

SB0766/498479/1

BY: Judicial Proceedings Committee

AMENDMENT TO SENATE BILL 766

(First Reading File Bill)

On page 1, in line 2, strike “Revised”; in the same line, strike “Act” and substitute “Donor Registry”; and strike beginning with “repealing” in line 3 down through “actions;” in line 26 and substitute “establishing that certain donors may make certain gifts by authorizing that certain statements or symbols be included on a certain registry;”.

On page 2, strike beginning with “providing” in line 2 down through “necessary;” in line 13; in lines 13 and 14, strike “motor vehicle”; strike beginning with “repealing” in line 16 down through “date;” in line 19; in line 22, after “repealing” insert “and reenacting, with amendments;”; strike beginning with “4-501” in line 24 down through “Act” in line 25 and substitute “4-505(c) and 4-512”; strike beginning with “4-501” in line 30 down through “Act” in line 31 and substitute “4-512”; in line 36, strike “5-408, 5-604.1;” and in the same line, strike “, and 19-310(a)”.

On pages 3 through 29, strike in their entirety the lines beginning with line 6 on page 3 through line 7 on page 29, inclusive, and substitute:

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

Article – Estates and Trusts

4–505.

(Over)

(c) (1) A gift of all or part of the body for purposes of this subtitle also may be made by a designation on the donor's driver's license or identification card under § 12-303 of the Transportation Article.

(2) A DONOR MAY MAKE A GIFT BY AUTHORIZING THAT A STATEMENT OR SYMBOL INDICATING THAT THE DONOR HAS MADE A GIFT BE INCLUDED ON A DONOR REGISTRY.

4-512.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "DONOR" MEANS AN INDIVIDUAL WHOSE BODY OR PART IS THE SUBJECT OF AN ANATOMICAL GIFT.

(3) "DONOR REGISTRY" MEANS A DATABASE THAT CONTAINS RECORDS OF ANATOMICAL GIFTS AND AMENDMENTS TO ANATOMICAL GIFTS.

(4) "EYE BANK" MEANS A PERSON THAT:

(I) IS LICENSED, ACCREDITED, OR REGULATED UNDER FEDERAL OR STATE LAW TO ENGAGE IN THE RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE, OR DISTRIBUTION OF HUMAN EYES OR PORTIONS OF HUMAN EYES;

(II) IS ACCREDITED BY THE EYE BANK ASSOCIATION OF AMERICA OR THE AMERICAN ASSOCIATION OF TISSUE BANKS; AND

(III) HAS A PERMIT ISSUED IN ACCORDANCE WITH TITLE 17, SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE.

(5) “ORGAN PROCUREMENT ORGANIZATION” MEANS A PERSON DESIGNATED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES AS AN ORGAN PROCUREMENT ORGANIZATION.

(6) “PROCUREMENT ORGANIZATION” MEANS AN EYE BANK, ORGAN PROCUREMENT ORGANIZATION, OR TISSUE BANK.

(7) (I) “PROSPECTIVE DONOR” MEANS AN INDIVIDUAL WHO IS DEAD OR WHOSE DEATH IS IMMINENT AND HAS BEEN DETERMINED BY A PROCUREMENT ORGANIZATION TO HAVE A PART THAT COULD BE MEDICALLY SUITABLE FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.

(II) “PROSPECTIVE DONOR” DOES NOT INCLUDE AN INDIVIDUAL WHO HAS MADE A REFUSAL.

(8) “QUALIFIED NONPROFIT ENTITY” MEANS A PROCUREMENT ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE OR AN ENTITY EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE THAT ACTIVELY FUNCTIONS IN A SUPPORTING RELATIONSHIP TO ONE OR MORE PROCUREMENT ORGANIZATIONS IF THE PROCUREMENT ORGANIZATION OR OTHER ENTITY HAS A BOARD OF DIRECTORS WHOSE MEMBERS ARE EXPERIENCED IN:

(I) ORGAN, TISSUE, AND EYE DONATION;

(II) WORKING WITH DONORS AND DONOR FAMILIES; AND

(Over)

(III) EDUCATING THE PUBLIC ABOUT THE IMPORTANCE OF THE PROCESS OF ORGAN, TISSUE, AND EYE DONATION.

(9) "TISSUE BANK" MEANS A PERSON THAT:

(I) IS LICENSED, ACCREDITED, OR REGULATED UNDER FEDERAL OR STATE LAW TO ENGAGE IN THE RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE, OR DISTRIBUTION OF TISSUE;

(II) IS ACCREDITED BY THE AMERICAN ASSOCIATION OF TISSUE BANKS; AND

(III) HAS A PERMIT ISSUED IN ACCORDANCE WITH TITLE 17, SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE.

(B) (1) ON OR BEFORE APRIL 1, 2009, THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL CONTRACT WITH A QUALIFIED NONPROFIT ENTITY FOR THE ESTABLISHMENT, MAINTENANCE, AND OPERATION OF A DONOR REGISTRY.

(2) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL USE FUNDS FROM THE ORGAN AND TISSUE DONOR AWARENESS FUND ESTABLISHED UNDER TITLE 13, SUBTITLE 9 OF THE HEALTH – GENERAL ARTICLE OR ANY OTHER FUNDS AS MAY BE APPROPRIATE TO COMPENSATE THE NONPROFIT ENTITY CONTRACTED WITH UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR THE REASONABLE COST OF ESTABLISHING, MAINTAINING, AND OPERATING THE DONOR REGISTRY, INCLUDING THE REASONABLE COST OF PUBLIC EDUCATION PROGRAMS TO INCREASE PUBLIC AWARENESS ABOUT THE EXISTENCE AND PURPOSE OF THE REGISTRY AND ORGAN, TISSUE, AND EYE DONATION.

(C) THE MOTOR VEHICLE ADMINISTRATION SHALL COOPERATE WITH THE QUALIFIED NONPROFIT ENTITY CONTRACTED WITH UNDER SUBSECTION (B)(1) OF THIS SECTION FOR THE PURPOSE OF TRANSFERRING TO THE DONOR REGISTRY ALL RELEVANT INFORMATION REGARDING A DONOR'S MAKING, AMENDMENT TO, OR REVOCATION OF AN ANATOMICAL GIFT.

(D) A DONOR REGISTRY SHALL BE ACCESSIBLE 24 HOURS A DAY AND 7 DAYS A WEEK TO ALLOW:

(1) A DONOR TO INCLUDE ON THE DONOR REGISTRY A STATEMENT OR SYMBOL THAT THE DONOR HAS MADE OR AMENDED AN ANATOMICAL GIFT;

(2) A DONOR TO REVOKE AN ANATOMICAL GIFT; OR

(3) A PROCUREMENT ORGANIZATION TO OBTAIN RELEVANT INFORMATION ON THE DONOR REGISTRY TO DETERMINE, AT THE DEATH OR IMMINENT DEATH OF A DONOR OR A PROSPECTIVE DONOR, WHETHER THE DONOR OR PROSPECTIVE DONOR HAS MADE, AMENDED, OR REVOKED AN ANATOMICAL GIFT.

(E) PERSONALLY IDENTIFIABLE INFORMATION ON A DONOR REGISTRY ABOUT A DONOR OR PROSPECTIVE DONOR MAY NOT BE USED OR DISCLOSED WITHOUT THE EXPRESS CONSENT OF THE DONOR, PROSPECTIVE DONOR, OR PERSON THAT MADE THE ANATOMICAL GIFT FOR ANY PURPOSE OTHER THAN TO DETERMINE, AT THE DEATH OR IMMINENT DEATH OF THE DONOR OR PROSPECTIVE DONOR, WHETHER THE DONOR OR PROSPECTIVE DONOR HAS MADE OR AMENDED AN ANATOMICAL GIFT.

(F) (1) THIS SECTION DOES NOT PROHIBIT A PERSON FROM CREATING OR MAINTAINING A DONOR REGISTRY THAT IS NOT ESTABLISHED BY OR UNDER CONTRACT WITH THE STATE.

(2) A REGISTRY THAT IS NOT ESTABLISHED BY OR UNDER CONTRACT WITH THE STATE SHALL COMPLY WITH SUBSECTIONS (D) AND (E) OF THIS SECTION.

[4-512.] 4-513.

This subtitle may be cited as the Maryland Anatomical Gift Act.

Article – Health – General”.

On page 29 in line 25, strike “**4-516**” and substitute “**4-512**”.

On pages 29 through 33, strike in their entirety the lines beginning with line 31 on page 29 through line 22 on page 33, inclusive.

On pages 34 and 35, strike in their entirety the lines beginning with line 1 on page 34 through line 14 on page 35, inclusive.

On page 35, in line 15, strike “4.” and substitute “**2.**”.