for purposes of arranging the final disposition of the decedent's
20 body, including the personal representative of the decedent's estate, after attesting in
21 writing that a good faith effort has been made to no avail to contact the individuals
22 under paragraphs (1) through (6) of this subsection.

23 5-605.

24 (a) (1) In this subsection, "unavailable" means:

25 (i) After reasonable inquiry, a health care provider is unaware of
26 the existence of a surrogate decision maker;

27 (ii) After reasonable inquiry, a health care provider cannot
28 ascertain the whereabouts of a surrogate decision maker;

29 (iii) A surrogate decision maker has not responded in a timely
30 manner, taking into account the health care needs of the individual, to a written or
31 oral message from a health care provider;

32 (iv) A surrogate decision maker is incapacitated; or

33 (v) A surrogate decision maker is unwilling to make decisions
34 concerning health care for the individual.

1 (2) The following individuals or groups, in the specified order of priority,
2 may make decisions about health care for a person who has been certified to be
3 incapable of making an informed decision and who has not appointed a health care
4 agent in accordance with this subtitle. Individuals in a particular class may be
5 consulted to make a decision only if all individuals in the next higher class are
6 unavailable:

7 (i) A guardian for the patient, if one has been appointed;

8 (ii) The patient's spouse OR LIFE PARTNER;

9 (iii) An adult child of the patient;

10 (iv) A parent of the patient;

11 (v) An adult brother or sister of the patient; or

12 (vi) A friend or other relative of the patient who meets the
13 requirements of paragraph (3) of this subsection.

14 5-612.

15 (a) (1) A health care provider for an individual incapable of making an
16 informed decision who believes that an instruction to withhold or withdraw a
17 life-sustaining procedure from the patient is inconsistent with generally accepted
18 standards of patient care shall:

19 (i) Petition a patient care advisory committee for advice concerning
20 the withholding or withdrawal of the life-sustaining procedure from the patient if the
21 patient is in a hospital or related institution; or

22 (ii) File a petition in a court of competent jurisdiction seeking
23 injunctive or other relief relating to the withholding or withdrawal of the
24 life-sustaining procedure from the patient.

25 (2) In reviewing a petition filed under paragraph (1) of this subsection,
26 the court shall follow the standards set forth in §§ 13-711 through 13-713 of the
27 Estates and Trusts Article.

28 (b) On petition of the patient's spouse, LIFE PARTNER, a parent, adult child,
29 grandchild, brother, or sister of the patient, or a friend or other relative who has
30 qualified as a surrogate under § 5-605 of this subtitle to a circuit court of the county
31 or city in which the patient for whom treatment will be or is currently being provided,
32 withheld, or withdrawn under this subtitle resides or is located, the court may enjoin
33 that action upon finding by a preponderance of the evidence that the action is not
34 lawfully authorized by this subtitle or by other State or federal law.

35 (c) Except for cases that the court considers of greater importance, a
36 proceeding under this section, including an appeal, shall:

- 1 (1) Take precedence on the docket;
- 2 (2) Be heard at the earliest practicable date; and
- 3 (3) Be expedited in every way.

4 TITLE 6. LIFE PARTNERSHIPS.

5 SUBTITLE 1. DEFINITIONS.

6 6-101.

7 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

8 (B) "CERTIFICATE OF LIFE PARTNERSHIP" MEANS A CERTIFICATE ISSUED BY
9 THE SECRETARY ESTABLISHING A LIFE PARTNERSHIP AND AUTHORIZING THE LIFE
10 PARTNERS TO CLAIM THE BENEFITS OF A LIFE PARTNERSHIP.

11 (C) (1) "COMMON RESIDENCE" MEANS THE SHARED PLACE WHERE BOTH
12 LIFE PARTNERS LIVE.

13 (2) "COMMON RESIDENCE" INCLUDES THE SHORT-TERM OR
14 LONG-TERM TEMPORARY LEAVING OF THE COMMON RESIDENCE BY ONE LIFE
15 PARTNER WITH THE INTENT TO RETURN TO THE COMMON RESIDENCE.

16 (3) "COMMON RESIDENCE" DOES NOT MEAN THAT:

17 (I) BOTH LIFE PARTNERS ARE REQUIRED TO HAVE THE RIGHT TO
18 LEGAL POSSESSION OF THE COMMON RESIDENCE; OR

19 (II) A LIFE PARTNER MAY NOT HAVE AN ADDITIONAL RESIDENCE.

20 (D) (1) "MUTUAL INTERDEPENDENCE" MEANS THAT EACH LIFE PARTNER IN
21 A RELATIONSHIP CONTRIBUTES TO THE MAINTENANCE AND SUPPORT OF THE
22 OTHER LIFE PARTNER AND THE RELATIONSHIP.

23 (2) "MUTUAL INTERDEPENDENCE" DOES NOT MEAN THAT THE LIFE
24 PARTNERS ARE REQUIRED TO CONTRIBUTE EQUALLY TO THE RELATIONSHIP.

25 SUBTITLE 2. GENERAL PROVISIONS AND REGISTRATION OF LIFE PARTNERSHIPS.

26 6-201.

27 (A) A LIFE PARTNERSHIP IS NOT ESTABLISHED AND AN INDIVIDUAL MAY NOT
28 CLAIM THE BENEFITS OF A LIFE PARTNERSHIP UNLESS THE INDIVIDUAL HAS BEEN
29 ISSUED A CERTIFICATE OF LIFE PARTNERSHIP BY THE SECRETARY.

30 (B) AN INDIVIDUAL WHO VIOLATES THIS SECTION IS GUILTY OF A
31 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF \$100.

1 6-202.

2 (A) TO QUALIFY FOR A CERTIFICATE OF LIFE PARTNERSHIP, A REGISTRANT
3 SHALL MEET THE REQUIREMENTS OF THIS SECTION.

4 (B) A REGISTRANT QUALIFIES UNDER THIS SECTION IF:

5 (1) EACH INDIVIDUAL IS AT LEAST 18 YEARS OLD;

6 (2) THE INDIVIDUALS ARE NOT RELATED TO THE OTHER BY BLOOD OR
7 MARRIAGE WITHIN FOUR DEGREES OF CONSANGUINITY UNDER THE CIVIL LAW
8 RULE;

9 (3) (I) THE INDIVIDUALS ARE OF THE SAME SEX; OR

10 (II) THE INDIVIDUALS ARE OF THE OPPOSITE SEX;

11 (4) NEITHER INDIVIDUAL IS MARRIED OR IS A MEMBER OF A CIVIL
12 UNION OR DOMESTIC PARTNERSHIP WITH ~~ANOTHER INDIVIDUAL~~ A THIRD PARTY;

13 (5) THE INDIVIDUALS AGREE TO BE IN A RELATIONSHIP OF MUTUAL
14 INTERDEPENDENCE;

15 (6) THE INDIVIDUALS SHARE A COMMON RESIDENCE IN THE STATE;
16 AND

17 (7) THE INDIVIDUALS AGREE TO REGISTER WITH THE SECRETARY.

18 6-203.

19 (A) THE SECRETARY SHALL DEVELOP:

20 (1) A "DECLARATION OF LIFE PARTNERSHIP" FORM; AND

21 (2) A "NOTICE OF TERMINATION OF LIFE PARTNERSHIP" FORM.

22 (B) (1) THE SECRETARY SHALL DISTRIBUTE "DECLARATION OF LIFE
23 PARTNERSHIP" FORMS AND "NOTICE OF TERMINATION OF LIFE PARTNERSHIP"
24 FORMS TO EACH COUNTY CLERK AND SHALL MAKE THE FORMS AVAILABLE IN THE
25 DEPARTMENT OF HEALTH AND MENTAL HYGIENE AND IN LOCAL HEALTH
26 DEPARTMENTS.

27 (2) (I) THE SECRETARY SHALL MAKE THE FORMS AVAILABLE ON THE
28 DEPARTMENT'S WEBSITE.

29 (II) EACH COUNTY CLERK SHALL MAKE THE FORMS AVAILABLE ON
30 THE COUNTY CLERK'S WEBSITE.

31 (C) (1) (I) THE SECRETARY SHALL SET A REASONABLE FEE, ~~BASED ON~~
32 ~~THE COSTS OF PROCESSING THE FORMS, TO FILE~~ FOR THE FILING OF A
33 "DECLARATION OF LIFE PARTNERSHIP" FORM.

1 (II) THE FEE CHARGED SHALL BE SET TO COVER THE
2 DEPARTMENT'S COSTS TO CARRY OUT THE PROVISIONS OF THIS TITLE.

3 (2) THERE SHALL BE NO FEE CHARGED FOR FILING A "NOTICE OF
4 TERMINATION OF LIFE PARTNERSHIP" FORM.

5 (D) THE FORMS SHALL BE MAILED TO THE SECRETARY BY CERTIFIED MAIL
6 ACCORDING TO INSTRUCTIONS PROVIDED ON THE FORMS.

7 (E) THE SECRETARY SHALL ONLY PROVIDE CONFIRMATION OF THE IDENTITY
8 OF AN INDIVIDUAL OR COUPLE ON THE LIFE PARTNERSHIP REGISTRY IF:

9 (1) THAT INFORMATION IS REQUESTED BY A PERSON AUTHORIZED TO
10 REQUEST THE INFORMATION BY REGULATIONS ADOPTED UNDER THIS TITLE; AND

11 (2) THE PERSON AUTHORIZED TO REQUEST THE INFORMATION
12 PROVIDES THE SECRETARY WITH THE CONFIRMATION NUMBER OF THE LIFE
13 PARTNERSHIP.

14 6-204.

15 (A) (1) THE "DECLARATION OF LIFE PARTNERSHIP" FORM SHALL REQUIRE
16 EACH INDIVIDUAL SEEKING DESIGNATION AS A LIFE PARTNER TO:

17 (I) VERIFY THAT EACH INDIVIDUAL MEETS THE REQUIREMENTS
18 OF § 6-202 OF THIS SUBTITLE;

19 (II) PROVIDE A MAILING ADDRESS; AND

20 (III) SIGN THE FORM WITH A DECLARATION THAT THE
21 DECLARATIONS MADE ON THE FORM ARE TRUE, CORRECT, AND CONTAIN NO
22 MATERIAL OMISSIONS OF FACT TO THE BEST KNOWLEDGE AND BELIEF OF EACH
23 APPLICANT.

24 (2) THE "DECLARATION OF LIFE PARTNERSHIP" FORM SHALL REQUIRE
25 THE SIGNATURE AND SEAL OF ACKNOWLEDGMENT BY A NOTARY PUBLIC TO BE
26 BINDING AND VALID.

27 (3) THE "DECLARATION OF LIFE PARTNERSHIP" FORM SHALL INCLUDE A
28 REFERENCE TO THE INFORMATION SHEET ON ADVANCE DIRECTIVES DEVELOPED
29 UNDER § 5-615 OF THIS ARTICLE.

30 (B) THE SECRETARY SHALL REGISTER THE "DECLARATION OF LIFE
31 PARTNERSHIP" FORM AS PROVIDED IN § 6-206 OF THIS SUBTITLE, AND SHALL
32 RETURN A COPY OF THE REGISTERED FORM WITH A CONFIRMATION NUMBER OF
33 THE LIFE PARTNERSHIP TO THE LIFE PARTNERS AT THE ADDRESS PROVIDED BY THE
34 LIFE PARTNERS AS THEIR COMMON RESIDENCE.

35 (C) AN INDIVIDUAL WHO HAS PREVIOUSLY REGISTERED A LIFE PARTNERSHIP
36 WITH THE SECRETARY MAY NOT REGISTER A NEW LIFE PARTNERSHIP UNTIL 90 DAYS

1 AFTER THE DATE THAT A NOTICE OF TERMINATION OF LIFE PARTNERSHIP WAS
2 RECORDED BY THE SECRETARY.

3 6-205.

4 (A) (1) A LIFE PARTNERSHIP SHALL TERMINATE:

5 (I) ON THE DEATH OF A LIFE PARTNER; OR

6 (II) WHEN A NOTICE OF TERMINATION OF LIFE PARTNERSHIP HAS
7 BEEN ACCEPTED FOR RECORD BY THE SECRETARY.

8 (2) NOTWITHSTANDING PARAGRAPH (1)(I) OF THIS SUBSECTION, THE
9 POST-DEATH RIGHTS CONFERRED TO A LIFE PARTNER DO NOT TERMINATE UPON
10 THE DEATH OF A LIFE PARTNER.

11 (B) (1) WITHIN 90 DAYS OF THE DISSOLUTION OF A LIFE PARTNERSHIP, AT
12 LEAST ONE MEMBER OF THE LIFE PARTNERSHIP SHALL SEND, BY CERTIFIED MAIL, A
13 NOTICE TO THE SECRETARY.

14 (2) WHEN THE SECRETARY ACCEPTS FOR RECORD A NOTICE, THE
15 SECRETARY SHALL:

16 (I) ENDORSE ON THE NOTICE ITS ACCEPTANCE FOR RECORD AND
17 THE DATE AND TIME OF ACCEPTANCE;

18 (II) RECORD PROMPTLY THE NOTICE; AND

19 (III) PROVIDE THE LIFE PARTNER WHO FILED THE NOTICE TWO
20 COPIES OF THE NOTICE WITH THE ENDORSEMENTS REQUIRED IN ITEM (I) OF THIS
21 PARAGRAPH.

22 (3) WITHIN 5 DAYS OF RECEIVING THE COPIES OF THE NOTICE
23 ENDORSED BY THE SECRETARY, THE LIFE PARTNER SHALL SEND, BY CERTIFIED
24 MAIL, A COPY OF THE NOTICE ENDORSED BY THE SECRETARY TO THE OTHER LIFE
25 PARTNER'S LAST KNOWN ADDRESS.

26 (C) (1) (I) THIS SUBSECTION APPLIES TO A LIFE PARTNER WHO HAS
27 GIVEN A COPY OF A CERTIFICATE OF LIFE PARTNERSHIP TO A THIRD PARTY TO
28 QUALIFY FOR OR CLAIM ANY BENEFIT OR RIGHT OF A LIFE PARTNER.

29 (II) THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE AN
30 EMPLOYER TO OFFER OR PROHIBIT AN EMPLOYER FROM OFFERING HEALTH
31 INSURANCE BENEFITS TO LIFE PARTNERS.

32 (2) ANY BENEFIT OR RIGHT OFFERED BY A THIRD PARTY THAT A LIFE
33 PARTNER CLAIMS AS A RESULT OF A LIFE PARTNERSHIP, SHALL IMMEDIATELY
34 TERMINATE ON THE TERMINATION OF A LIFE PARTNERSHIP.

35 (3) ON THE TERMINATION OF A LIFE PARTNERSHIP, A LIFE PARTNER
36 SHALL GIVE OR SEND TO THE THIRD PARTY, AT THE LAST KNOWN ADDRESS OF THE

1 THIRD PARTY, WRITTEN NOTIFICATION THAT THE LIFE PARTNERSHIP HAS BEEN
2 TERMINATED.

3 (4) A THIRD PARTY WHO SUFFERS A LOSS AS A RESULT OF THE FAILURE
4 OF A LIFE PARTNER TO NOTIFY THE THIRD PARTY OF THE TERMINATION OF A LIFE
5 PARTNERSHIP IS ENTITLED TO RECOVER ANY ACTUAL DAMAGES.

6 6-206.

7 THE SECRETARY SHALL KEEP ~~A CERTIFICATE OF LIFE PARTNERSHIP BOOK~~
8 RECORDS CONCERNING LIFE PARTNERSHIPS, WHICH SHALL CONTAIN:

9 (1) A COMPLETE RECORD OF EACH REGISTRATION ISSUED;

10 (2) A COMPLETE RECORD OF ALL MATTERS THE DESIGNATED OFFICIAL
11 IS REQUIRED TO ASCERTAIN THAT RELATE TO THE RIGHTS OF AN INDIVIDUAL TO
12 OBTAIN A REGISTRATION;

13 (3) IN REGULAR ORDER, THE ITEMS SUBMITTED BY THE REGISTRANTS
14 AS REQUIRED UNDER THIS TITLE;

15 (4) ~~PROPERLY INDEXED, THE NAME OF EACH INDIVIDUAL WHO~~
16 ~~INTENDS TO REGISTER A LIFE PARTNERSHIP~~ CONFIRMATION NUMBERS OF
17 REGISTERED LIFE PARTNERSHIPS; AND

18 (5) THE DATE EACH REGISTRATION WAS RECORDED AND THE NAME OF
19 THE NOTARY PUBLIC WHO WITNESSED THE SIGNATURES.

20 6-207.

21 (A) AN INDIVIDUAL MAY NOT KNOWINGLY MAKE ANY MATERIAL FALSE
22 STATEMENT TO OBTAIN OR TO HELP ANOTHER INDIVIDUAL TO OBTAIN A
23 CERTIFICATE OF LIFE PARTNERSHIP IN VIOLATION OF THIS TITLE.

24 (B) AN INDIVIDUAL WHO VIOLATES THE PROVISIONS OF THIS SECTION IS
25 GUILTY OF PERJURY.

26 6-208.

27 THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS
28 OF THIS TITLE.

29 SUBTITLE 3. MEDICAL EMERGENCIES.

30 6-301.

31 (A) A HOSPITAL, RELATED INSTITUTION, AND RESIDENTIAL TREATMENT
32 CENTER, AS DEFINED IN § 19-301 OF THIS ARTICLE, SHALL ALLOW A PATIENT'S LIFE
33 PARTNER, THE CHILDREN OF THE PATIENT'S LIFE PARTNER, AND THE LIFE PARTNER
34 OF THE PATIENT'S PARENT OR CHILD TO VISIT, UNLESS:

1 (1) NO VISITORS ARE ALLOWED;

2 (2) THE FACILITY REASONABLY DETERMINES THAT THE PRESENCE OF A
3 PARTICULAR VISITOR WOULD ENDANGER THE HEALTH OR SAFETY OF A PATIENT OR
4 MEMBER OF THE FACILITY STAFF; OR

5 (3) THE PATIENT TELLS THE FACILITY STAFF THAT THE PATIENT DOES
6 NOT WANT THE INDIVIDUAL TO VISIT.

7 (B) THIS SECTION DOES NOT PROHIBIT A HOSPITAL, RELATED INSTITUTION,
8 OR RESIDENTIAL TREATMENT CENTER FROM ESTABLISHING REASONABLE
9 RESTRICTIONS UPON VISITATION, INCLUDING RESTRICTIONS ON THE HOURS OF
10 VISITATION AND NUMBER OF VISITORS.

11 6-302.

12 (A) THIS SECTION APPLIES TO TWO ADULTS WHO QUALIFY FOR A
13 CERTIFICATE OF REGISTRATION OF A LIFE PARTNERSHIP BUT ARE NOT
14 REGISTERED.

15 (B) IN THE CASE OF A MEDICAL EMERGENCY, TWO ADULTS SHALL BE
16 TREATED AS LIFE PARTNERS IF ONE OF THE ADULTS TELLS, IN GOOD FAITH, THE
17 EMERGENCY MEDICAL PROVIDER OR HOSPITAL PERSONNEL THAT THE ADULTS ARE
18 IN A MUTUALLY INTERDEPENDENT RELATIONSHIP, FOR THE FOLLOWING PURPOSES
19 ONLY:

20 (1) IN ACCORDANCE WITH COUNTY OR COMPANY EMERGENCY MEDICAL
21 SERVICES TRANSPORT POLICIES, ALLOWING ONE ADULT TO ACCOMPANY THE ILL OR
22 INJURED ADULT BEING TRANSPORTED TO A HOSPITAL IN AN EMERGENCY VEHICLE;
23 AND

24 (2) VISITATION WITH THE ILL OR INJURED ADULT ADMITTED TO A
25 HOSPITAL ON AN EMERGENCY BASIS ON THE SAME BASIS AS A MEMBER OF THE ILL
26 OR INJURED ADULT'S IMMEDIATE FAMILY.

27 SUBTITLE 4. LIFE PARTNER'S RIGHTS AND OBLIGATIONS.

28 6-401.

29 (A) THE RIGHTS AND OBLIGATIONS OF A LIFE PARTNER AS A RESULT OF
30 REGISTERING A LIFE PARTNERSHIP ARE ONLY THOSE DESCRIBED IN THIS ARTICLE,
31 TITLE 7 OF THE HEALTH OCCUPATIONS ARTICLE, TITLE 6 OF THE REAL PROPERTY
32 ARTICLE, AND TITLE 4 OF THE ESTATES AND TRUSTS ARTICLE.

33 (B) THE ESTABLISHMENT OF A LIFE PARTNERSHIP REGISTRY IN THIS STATE
34 MAY NOT BE CONSTRUED TO RECOGNIZE, CONDONE, OR PROHIBIT A DOMESTIC
35 PARTNERSHIP, CIVIL UNION, OR MARRIAGE BETWEEN TWO INDIVIDUALS OF THE
36 SAME SEX ENTERED INTO IN ANOTHER STATE OR JURISDICTION.

1 6-402.

2 NOTWITHSTANDING ANY PROVISIONS OF THIS TITLE OR ANY OTHER
3 PROVISION OF LAW, IF A LIFE PARTNER HAS SELECTED A HEALTH CARE AGENT IN
4 ACCORDANCE WITH TITLE 5, SUBTITLE 6 OF THIS ARTICLE, THAT HEALTH CARE
5 AGENT RETAINS THE AUTHORITY TO MAKE ANY DECISIONS FOR THE LIFE PARTNER
6 THAT ARE PROVIDED FOR IN THE SELECTION OF THE HEALTH CARE AGENT UNTIL
7 THE HEALTH CARE AGENCY HAS BEEN REVOKED IN ACCORDANCE WITH THE
8 PROVISIONS OF TITLE 5, SUBTITLE 6 OF THIS ARTICLE.

9 10-807.

10 (a) The Director may transfer an individual from a public facility to another
11 public facility or, if a private facility agrees, to that private facility, if the Director
12 finds that:

13 (1) The individual either can receive better care or treatment in or would
14 be more likely to benefit from care or treatment at the other facility; or

15 (2) The safety or welfare of other individuals would be furthered.

16 (e) An individual may not be transported to or from any facility unless
17 accompanied by:

18 (1) An ambulance attendant or other individual who is authorized by the
19 facility and is of the same sex. However, the chief executive officer of the facility or
20 that officer's designee may designate an ambulance attendant or other person of
21 either sex to provide transportation to an individual, if deemed appropriate; or

22 (2) The parent, spouse, LIFE PARTNER, adult sibling, or adult offspring of
23 the individual.

24 19-310.

25 (a) In this section, "designated requestor" means a hospital employee who has
26 completed a course offered by an organ, tissue, or eye recovery agency on how to
27 approach potential donor families and request organ or tissue donation.

28 (d) (1) Except as provided in subsection (j) of this section, when an
29 individual dies in a hospital in accordance with § 5-202 of this article, a
30 representative of the appropriate organ, tissue, or eye recovery agency or a
31 designated requestor shall request, with sensitivity, in the order of stated priority,
32 that the individual's representative consent to the donation of all or any of the
33 decedent's organs or tissues as an anatomical donation if suitable.

34 (2) For the purposes of paragraph (1) of this subsection, the
35 representative of the deceased individual is 1 of the following individuals listed in the
36 following order of priority:

- 1 (i) A spouse OR LIFE PARTNER, but, if not alive or not competent,
2 then;
- 3 (ii) A son or daughter who is at least 18 years old, but, if not alive,
4 competent, or immediately available, then;
- 5 (iii) A parent, but, if not alive, competent, or immediately available,
6 then;
- 7 (iv) A brother or sister who is at least 18 years old, but, if not alive
8 or not competent, then;
- 9 (v) A guardian;
- 10 (vi) A friend or other relative of the decedent, if the individual:
- 11 1. Is a competent individual; and
- 12 2. Presents an affidavit to the attending physician stating:
- 13 A. That the individual is a relative or close friend of the
14 decedent; and
- 15 B. Specific facts and circumstances demonstrating that the
16 individual maintained regular contact with the decedent sufficient to be familiar with
17 the decedent's activities, health, and personal beliefs; or
- 18 (vii) Any other person authorized or required to dispose of the body.
- 19 (3) (i) This subsection does not apply if the decedent has given
20 contrary directions.
- 21 (ii) The failure of the decedent to make a gift is not a contrary
22 direction for purposes of this subsection.
- 23 (4) Contrary directions given by the decedent under this subsection shall
24 be recorded in the decedent's medical record.
- 25 (5) The representative of the appropriate organ, tissue, or eye recovery
26 agency or the designated requestor and the representative of the deceased patient are
27 entitled to protection from civil and criminal liability as provided in § 4-508(b) of the
28 Estates and Trusts Article.
- 29 (g) A hospital may not bill the estate of the decedent, a surviving spouse OR
30 LIFE PARTNER of the decedent, any heirs of the decedent, or an insurer of the
31 decedent for the costs associated with the removal of all or any of the decedent's
32 organs or tissues for the purpose of an anatomical donation.
- 33 (j) The consent of the decedent's representative is not necessary and the
34 provisions of subsection (d) of this section do not apply if:

1 (1) The decedent's driver's license or identification card contains a
2 notation that the decedent is an organ donor; or

3 (2) The decedent has consented to the gift of all or any part of the
4 decedent's body in accordance with the provisions of:

5 (i) § 5-604.1 of this article; or

6 (ii) Title 4, Subtitle 5 of the Estates and Trusts Article.

7 19-343.

8 (a) In this section and §§ 19-344 and 19-345 of this subtitle, "facility" means
9 a related institution that, under the rules and regulations of the Department, is a
10 comprehensive care facility or an extended care facility.

11 (b) (1) The General Assembly intends to promote the interests and
12 well-being of each resident of a facility.

13 (2) It is the policy of this State that, in addition to any other rights, each
14 resident of a facility has the following basic rights:

15 (i) The right to be treated with consideration, respect, and full
16 recognition of human dignity and individuality;

17 (ii) The right to receive treatment, care, and services that are
18 adequate, appropriate, and in compliance with relevant State and federal laws, rules,
19 and regulations;

20 (iii) The right to privacy;

21 (iv) The right to be free from mental and physical abuse;

22 (v) The right to expect and receive appropriate assessment,
23 management, and treatment of pain as an integral component of the patient's care;

24 (vi) The right to be free from physical and chemical restraints,
25 except for restraints that a physician authorizes for a clearly indicated medical need;

26 (vii) The right to receive respect and privacy in a medical care
27 program; and

28 (viii) The right to manage personal financial affairs.

29 19-344.

30 (a) To carry out the policy set forth in § 19-343 of this subtitle, the following
31 procedures are required for all services provided to a resident of a facility.

1 (h) If it is feasible to do so and not medically contraindicated, spouses OR LIFE
 2 PARTNERS who are both residents of the facility shall be given the opportunity to
 3 share a room.

4 (k) (1) Each married resident of a facility shall have privacy during a visit
 5 by the spouse.

6 (2) EACH RESIDENT WHO IS PARTY TO A LIFE PARTNERSHIP SHALL
 7 HAVE PRIVACY DURING A VISIT BY THE OTHER LIFE PARTNER.

8 (q) (1) A resident of a facility or the next of kin, LIFE PARTNER, or guardian
 9 of the person of a resident may file a complaint about an alleged violation of this
 10 section.

11 **Article - Health Occupations**

12 7-410.

13 (a) Any individual who is 18 years of age or older may decide the disposition of
 14 the individual's own body after the individual's death without the pre-death or
 15 post-death consent of another person by executing a document that expresses the
 16 individual's wishes or by entering into a pre-need contract.

17 (c) Unless a person has knowledge that contrary directions have been given by
 18 the decedent, if a decedent has not executed a document under subsection (a) of this
 19 section, the following persons, in the order of priority stated, have the right to arrange
 20 for the final disposition of the body of the decedent under this section and are liable
 21 for the reasonable costs of preparation, care, and disposition of the decedent:

22 (1) The surviving spouse OR LIFE PARTNER, AS DEFINED IN § 1-101 OF
 23 THE HEALTH - GENERAL ARTICLE, of the decedent;

24 (2) An adult child of the decedent;

25 (3) A parent of the decedent;

26 (4) An adult brother or sister of the decedent;

27 (5) A person acting as a representative of the decedent under a signed
 28 authorization of the decedent;

29 (6) The guardian of the person of the decedent at the time of the
 30 decedent's death, if a guardian has been appointed; or

31 (7) In the absence of any person under paragraphs (1) through (6) of this
 32 subsection, any other person willing to assume the responsibility to act as the
 33 authorizing agent for purposes of arranging the final disposition of the decedent's
 34 body, including the personal representative of the decedent's estate, after attesting in
 35 writing that a good faith effort has been made to no avail to contact the persons
 36 described in paragraphs (1) through (6) of this subsection.

Article - Real Property

1
2 14-121.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) (i) "Burial site" means any natural or prepared physical location,
5 whether originally located below, on, or above the surface of the earth into which
6 human remains or associated funerary objects are deposited as a part of a death rite
7 or ceremony of any culture, religion, or group.

8 (ii) "Burial site" includes the human remains and associated
9 funerary objects that result from a shipwreck or accident and are intentionally left to
10 remain at the site.

11 (3) "Cultural affiliation" means a relationship of shared group identity
12 that can be reasonably traced historically between a present-day group, tribe, band,
13 or clan and an identifiable earlier group.

14 (4) "Person in interest" means a person who:

15 (i) Is related by blood or marriage to the person interred in a burial
16 site;

17 (II) IS A LIFE PARTNER, AS DEFINED IN § 1-101 OF THE HEALTH -
18 GENERAL ARTICLE, OF A PERSON INTERRED IN A BURIAL SITE;

19 [(ii)] (III) Has a cultural affiliation with the person interred in a
20 burial site; or

21 [(iii)] (IV) Has an interest in a burial site that the Office of the
22 State's Attorney for the county where the burial site is located recognizes is in the
23 public interest after consultation with a local burial sites advisory board or, if such a
24 board does not exist, the Maryland Historical Trust.

Article - Estates and Trusts

25
26 4-501.

27 (a) In this subtitle the following words have the meanings indicated.

28 (b) "Body" or "part of body" includes organs, tissues, bones, blood, and other
29 body fluids.

30 (c) "Licensed hospital" includes any hospital licensed by the State Department
31 of Health and Mental Hygiene under the laws of the State, and any hospital operated
32 by the United States government, although not required to be licensed under the laws
33 of the State.

1 (d) "Next of kin" includes spouse AND LIFE PARTNER, AS DEFINED IN § 1-101
2 OF THE HEALTH - GENERAL ARTICLE.

3 (e) "Person" means any individual, corporation, government or governmental
4 agency or subdivision, estate, trust, partnership or association, or any other legal
5 entity.

6 (f) "Physician" or "surgeon" means any physician or surgeon licensed to
7 practice under the laws of the State.

8 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
9 Act or the application thereof to any person or circumstance is held invalid for any
10 reason in a court of competent jurisdiction, the invalidity does not affect other
11 provisions or any other application of this Act which can be given effect without the
12 invalid provision or application, and for this purpose the provisions of this Act are
13 declared severable.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 July 1, 2005.