
By: **Senators Conway, Grosfeld, Kelley, and Pinsky**

Introduced and read first time: February 9, 2005

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Medical Decision Making Act of 2005**

3 FOR the purpose of establishing domestic partnerships in the State for certain
4 purposes; prohibiting an individual from claiming the benefits of a domestic
5 partnership except under certain circumstances; establishing certain crimes and
6 penalties; requiring individuals to register with the Secretary of Health and
7 Mental Hygiene in order to enter into a domestic partnership; establishing
8 certain qualifications for individuals registering a domestic partnership;
9 establishing certain registration procedures; requiring the Secretary to adopt
10 certain regulations; providing certain procedures for the termination of a
11 domestic partnership; requiring a domestic partner that qualified for and
12 claimed certain third party benefits to provide notice to the third party on the
13 termination of a domestic partnership; establishing certain rights for certain
14 third parties; requiring the Secretary to keep a certificate of domestic
15 partnership book containing certain information; requiring certain health care
16 facilities to allow domestic partners and certain relatives of domestic partners to
17 visit a domestic partner except under certain circumstances; requiring two
18 adults to be treated as domestic partners in certain circumstances related to
19 medical emergencies; providing for the scope of this Act; requiring a domestic
20 partnership or civil union entered into outside this State to be treated as a
21 domestic partnership in this State; establishing that the registration of a
22 domestic partnership by two individuals who are also married to each other in
23 another state may not be considered to be certain evidence, knowledge,
24 awareness, or admission; prohibiting the Department of Health and Mental
25 Hygiene from denying a domestic partner the right to inspect a record to permit
26 a disinterment or reinterment of a body; authorizing a domestic partner to give
27 consent to conduct a postmortem examination of a certain body; authorizing the
28 domestic partner to arrange for the final disposition of the body of a decedent
29 under certain circumstances; authorizing a domestic partner to make the health
30 care decisions for certain persons; authorizing a domestic partner of a certain
31 patient to petition a court to enjoin the actions of a certain treating health care
32 provider; authorizing a domestic partner to accompany an individual being
33 transported from one health care facility to another health care facility in
34 certain circumstances; establishing that a domestic partner may be a
35 representative of a deceased from whom a hospital is asking a human organ

1 donation; prohibiting a hospital from billing a domestic partner for the costs
2 associated with the deceased domestic partner's organ donation; requiring that
3 domestic partners be given the opportunity to share a room in a certain faculty
4 under certain circumstances; requiring certain related institutions to allow a
5 resident who is a party to a domestic partnership to have privacy during a visit
6 by the other domestic partner; authorizing the domestic partner to arrange the
7 final disposition of the body of a decedent with a mortician under certain
8 circumstances; establishing that for purposes of an interest in the property of a
9 burial site, a domestic partner is a person in interest; establishing that a
10 domestic partner is a next of kin for purposes of making anatomical gifts of a
11 decedent; defining certain terms; making the provisions of this Act severable;
12 and generally relating to the Medical Decision Making Act of 2005.

13 BY adding to

14 Article - Health - General
15 Section 6-101 through 6-501 to be under the new title "Title 6. Domestic
16 Partnerships"
17 Annotated Code of Maryland
18 (2000 Replacement Volume and 2004 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article - Health - General
21 Section 1-101, 4-215(e), 5-501(b), 5-509(c), 5-605(a)(2), 5-612, 10-807(e),
22 19-310(d) and (g), and 19-344(h), (k), and (q)(1)
23 Annotated Code of Maryland
24 (2000 Replacement Volume and 2004 Supplement)

25 BY repealing and reenacting, without amendments,

26 Article - Health - General
27 Section 4-215(a), 5-501(a), 5-509(a), 5-605(a)(1), 10-807(a), 19-310(a) and (j),
28 19-343(a) and (b), and 19-344(a)
29 Annotated Code of Maryland
30 (2000 Replacement Volume and 2004 Supplement)

31 BY repealing and reenacting, without amendments,

32 Article - Health Occupations
33 Section 7-410(a)
34 Annotated Code of Maryland
35 (2000 Replacement Volume and 2004 Supplement)

36 BY repealing and reenacting, with amendments,

37 Article - Health Occupations
38 Section 7-410(c)
39 Annotated Code of Maryland
40 (2000 Replacement Volume and 2004 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Real Property
3 Section 14-121(a)
4 Annotated Code of Maryland
5 (2003 Replacement Volume and 2004 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Estates and Trusts
8 Section 4-501
9 Annotated Code of Maryland
10 (2001 Replacement Volume and 2004 Supplement)

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

13 **Article - Health - General**

14 TITLE 6. DOMESTIC PARTNERSHIPS.

15 SUBTITLE 1. DEFINITIONS.

16 6-101.

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

18 (B) "CERTIFICATE OF DOMESTIC PARTNERSHIP" MEANS A CERTIFICATE
19 ISSUED BY THE SECRETARY ESTABLISHING A DOMESTIC PARTNERSHIP AND
20 AUTHORIZING THE DOMESTIC PARTNERS TO CLAIM THE BENEFITS OF A DOMESTIC
21 PARTNERSHIP.

22 (C) (1) "COMMON RESIDENCE" MEANS THE SHARED PLACE WHERE BOTH
23 DOMESTIC PARTNERS LIVE.

24 (2) "COMMON RESIDENCE" INCLUDES THE SHORT-TERM OR
25 LONG-TERM TEMPORARY LEAVING OF THE COMMON RESIDENCE BY ONE DOMESTIC
26 PARTNER WITH THE INTENT TO RETURN TO THE COMMON RESIDENCE.

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

28 (I) BOTH DOMESTIC PARTNERS ARE REQUIRED TO HAVE THE
29 RIGHT TO LEGAL POSSESSION OF THE COMMON RESIDENCE; OR

30 (II) A DOMESTIC PARTNER MAY NOT HAVE AN ADDITIONAL
31 RESIDENCE.

32 (D) "DESIGNATED OFFICIAL" MEANS AN OFFICIAL DESIGNATED BY THE
33 SECRETARY TO REGISTER DOMESTIC PARTNERSHIPS.

1 (E) "DOMESTIC PARTNER" MEANS AN INDIVIDUAL WHO HAS REGISTERED FOR
2 A CERTIFICATE OF DOMESTIC PARTNERSHIP WITH THE SECRETARY.

3 (F) (1) "MUTUAL INTERDEPENDENCE" MEANS THAT EACH DOMESTIC
4 PARTNER IN A RELATIONSHIP CONTRIBUTES TO THE MAINTENANCE AND SUPPORT
5 OF THE OTHER DOMESTIC PARTNER AND THE RELATIONSHIP.

6 (2) "MUTUAL INTERDEPENDENCE" DOES NOT MEAN THAT THE
7 DOMESTIC PARTNERS ARE REQUIRED TO CONTRIBUTE EQUALLY TO THE
8 RELATIONSHIP.

9 (G) "NOTICE" MEANS NOTICE OF THE TERMINATION OF A DOMESTIC
10 PARTNERSHIP.

11 SUBTITLE 2. GENERAL PROVISIONS AND REGISTRATION OF DOMESTIC
12 PARTNERSHIPS.

13 6-201.

14 (A) A DOMESTIC PARTNERSHIP IS NOT ESTABLISHED AND AN INDIVIDUAL
15 MAY NOT CLAIM THE BENEFITS OF A DOMESTIC PARTNERSHIP UNLESS THE
16 INDIVIDUAL HAS BEEN ISSUED A CERTIFICATE OF DOMESTIC PARTNERSHIP BY THE
17 SECRETARY.

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

20 6-202.

21 (A) TO QUALIFY FOR A CERTIFICATE OF DOMESTIC PARTNERSHIP, A
22 REGISTRANT SHALL MEET THE REQUIREMENTS OF THIS SECTION.

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

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

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

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

29 (II) THE INDIVIDUALS ARE OF THE OPPOSITE SEX AND EACH
30 INDIVIDUAL IS AT LEAST 62 YEARS OLD;

31 (4) NEITHER INDIVIDUAL IS MARRIED OR IS A MEMBER OF A CIVIL
32 UNION OR DOMESTIC PARTNERSHIP;

33 (5) THE INDIVIDUALS AGREE TO BE IN A RELATIONSHIP OF MUTUAL
34 INTERDEPENDENCE;

1 (6) THE INDIVIDUALS SHARE A COMMON RESIDENCE; AND

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

3 6-203.

4 (A) TO REGISTER FOR A CERTIFICATE OF DOMESTIC PARTNERSHIP, BOTH
5 REGISTRANTS SHALL APPEAR BEFORE THE DESIGNATED OFFICIAL DURING
6 REGULAR OFFICE HOURS.

7 (B) REGISTRANTS FOR A CERTIFICATE OF DOMESTIC PARTNERSHIP SHALL:

8 (1) APPEAR BEFORE THE DESIGNATED OFFICIAL AND GIVE, UNDER
9 OATH, THE FOLLOWING INFORMATION, WHICH SHALL BE PLACED ON THE
10 REGISTRATION FORM BY THE DESIGNATED OFFICIAL:

11 (I) THE NAME OF EACH INDIVIDUAL;

12 (II) THE PLACE OF COMMON RESIDENCE;

13 (III) THE AGE OF EACH INDIVIDUAL;

14 (IV) WHETHER THE INDIVIDUALS ARE RELATED BY BLOOD OR
15 MARRIAGE, AND, IF SO, IN WHICH DEGREE OF RELATIONSHIP;

16 (V) WHETHER EACH INDIVIDUAL IS SINGLE, WIDOWED, DIVORCED,
17 OR HAS TERMINATED A DOMESTIC PARTNERSHIP OR CIVIL UNION AND THE DATE
18 AND PLACE OF EACH DEATH OR JUDICIAL DETERMINATION THAT ENDED ANY
19 FORMER MARRIAGE OR CIVIL UNION;

20 (VI) THE SEX OF EACH INDIVIDUAL; AND

21 (VII) WHETHER THE INDIVIDUALS AGREE TO A RELATIONSHIP OF
22 MUTUAL INTERDEPENDENCE;

23 (2) SIGN THE REGISTRATION FORM;

24 (3) PROVIDE THE CLERK WITH THE SOCIAL SECURITY NUMBER OF EACH
25 INDIVIDUAL WHO HAS A SOCIAL SECURITY NUMBER; AND

26 (4) PAY TO THE CLERK THE REGISTRATION FEE SET BY THE SECRETARY.

27 (C) THE SOCIAL SECURITY NUMBERS OF THE INDIVIDUALS SHALL BE
28 INCLUDED IN THE ELECTRONIC FILE FOR A CERTIFICATE OF DOMESTIC
29 PARTNERSHIP BUT MAY NOT BE DISCLOSED AS PART OF THE PUBLIC RECORD OF THE
30 CERTIFICATE OF DOMESTIC PARTNERSHIP.

31 (D) UNLESS A DOMESTIC PARTNERSHIP WAS TERMINATED BECAUSE OF THE
32 DEATH OF A DOMESTIC PARTNER, AN INDIVIDUAL WHO HAS PREVIOUSLY
33 REGISTERED A DOMESTIC PARTNERSHIP WITH THE SECRETARY MAY NOT REGISTER

1 A NEW DOMESTIC PARTNERSHIP UNTIL 90 DAYS AFTER THE DATE THAT A NOTICE OF
2 TERMINATION OF DOMESTIC PARTNERSHIP WAS RECORDED BY THE SECRETARY.

3 (E) (1) A CERTIFICATE OF DOMESTIC PARTNERSHIP SHALL CONTAIN
4 APPROPRIATE SPACES IN WHICH THE DESIGNATED OFFICIAL SHALL ENTER:

5 (I) THE RELATIONSHIP OF THE INDIVIDUALS TO THE DOMESTIC
6 PARTNERSHIP, IF ANY;

7 (II) AS TO EACH INDIVIDUAL, THE NAME, AGE, STATE OR FOREIGN
8 COUNTRY IN WHICH BORN, AND PLACE OF RESIDENCE;

9 (III) THE STATUS OF EACH INDIVIDUAL AS SINGLE, WIDOWED, OR
10 DIVORCED;

11 (IV) WHETHER THE INDIVIDUAL HAS PREVIOUSLY BEEN A PARTY
12 TO A DOMESTIC PARTNERSHIP OR CIVIL UNION THAT HAS BEEN TERMINATED; AND

13 (V) THE PLACE OF COMMON RESIDENCE.

14 (2) ATTACHED TO THE CERTIFICATE OF REGISTRATION OF DOMESTIC
15 PARTNERSHIP SHALL BE TWO CERTIFICATE FORMS THAT:

16 (I) READ, "I HEREBY CERTIFY THAT ON THIS DAY OF
17 (STATE HERE MONTH AND YEAR), AT (STATE HERE TIME), AT (STATE
18 HERE LOCATION), IN ACCORDANCE WITH THE LAWS OF THE STATE OF MARYLAND,
19 THE FOLLOWING INDIVIDUALS HAVE ENTERED INTO A DOMESTIC PARTNERSHIP:
20
21 (STATE HERE NAME OF PARTY)
22
23 (STATE HERE NAME OF OTHER PARTY)";

24 (II) RESTATE ALL INFORMATION CONCERNING THE INDIVIDUALS
25 THAT IS STATED ON THE CERTIFICATE OF DOMESTIC PARTNERSHIP; AND

26 (III) PROVIDE A SPACE FOR THE SIGNATURE OF THE DESIGNATED
27 OFFICIAL.

28 (F) (1) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THE
29 PROVISIONS OF THIS TITLE.

30 (2) THE REGULATIONS SHALL INCLUDE:

31 (I) A PROCESS FOR DESIGNATING OFFICIALS TO REGISTER
32 DOMESTIC PARTNERSHIPS; AND

33 (II) A LIST OF LOCATIONS ACCESSIBLE TO THE GENERAL PUBLIC
34 WHERE DOMESTIC PARTNERSHIPS MAY BE REGISTERED.

1 6-204.

2 (A) A DOMESTIC PARTNERSHIP SHALL TERMINATE:

3 (1) ON THE DEATH OF A DOMESTIC PARTNER; OR

4 (2) WHEN A NOTICE OF TERMINATION OF DOMESTIC PARTNERSHIP HAS
5 BEEN ACCEPTED FOR RECORD BY THE SECRETARY.

6 (B) (1) WITHIN 90 DAYS OF THE DISSOLUTION OF A DOMESTIC
7 PARTNERSHIP, AT LEAST ONE FORMER DOMESTIC PARTNER SHALL SEND, BY
8 CERTIFIED MAIL, A NOTICE TO THE SECRETARY.

9 (2) WHEN THE SECRETARY ACCEPTS FOR RECORD A NOTICE, THE
10 SECRETARY SHALL:

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

13 (II) RECORD PROMPTLY THE NOTICE; AND

14 (III) PROVIDE THE DOMESTIC PARTNER WHO FILED THE NOTICE
15 TWO COPIES OF THE NOTICE WITH THE ENDORSEMENTS REQUIRED IN ITEM (I) OF
16 THIS PARAGRAPH.

17 (3) WITHIN 5 DAYS OF RECEIVING THE COPIES OF THE NOTICE
18 ENDORSED BY THE SECRETARY, THE DOMESTIC PARTNER SHALL SEND, BY
19 CERTIFIED MAIL, A COPY OF THE NOTICE ENDORSED BY THE SECRETARY TO THE
20 OTHER DOMESTIC PARTNER'S LAST KNOWN ADDRESS.

21 (C) (1) THIS SECTION APPLIES TO A DOMESTIC PARTNER WHO HAS GIVEN A
22 COPY OF A CERTIFICATE OF DOMESTIC PARTNERSHIP TO A THIRD PARTY TO
23 QUALIFY FOR OR CLAIM ANY BENEFIT OR RIGHT OF A DOMESTIC PARTNER.

24 (2) ANY BENEFIT OR RIGHT OFFERED BY A THIRD PARTY THAT A
25 DOMESTIC PARTNER CLAIMS AS A RESULT OF A DOMESTIC PARTNERSHIP, SHALL
26 IMMEDIATELY TERMINATE ON THE TERMINATION OF A DOMESTIC PARTNERSHIP.

27 (3) ON THE TERMINATION OF A DOMESTIC PARTNERSHIP, A DOMESTIC
28 PARTNER SHALL GIVE OR SEND TO THE THIRD PARTY, AT THE LAST KNOWN ADDRESS
29 OF THE THIRD PARTY, WRITTEN NOTIFICATION THAT THE DOMESTIC PARTNERSHIP
30 HAS BEEN TERMINATED.

31 (4) A THIRD PARTY WHO SUFFERS A LOSS AS A RESULT OF THE FAILURE
32 OF A DOMESTIC PARTNER TO NOTIFY THE THIRD PARTY OF THE TERMINATION OF A
33 DOMESTIC PARTNERSHIP IS ENTITLED TO RECOVER ANY ACTUAL DAMAGES.

SUBTITLE 3. RECORDS.

1 6-301.

2 THE SECRETARY SHALL KEEP A CERTIFICATE OF DOMESTIC PARTNERSHIP
3 BOOK, WHICH SHALL CONTAIN:

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

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

8 (3) IN REGULAR ORDER, THE ITEMS TESTIFIED TO BY THE REGISTRANTS
9 AS REQUIRED UNDER THIS TITLE;

10 (4) PROPERLY INDEXED, THE NAME OF EACH INDIVIDUAL WHO
11 INTENDS TO REGISTER A DOMESTIC PARTNERSHIP; AND

12 (5) THE DATE EACH REGISTRATION WAS RECORDED AND THE NAME OF
13 THE AUTHORIZED DESIGNATED OFFICIAL WHO SIGNED THE CERTIFICATE OF
14 DOMESTIC PARTNERSHIP.

15 6-302.

16 (A) AN INDIVIDUAL MAY NOT KNOWINGLY MAKE ANY MATERIAL FALSE
17 STATEMENT TO OBTAIN OR TO HELP ANOTHER INDIVIDUAL TO OBTAIN A
18 CERTIFICATE OF DOMESTIC PARTNERSHIP IN VIOLATION OF THIS TITLE.

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

SUBTITLE 4. MEDICAL EMERGENCIES.

21 6-401.

22 (A) A HOSPITAL, RELATED INSTITUTION, AND RESIDENTIAL TREATMENT
23 CENTER, AS DEFINED IN § 19-301 OF THIS ARTICLE, SHALL ALLOW A PATIENT'S
24 DOMESTIC PARTNER, THE CHILDREN OF THE PATIENT'S DOMESTIC PARTNER, AND
25 THE DOMESTIC PARTNER OF THE PATIENT'S PARENT OR CHILD TO VISIT, UNLESS:

26 (1) NO VISITORS ARE ALLOWED;

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

30 (3) THE PATIENT TELLS THE FACILITY STAFF THAT THE PATIENT DOES
31 NOT WANT A PARTICULAR PERSON TO VISIT.

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

5 6-402.

6 (A) THIS SECTION APPLIES TO TWO ADULTS WHO QUALIFY FOR A
7 CERTIFICATE OF REGISTRATION OF A DOMESTIC PARTNERSHIP BUT ARE NOT
8 REGISTERED.

9 (B) IN THE CASE OF A MEDICAL EMERGENCY, TWO ADULTS SHALL BE
10 TREATED AS DOMESTIC PARTNERS IF ONE OF THE ADULTS TELLS, IN GOOD FAITH,
11 THE EMERGENCY MEDICAL PROVIDER OR HOSPITAL PERSONNEL THAT THE ADULTS
12 ARE IN A MUTUALLY INTERDEPENDENT RELATIONSHIP, FOR THE FOLLOWING
13 PURPOSES ONLY:

14 (1) ALLOWING ONE ADULT TO ACCOMPANY THE ILL OR INJURED ADULT
15 BEING TRANSPORTED TO A HOSPITAL IN AN EMERGENCY VEHICLE; AND

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

19 SUBTITLE 5. DOMESTIC PARTNER'S RIGHTS AND OBLIGATIONS.

20 6-501.

21 (A) THE RIGHTS AND OBLIGATIONS OF A DOMESTIC PARTNER AS A RESULT OF
22 REGISTERING A DOMESTIC PARTNERSHIP ARE ONLY THOSE DESCRIBED IN THIS
23 TITLE.

24 (B) A DOMESTIC PARTNERSHIP OR CIVIL UNION ENTERED INTO OUTSIDE THIS
25 STATE, THAT IS VALID UNDER THE LAWS OF THE JURISDICTION UNDER WHICH THE
26 DOMESTIC PARTNERSHIP OR CIVIL UNION WAS ENTERED INTO, SHALL BE TREATED
27 AS A DOMESTIC PARTNERSHIP IN THIS STATE.

28 (C) THE REGISTRATION OF A DOMESTIC PARTNERSHIP BY TWO INDIVIDUALS
29 WHO ARE ALSO MARRIED TO EACH OTHER IN ANOTHER STATE MAY NOT BE
30 CONSIDERED EVIDENCE, KNOWLEDGE, AWARENESS, OR AN ADMISSION THAT THE
31 DOMESTIC PARTNERS ARE NOT LAWFULLY MARRIED.

32 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
33 read as follows:

34 **Article - Health - General**

35 1-101.

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

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

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

4 (D) "DOMESTIC PARTNER" MEANS AN INDIVIDUAL WHO HAS REGISTERED FOR
5 A CERTIFICATE OF DOMESTIC PARTNERSHIP WITH THE SECRETARY UNDER TITLE 6
6 OF THIS ARTICLE.

7 [(d)] (E) "Health officer" means, unless expressly provided otherwise, the
8 Baltimore City Commissioner of Health or the health officer of a county.

9 [(e)] (F) "Includes" or "including" means includes or including by way of
10 illustration and not by way of limitation.

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

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

15 (1) The Chief Medical Examiner;

16 (2) The Deputy Chief Medical Examiner;

17 (3) Any assistant medical examiner; or

18 (4) Any deputy medical examiner.

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

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

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

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

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

27 (2) The District of Columbia; or

28 (3) The Commonwealth of Puerto Rico.

29 4-215.

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

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

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

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

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

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

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

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

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

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

21 (iii) The spouse, DOMESTIC PARTNER, next of kin, or appointed
22 personal representative of the deceased whose human remains have been disinterred
23 or reinterred.

24 5-501.

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

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

30 (i) A parent;

31 (ii) A spouse;

32 (III) A DOMESTIC PARTNER;

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

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

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

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

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

5 5-509.

6 (a) Any individual who is 18 years of age or older may decide the disposition of
7 the individual's own body after that individual's death without the predeath or
8 post-death consent of another person by executing a document that expresses the
9 individual's wishes regarding disposition of the body or by entering into a pre-need
10 contract.

11 (c) Unless a person has knowledge that contrary directions have been given by
12 the decedent, if a decedent has not executed a document under subsection (a) of this
13 section, the following persons, in the order of priority stated, have the right to arrange
14 for the final disposition of the body of the decedent, including by cremation under §
15 5-502 of this subtitle:

16 (1) The surviving spouse OR DOMESTIC PARTNER of the decedent;

17 (2) An adult child of the decedent;

18 (3) A parent of the decedent;

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

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

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

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

30 5-605.

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

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

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

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

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

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

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

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

14 (ii) The patient's spouse OR DOMESTIC PARTNER;

15 (iii) An adult child of the patient;

16 (iv) A parent of the patient;

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

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

20 5-612.

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

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

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

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

34 (b) On petition of the patient's spouse, DOMESTIC PARTNER, a parent, adult
35 child, grandchild, brother, or sister of the patient, or a friend or other relative who has
36 qualified as a surrogate under § 5-605 of this subtitle to a circuit court of the county

1 or city in which the patient for whom treatment will be or is currently being provided,
2 withheld, or withdrawn under this subtitle resides or is located, the court may enjoin
3 that action upon finding by a preponderance of the evidence that the action is not
4 lawfully authorized by this subtitle or by other State or federal law.

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

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

10 10-807.

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

- 14 (1) The individual either can receive better care or treatment in or would
15 be more likely to benefit from care or treatment at the other facility; or
- 16 (2) The safety or welfare of other individuals would be furthered.

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

- 19 (1) An ambulance attendant or other individual who is authorized by the
20 facility and is of the same sex. However, the chief executive officer of the facility or
21 that officer's designee may designate an ambulance attendant or other person of
22 either sex to provide transportation to an individual, if deemed appropriate; or
- 23 (2) The parent, spouse, DOMESTIC PARTNER, adult sibling, or adult
24 offspring of the individual.

25 19-310.

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

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

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

4 (i) A spouse OR DOMESTIC PARTNER, but, if not alive or not
5 competent, then;

6 (ii) A son or daughter who is at least 18 years old, but, if not alive,
7 competent, or immediately available, then;

8 (iii) A parent, but, if not alive, competent, or immediately available,
9 then;

10 (iv) A brother or sister who is at least 18 years old, but, if not alive
11 or not competent, then;

12 (v) A guardian;

13 (vi) A friend or other relative of the decedent, if the individual:

14 1. Is a competent individual; and

15 2. Presents an affidavit to the attending physician stating:

16 A. That the individual is a relative or close friend of the
17 decedent; and

18 B. Specific facts and circumstances demonstrating that the
19 individual maintained regular contact with the decedent sufficient to be familiar with
20 the decedent's activities, health, and personal beliefs; or

21 (vii) Any other person authorized or required to dispose of the body.

22 (3) (i) This subsection does not apply if the decedent has given
23 contrary directions.

24 (ii) The failure of the decedent to make a gift is not a contrary
25 direction for purposes of this subsection.

26 (4) Contrary directions given by the decedent under this subsection shall
27 be recorded in the decedent's medical record.

28 (5) The representative of the appropriate organ, tissue, or eye recovery
29 agency or the designated requestor and the representative of the deceased patient are
30 entitled to protection from civil and criminal liability as provided in § 4-508(b) of the
31 Estates and Trusts Article.

32 (g) A hospital may not bill the estate of the decedent, a surviving spouse OR
33 DOMESTIC PARTNER of the decedent, any heirs of the decedent, or an insurer of the
34 decedent for the costs associated with the removal of all or any of the decedent's
35 organs or tissues for the purpose of an anatomical donation.

1 (j) The consent of the decedent's representative is not necessary and the
2 provisions of subsection (d) of this section do not apply if:

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

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

7 (i) § 5-604.1 of this article; or

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

9 19-343.

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

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

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

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

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

22 (iii) The right to privacy;

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

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

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

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

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

31 19-344.

32 (a) To carry out the policy set forth in § 19-343 of this subtitle, the following
33 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
2 DOMESTIC PARTNERS who are both residents of the facility shall be given the
3 opportunity to 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 DOMESTIC PARTNERSHIP
7 SHALL HAVE PRIVACY DURING A VISIT BY THE OTHER DOMESTIC PARTNER.

8 (q) (1) A resident of a facility or the next of kin, DOMESTIC PARTNER, or
9 guardian of the person of a resident may file a complaint about an alleged violation of
10 this 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 DOMESTIC PARTNER, AS DEFINED IN § 6-101
23 OF 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 DOMESTIC PARTNER, AS DEFINED IN § 6-101 OF THE
18 HEALTH - 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.

25 **Article - Estates and Trusts**

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 DOMESTIC PARTNER, AS DEFINED IN §
2 6-101 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 3. 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 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 July 1, 2005.