

CHAPTER 213

(Senate Bill 766)

AN ACT concerning

Maryland ~~Revised~~ Anatomical Gift Act Donor Registry

FOR the purpose of ~~repealing the Maryland Anatomical Gift Act and enacting the Maryland Revised Anatomical Gift Act; authorizing certain individuals to make, amend, or revoke anatomical gifts; providing the methods by which anatomical gifts may be made; authorizing certain individuals to refuse to make certain anatomical gifts; establishing certain circumstances under which an anatomical gift is prohibited; establishing the persons to which certain anatomical gifts may be made; establishing a certain priority if more than one person in a certain class makes a gift; establishing certain purposes for which certain anatomical gifts can be made; establishing a certain priority for certain anatomical gifts if more than one purpose is given for the anatomical gift; requiring certain persons to search certain individuals for a document of gift or other information identifying the individual as a donor under certain circumstances; requiring certain individuals to allow certain examination and copying of certain anatomical gifts or refusals; requiring that certain procurement organizations be allowed certain access to certain records of the Motor Vehicle Administration; authorizing certain procurement organizations to make certain examinations to ensure the medical suitability of certain anatomical gifts; providing for the acceptance and removal of certain anatomical gifts; establishing certain acts as felonies and establishing certain penalties; providing that certain persons are guilty of a felony and subject to a certain penalty for purchasing or selling certain parts under certain circumstances; authorizing a person to charge a certain amount for providing certain services; providing that certain persons that act in good faith are not liable in certain civil actions; establishing that certain donors may make certain gifts by authorizing that certain statements or symbols be included on a certain registry; requiring the Secretary of Health and Mental Hygiene to contract with and provide compensation to a certain nonprofit entity for the establishment, maintenance, and operation of a donor registry; requiring that the Organ and Tissue Donation Awareness Fund provide funds for the establishment, operation, and maintenance of a certain donor registry; requiring the Motor Vehicle Administration to cooperate in the transfer of certain information to the donor registry; establishing certain administrative terms for the donor registry; providing for the resolution of conflicts between certain anatomical gifts and certain advance directives; requiring that certain procurement organizations and the Office of the Chief Medical Examiner (OCME) cooperate to maximize the opportunity to recover certain anatomical gifts and to facilitate certain OCME investigations; providing for the terms of the recoveries between certain~~

~~procurement organizations and the OCME; providing for the resolution of conflicts between certain anatomical gift designations and certain investigations by the OCME; providing that this Act supersedes a certain federal statute; requiring that certain directions to make, amend, revoke, or refuse to make an anatomical gift be recorded in certain medical records; altering the circumstances under which the consent of certain representatives is not necessary; requiring the custodian of certain motor vehicle records containing personal information to disclose certain personal information for use by certain procurement organizations under certain circumstances; repealing a certain provision prohibiting that certain donor designations appear on certain minors' drivers' licenses; requiring that, subject to certain funding, the Department of Health and Mental Hygiene conduct a certain study on nontransplant tissue banks on or before a certain date; making certain technical changes; defining certain terms; and generally relating to the Maryland Revised Anatomical Gift Act.~~

BY repealing and reenacting, with amendments,

Article – Estates and Trusts

~~Section 4-501 through 4-512 and the subtitle “Subtitle 5. Maryland Anatomical Gift Act”~~ 4-505(c) and 4-512

Annotated Code of Maryland

(2001 Replacement Volume and 2007 Supplement)

BY adding to

Article – Estates and Trusts

~~Section 4-501 through 4-522 to be under the new subtitle “Subtitle 5. Maryland Revised Anatomical Gift Act”~~ 4-512

Annotated Code of Maryland

(2001 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

~~Section 5-408, 5-604.1, 13-901, and 19-310(a)~~

Annotated Code of Maryland

(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 10-616(p)(5)(xiii) and (xiv)

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

BY adding to

Article – State Government

Section 10-616(p)(5)(xv)

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

~~BY repealing and reenacting, with amendments,
Article — Transportation
Section 12-303
Annotated Code of Maryland
(2006 Replacement Volume and 2007 Supplement)~~

~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 4-501 through 4-512 and the subtitle “Subtitle 5: Maryland Anatomical Gift Act” of Article — Estates and Trusts of the Annotated Code of Maryland be repealed.~~

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

~~**Article — Estates and Trusts**~~

~~**SUBTITLE 5. MARYLAND REVISED ANATOMICAL GIFT ACT.**~~

~~**4-501.**~~

~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(B) “AGENT” MEANS AN INDIVIDUAL:~~

~~(1) AUTHORIZED TO MAKE HEALTH CARE DECISIONS ON BEHALF OF A PRINCIPAL BY A POWER OF ATTORNEY FOR HEALTH CARE; OR~~

~~(2) EXPRESSLY AUTHORIZED TO MAKE AN ANATOMICAL GIFT ON BEHALF OF A PRINCIPAL BY A RECORD SIGNED BY THE PRINCIPAL.~~

~~(C) “ANATOMICAL GIFT” MEANS A DONATION OF ALL OR PART OF A HUMAN BODY TO TAKE EFFECT AFTER THE DONOR’S DEATH FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(D) (1) “DECEDENT” MEANS A DECEASED INDIVIDUAL WHOSE BODY OR PART IS OR MAY BE THE SOURCE OF AN ANATOMICAL GIFT.~~

~~(2) “DECEDENT” INCLUDES A STILLBORN INFANT AND, EXCEPT AS PROVIDED BY A LAW OTHER THAN THIS SUBTITLE, A FETUS.~~

~~(E) (1) “DISINTERESTED WITNESS” MEANS A WITNESS OTHER THAN:~~

~~(I) A SPOUSE, CHILD, PARENT, SIBLING, GRANDCHILD, GRANDPARENT, OR GUARDIAN OF AN INDIVIDUAL WHO MAKES, AMENDS, REVOKES, OR REFUSES TO MAKE AN ANATOMICAL GIFT; OR~~

~~(II) ANOTHER ADULT WHO EXHIBITS SPECIAL CARE AND CONCERN FOR AN INDIVIDUAL WHO MAKES, AMENDS, REVOKES, OR REFUSES TO MAKE AN ANATOMICAL GIFT.~~

~~(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, "DISINTERESTED WITNESS" DOES NOT INCLUDE A PERSON TO WHICH AN ANATOMICAL GIFT MAY PASS UNDER § 4-509 OF THIS SUBTITLE.~~

~~(II) AN INDIVIDUAL EMPLOYED BY A TRANSPLANT HOSPITAL MAY NOT BE DISQUALIFIED FROM BEING A "DISINTERESTED WITNESS" SOLELY BECAUSE OF THE INDIVIDUAL'S EMPLOYMENT.~~

~~(F) (1) "DOCUMENT OF GIFT" MEANS A DONOR CARD OR OTHER RECORD USED TO MAKE AN ANATOMICAL GIFT.~~

~~(2) "DOCUMENT OF GIFT" INCLUDES A STATEMENT OR SYMBOL ON A DRIVER'S LICENSE, IDENTIFICATION CARD, OR DONOR REGISTRY.~~

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

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

~~(I) (1) "DRIVER'S LICENSE" MEANS A LICENSE OR PERMIT ISSUED BY THE MOTOR VEHICLE ADMINISTRATION TO OPERATE A VEHICLE, WHETHER OR NOT CONDITIONS ARE ATTACHED TO THE LICENSE OR PERMIT.~~

~~(2) "DRIVER'S LICENSE" INCLUDES A LEARNER'S PERMIT.~~

~~(J) "EYE BANK" MEANS A PERSON THAT:~~

~~(1) 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;~~

~~(2) IS ACCREDITED BY THE EYE BANK ASSOCIATION OF AMERICA OR THE AMERICAN ASSOCIATION OF TISSUE BANKS; AND~~

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

~~(K) (1) "GUARDIAN" MEANS A PERSON APPOINTED BY A COURT TO MAKE DECISIONS REGARDING THE SUPPORT, CARE, EDUCATION, HEALTH, OR WELFARE OF AN INDIVIDUAL.~~

~~(2) "GUARDIAN" DOES NOT INCLUDE A GUARDIAN AD LITEM, UNLESS THE GUARDIAN AD LITEM IS AUTHORIZED BY A COURT TO CONSENT TO DONATION.~~

~~(L) "HOSPITAL" MEANS A FACILITY LICENSED AS A HOSPITAL UNDER THE LAW OF ANY STATE OR A FACILITY OPERATED AS A HOSPITAL BY THE UNITED STATES, A STATE, OR A SUBDIVISION OF A STATE.~~

~~(M) "IDENTIFICATION CARD" MEANS AN IDENTIFICATION CARD ISSUED BY THE MOTOR VEHICLE ADMINISTRATION.~~

~~(N) "KNOW" MEANS TO HAVE ACTUAL KNOWLEDGE.~~

~~(O) (1) "NONTRANSPLANT TISSUE BANK" MEANS A PERSON THAT RECOVERS, SCREENS, PROCURES, TRANSPORTS, STORES, OR ARRANGES FOR THE STORAGE OF A BODY OR PART OF A BODY SOLELY FOR THE PURPOSE OF RESEARCH OR EDUCATION.~~

~~(2) "NONTRANSPLANT TISSUE BANK" INCLUDES:~~

~~(I) THE MARYLAND STATE ANATOMY BOARD;~~

~~(II) A SCHOOL OF MEDICINE OR DENTISTRY OPERATING A WILLED BODY PROGRAM;~~

~~(III) A PROGRAM OPERATED BY OFFICERS OR EMPLOYEES OF THE UNITED STATES; OR~~

~~(IV) A NONPROFIT ORGANIZATION PERMITTED TO OPERATE UNDER § 5-408 OF THE HEALTH - GENERAL ARTICLE.~~

~~(3) "NONTRANSPLANT TISSUE BANK" DOES NOT INCLUDE:~~

~~(I) EYE BANKS;~~

~~(II) ORGAN PROCUREMENT ORGANIZATIONS; OR~~

~~(III) TRANSPLANT TISSUE BANKS.~~~~(P) "OCME" MEANS THE OFFICE OF THE CHIEF MEDICAL EXAMINER.~~~~(Q) "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.~~~~(R) "PARENT" MEANS A PARENT WHOSE PARENTAL RIGHTS HAVE NOT BEEN TERMINATED.~~~~(S) (1) "PART" MEANS AN ORGAN, AN EYE, OR TISSUE OF A HUMAN BEING.~~~~(2) "PART" DOES NOT INCLUDE THE WHOLE BODY.~~~~(T) "PHYSICIAN" MEANS AN INDIVIDUAL AUTHORIZED TO PRACTICE MEDICINE OR OSTEOPATHY UNDER THE LAW OF ANY STATE.~~~~(U) "PROCUREMENT ORGANIZATION" MEANS AN EYE BANK, ORGAN PROCUREMENT ORGANIZATION, OR TISSUE BANK.~~~~(V) (1) "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.~~~~(2) "PROSPECTIVE DONOR" DOES NOT INCLUDE AN INDIVIDUAL WHO HAS MADE A REFUSAL.~~~~(W) "QUALIFIED NONPROFIT ENTITY" MEANS A PROCUREMENT ORGANIZATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE THAT HAS BOARD DIRECTORS WHOSE MEMBERS ARE EXPERIENCED IN:~~~~(1) ORGAN, TISSUE, AND EYE DONATION;~~~~(2) WORKING WITH DONORS AND DONOR FAMILIES; AND~~~~(3) EDUCATING THE PUBLIC ABOUT THE IMPORTANCE OF THE PROCESS OF ORGAN, TISSUE, AND EYE DONATION.~~~~(X) "REASONABLY AVAILABLE" MEANS ABLE TO BE CONTACTED BY A PROCUREMENT ORGANIZATION WITHOUT UNDUE EFFORT AND WILLING AND~~

~~ABLE TO ACT IN A TIMELY MANNER CONSISTENT WITH EXISTING MEDICAL CRITERIA NECESSARY FOR THE MAKING OF AN ANATOMICAL GIFT.~~

~~(Y) "RECIPIENT" MEANS AN INDIVIDUAL INTO WHOSE BODY A DECEDENT'S PART HAS BEEN OR IS INTENDED TO BE TRANSPLANTED.~~

~~(Z) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.~~

~~(AA) "REFUSAL" MEANS A RECORD CREATED UNDER § 4-505 OF THIS SUBTITLE THAT EXPRESSLY STATES AN INTENT TO BAR OTHER PERSONS FROM MAKING AN ANATOMICAL GIFT OF AN INDIVIDUAL'S BODY OR PART.~~

~~(BB) "SIGN" MEANS TO:~~

~~(1) HAVE PRESENT INTENT TO AUTHENTICATE OR ADOPT A RECORD; AND~~

~~(2) (I) EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR~~

~~(II) ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC SYMBOL, SOUND, OR PROCESS.~~

~~(CC) (1) "TECHNICIAN" MEANS AN INDIVIDUAL DETERMINED TO BE QUALIFIED TO REMOVE OR PROCESS PARTS BY AN APPROPRIATE ORGANIZATION THAT IS LICENSED, ACCREDITED, OR REGULATED UNDER FEDERAL OR STATE LAW.~~

~~(2) "TECHNICIAN" INCLUDES AN ENUCLEATOR.~~

~~(DD) (1) "TISSUE" MEANS A PORTION OF THE HUMAN BODY OTHER THAN AN ORGAN OR AN EYE.~~

~~(2) "TISSUE" DOES NOT INCLUDE BLOOD UNLESS THE BLOOD IS DONATED FOR THE PURPOSE OF RESEARCH OR EDUCATION.~~

~~(EE) "TISSUE BANK" MEANS A TRANSPLANT TISSUE BANK OR A NONTRANSPLANT TISSUE BANK.~~

~~(FF) "TRANSPLANT HOSPITAL" MEANS A HOSPITAL THAT FURNISHES ORGAN TRANSPLANTS AND OTHER MEDICAL AND SURGICAL SPECIALTY SERVICES REQUIRED FOR THE CARE OF TRANSPLANT PATIENTS.~~

~~(GG) "TRANSPLANT TISSUE BANK" MEANS A PERSON THAT:~~

~~(1) IS LICENSED, ACCREDITED, OR REGULATED UNDER FEDERAL OR STATE LAW TO ENGAGE IN THE RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE, OR DISTRIBUTION OF TISSUE;~~

~~(2) IS ACCREDITED BY THE AMERICAN ASSOCIATION OF TISSUE BANKS; AND~~

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

~~4-502.~~

~~THIS SUBTITLE APPLIES TO AN ANATOMICAL GIFT OR AMENDMENT TO, REVOCATION OF, OR REFUSAL TO MAKE AN ANATOMICAL GIFT.~~

~~4-503.~~

~~(A) SUBJECT TO § 4-506 OF THIS SUBTITLE, AN ANATOMICAL GIFT MAY BE MADE DURING THE LIFE OF A DONOR FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION BY:~~

~~(1) (I) A DONOR WHO IS AN ADULT; OR~~

~~(II) A DONOR WHO IS A MINOR IF THE MINOR IS:~~

~~1. EMANCIPATED; OR~~

~~2. AUTHORIZED UNDER STATE LAW TO APPLY FOR A DRIVER'S LICENSE BECAUSE THE DONOR IS AT LEAST 15 YEARS AND 9 MONTHS OLD;~~

~~(2) AN AGENT OF A DONOR, UNLESS A POWER OF ATTORNEY FOR HEALTH CARE OR OTHER RECORD PROHIBITS THE AGENT FROM MAKING AN ANATOMICAL GIFT;~~

~~(3) A PARENT OF A DONOR, IF THE DONOR IS AN UNEMANCIPATED MINOR; OR~~

~~(4) A GUARDIAN OF A DONOR.~~

~~(B) A DONOR MAY MAKE AN ANATOMICAL GIFT;~~

~~(1) BY AUTHORIZING A STATEMENT OR SYMBOL INDICATING THAT THE DONOR HAS MADE AN ANATOMICAL GIFT TO BE IMPRINTED ON THE DONOR'S DRIVER'S LICENSE OR IDENTIFICATION CARD;~~

~~(2) BY WILL;~~

~~(3) DURING A TERMINAL ILLNESS OR INJURY OF THE DONOR, BY ANY FORM OF COMMUNICATION ADDRESSED TO AT LEAST TWO ADULTS; OR~~

~~(4) AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.~~

~~(C) (1) A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER THIS SECTION MAY MAKE A GIFT BY:~~

~~(I) A DOCUMENT OF GIFT SIGNED BY THE DONOR OR OTHER PERSON MAKING THE GIFT; OR~~

~~(II) AUTHORIZING THAT A STATEMENT OR SYMBOL INDICATING THAT THE DONOR HAS MADE AN ANATOMICAL GIFT BE INCLUDED ON A DONOR REGISTRY.~~

~~(2) IF A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER THIS SECTION IS PHYSICALLY UNABLE TO SIGN A DOCUMENT OF GIFT, THE DOCUMENT OF GIFT MAY BE SIGNED BY ANOTHER INDIVIDUAL AT THE DIRECTION OF THE DONOR OR OTHER PERSON AND SHALL:~~

~~(I) BE WITNESSED BY AT LEAST TWO ADULTS WHO HAVE SIGNED AT THE REQUEST OF THE DONOR OR OTHER PERSON; AND~~

~~(II) STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PROVIDED IN ITEM (I) OF THIS PARAGRAPH.~~

~~(D) REVOCATION, SUSPENSION, EXPIRATION, OR CANCELLATION OF A DRIVER'S LICENSE OR IDENTIFICATION CARD THAT INDICATES AN ANATOMICAL GIFT DOES NOT INVALIDATE THE GIFT.~~

~~(E) (1) AN ANATOMICAL GIFT MADE BY WILL TAKES EFFECT ON THE DONOR'S DEATH WHETHER OR NOT THE WILL IS PROBATED.~~

~~(2) IF A WILL THAT INDICATES AN ANATOMICAL GIFT IS INVALIDATED AFTER THE DONOR'S DEATH, THE ANATOMICAL GIFT DOES NOT BECOME INVALID.~~

~~(A) SUBJECT TO § 4-506 OF THIS SUBTITLE, A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-503 OF THIS SUBTITLE MAY AMEND OR REVOKE THE ANATOMICAL GIFT BY:~~

~~(1) A RECORD SIGNED BY:~~

~~(I) THE DONOR;~~

~~(II) THE OTHER PERSON; OR~~

~~(III) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE DONOR OR OTHER PERSON IS PHYSICALLY UNABLE TO SIGN, ANOTHER INDIVIDUAL ACTING AT THE DIRECTION OF THE DONOR OR THE OTHER PERSON; OR~~

~~(2) A LATER EXECUTED DOCUMENT OF GIFT THAT EXPRESSLY OR BY INCONSISTENCY AMENDS OR REVOKES THE PREVIOUS ANATOMICAL GIFT OR PORTION OF THE ANATOMICAL GIFT.~~

~~(B) A RECORD SIGNED IN ACCORDANCE WITH SUBSECTION (A)(1)(III) OF THIS SECTION SHALL:~~

~~(1) BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE DONOR OR THE OTHER PERSON; AND~~

~~(2) STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PROVIDED IN ITEM (1) OF THIS SUBSECTION.~~

~~(C) SUBJECT TO § 4-506 OF THIS SUBTITLE, A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-503 OF THIS SUBTITLE MAY REVOKE THE ANATOMICAL GIFT BY THE DESTRUCTION OR CANCELLATION OF THE DOCUMENT OF GIFT, OR PORTION OF THE DOCUMENT OF GIFT USED TO MAKE THE GIFT, WITH THE INTENT TO REVOKE THE GIFT.~~

~~(D) DURING A TERMINAL ILLNESS OF A DONOR OR WHILE A DONOR IS INJURED, THE DONOR MAY AMEND OR REVOKE AN ANATOMICAL GIFT THAT WAS NOT MADE BY WILL BY ANY FORM OF COMMUNICATION ADDRESSED TO AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS.~~

~~(E) A DONOR WHO MAKES AN ANATOMICAL GIFT BY WILL MAY AMEND OR REVOKE THE GIFT IN THE MANNER PROVIDED FOR AMENDMENT OR REVOCATION OF WILLS OR AS PROVIDED IN SUBSECTION (A) OF THIS SECTION.~~

~~(F) AN ANATOMICAL GIFT MADE BY A DONOR DESIGNATION ON A DRIVER'S LICENSE OR IDENTIFICATION CARD MAY BE REVOKED BY GIVING WRITTEN NOTICE TO THE MOTOR VEHICLE ADMINISTRATION IN ACCORDANCE WITH § 12-303 OF THE TRANSPORTATION ARTICLE.~~

~~4-505.~~

~~(A) AN INDIVIDUAL MAY REFUSE TO MAKE AN ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR PART BY:~~

~~(1) A RECORD SIGNED BY:~~

~~(i) THE INDIVIDUAL; OR~~

~~(ii) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE INDIVIDUAL IS PHYSICALLY UNABLE TO SIGN, ANOTHER INDIVIDUAL ACTING AT THE DIRECTION OF THE INDIVIDUAL;~~

~~(2) THE INDIVIDUAL'S WILL, WHETHER OR NOT THE WILL IS ADMITTED TO PROBATE OR INVALIDATED AFTER THE INDIVIDUAL'S DEATH; OR~~

~~(3) DURING A TERMINAL ILLNESS OF THE INDIVIDUAL OR WHILE THE INDIVIDUAL IS INJURED, ANY FORM OF COMMUNICATION ADDRESSED TO AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS.~~

~~(B) A RECORD SIGNED IN ACCORDANCE WITH SUBSECTION (A)(1)(i) OF THIS SECTION SHALL:~~

~~(1) BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE INDIVIDUAL; AND~~

~~(2) STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PROVIDED IN ITEM (1) OF THIS SUBSECTION.~~

~~(C) AN INDIVIDUAL WHO HAS MADE A REFUSAL MAY AMEND OR REVOKE THE REFUSAL:~~

~~(1) IN A MANNER PROVIDED IN SUBSECTION (A) OF THIS SECTION;~~

~~(2) BY SUBSEQUENTLY MAKING AN ANATOMICAL GIFT IN ACCORDANCE WITH § 4-503 OF THIS SUBTITLE THAT IS INCONSISTENT WITH THE REFUSAL; OR~~

~~(3) BY DESTROYING OR CANCELING THE RECORD EVIDENCING THE REFUSAL, OR THE PORTION OF THE RECORD USED TO MAKE THE REFUSAL, WITH THE INTENT TO REVOKE THE REFUSAL.~~

~~(D) EXCEPT AS OTHERWISE PROVIDED IN § 4-506(H) OF THIS SUBTITLE, IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE INDIVIDUAL SET FORTH IN THE REFUSAL, AN INDIVIDUAL'S UNREVOKED REFUSAL TO MAKE AN ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR PART BARS ALL OTHER PERSONS FROM MAKING AN ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR PART.~~

~~4-506.~~

~~(A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (G) OF THIS SECTION AND SUBJECT TO SUBSECTION (F) OF THIS SECTION, IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE DONOR, A PERSON OTHER THAN THE DONOR IS BARRED FROM MAKING, AMENDING, OR REVOKING AN ANATOMICAL GIFT OF A DONOR'S BODY OR PART IF THE DONOR MADE:~~

~~(1) AN ANATOMICAL GIFT UNDER § 4-503 OF THIS SUBTITLE; OR~~

~~(2) AN AMENDMENT TO AN ANATOMICAL GIFT UNDER § 4-504 OF THIS SUBTITLE.~~

~~(B) A DONOR'S REVOCATION OF AN ANATOMICAL GIFT UNDER § 4-504 OF THIS SUBTITLE IS NOT A REFUSAL AND DOES NOT BAR ANOTHER PERSON SPECIFIED IN § 4-501 OR § 4-507 OF THIS SUBTITLE FROM MAKING AN ANATOMICAL GIFT OF THE DONOR'S BODY OR PART UNDER § 4-503 OR § 4-508 OF THIS SUBTITLE.~~

~~(C) IF A PERSON OTHER THAN A DONOR MAKES AN UNREVOKED ANATOMICAL GIFT OF THE DONOR'S BODY OR PART UNDER § 4-503 OF THIS SUBTITLE OR AN AMENDMENT TO AN ANATOMICAL GIFT OF THE DONOR'S BODY OR PART UNDER § 4-504 OF THIS SUBTITLE, ANOTHER PERSON MAY NOT MAKE, AMEND, OR REVOKE THE GIFT OF THE DONOR'S BODY OR PART UNDER § 4-508 OF THIS SUBTITLE.~~

~~(D) A REVOCATION OF AN ANATOMICAL GIFT OF A DONOR'S BODY OR PART UNDER § 4-504 OF THIS SUBTITLE BY A PERSON OTHER THAN THE DONOR DOES NOT BAR ANOTHER PERSON FROM MAKING AN ANATOMICAL GIFT OF THE BODY OR PART UNDER § 4-503 OR § 4-508 OF THIS SUBTITLE.~~

~~(E) IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-503 OF THIS SUBTITLE, AN ANATOMICAL GIFT OF A PART IS NOT A REFUSAL TO GIVE ANOTHER PART OR A LIMITATION ON THE MAKING OF AN ANATOMICAL GIFT OF ANOTHER PART AT A LATER TIME BY THE DONOR OR ANOTHER PERSON.~~

~~(F) IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-503 OF THIS SUBTITLE, AN ANATOMICAL GIFT OF A PART FOR ONE OR MORE OF THE PURPOSES SET FORTH IN § 4-503 OF THIS SUBTITLE IS NOT A LIMITATION ON THE MAKING OF AN ANATOMICAL GIFT OF THE PART FOR ANY OTHER PURPOSE BY THE DONOR OR OTHER PERSON UNDER § 4-503 OR § 4-508 OF THIS SUBTITLE.~~

~~(G) IF A DONOR WHO IS AN UNEMANCIPATED MINOR DIES, A REASONABLY AVAILABLE PARENT OR GUARDIAN OF THE DONOR MAY REVOKE OR AMEND AN ANATOMICAL GIFT OF THE DONOR'S BODY OR PART.~~

~~(H) IF AN UNEMANCIPATED MINOR WHO SIGNED A REFUSAL DIES, A REASONABLY AVAILABLE PARENT OR GUARDIAN OF THE MINOR MAY REVOKE THE MINOR'S REFUSAL.~~

~~4-507.~~

~~(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION AND EXCEPT AS PROHIBITED IN §§ 4-505 AND 4-506 OF THIS SUBTITLE, IN ACCORDANCE WITH THE ORDER OF PRIORITY LISTED, A MEMBER OF ONE OF THE FOLLOWING CLASSIFICATIONS OF INDIVIDUALS WHO IS REASONABLY AVAILABLE MAY MAKE AN ANATOMICAL GIFT OF A DECEDENT'S BODY OR PART FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION:~~

~~(1) AN AGENT OF THE DECEDENT AT THE TIME OF DEATH WHO COULD HAVE MADE AN ANATOMICAL GIFT UNDER § 4-503(B) OF THIS SUBTITLE IMMEDIATELY BEFORE THE DECEDENT'S DEATH;~~

~~(2) A GUARDIAN OF THE PERSON OF THE DECEDENT AT THE TIME OF DEATH;~~

- ~~(3) THE SPOUSE OF THE DECEDENT;~~
- ~~(4) THE ADULT CHILDREN OF THE DECEDENT;~~
- ~~(5) THE PARENTS OF THE DECEDENT;~~
- ~~(6) THE ADULT SIBLINGS OF THE DECEDENT;~~
- ~~(7) THE ADULT GRANDCHILDREN OF THE DECEDENT;~~
- ~~(8) THE GRANDPARENTS OF THE DECEDENT;~~
- ~~(9) AN ADULT WHO EXHIBITED SPECIAL CARE AND CONCERN FOR THE DECEDENT; OR~~
- ~~(10) ANY OTHER PERSON HAVING THE AUTHORITY TO DISPOSE OF THE DECEDENT'S BODY.~~

~~(B) (1) IF THERE IS MORE THAN ONE MEMBER OF A CLASSIFICATION LISTED IN SUBSECTION (A)(1), (2), AND (4) THROUGH (8) OF THIS SECTION ENTITLED TO MAKE AN ANATOMICAL GIFT, AN ANATOMICAL GIFT MAY BE MADE BY A MEMBER OF THE CLASSIFICATION UNLESS THAT MEMBER OR A PERSON TO WHICH THE GIFT MAY PASS UNDER § 4-509 OF THIS SUBTITLE KNOWS OF AN OBJECTION BY ANOTHER MEMBER OF THE CLASSIFICATION.~~

~~(2) IF AN OBJECTION TO A GIFT MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION IS KNOWN, THE GIFT MAY BE MADE ONLY BY THOSE REASONABLY AVAILABLE MEMBERS WHO CONSTITUTE AT LEAST 50% OF THE MEMBERS OF THE CLASSIFICATION WHO ARE REASONABLY AVAILABLE.~~

~~(C) A PERSON MAY NOT MAKE AN ANATOMICAL GIFT IF, AT THE TIME OF THE DECEDENT'S DEATH, A PERSON IN A PRIOR CLASSIFICATION UNDER SUBSECTION (A) OF THIS SECTION IS REASONABLY AVAILABLE TO MAKE OR TO OBJECT TO THE MAKING OF AN ANATOMICAL GIFT.~~

~~4-508.~~

~~(A) A PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-507 OF THIS SUBTITLE MAY MAKE IT:~~

~~(1) BY A DOCUMENT OF GIFT SIGNED BY THE PERSON MAKING THE GIFT; OR~~

~~(2) BY AN ORAL COMMUNICATION THAT IS ELECTRONICALLY RECORDED OR IS CONTEMPORANEOUSLY REDUCED TO A RECORD AND SIGNED BY THE INDIVIDUAL RECEIVING THE ORAL COMMUNICATION.~~

~~(B) (1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, AN ANATOMICAL GIFT BY A PERSON AUTHORIZED UNDER § 4-507 OF THIS SUBTITLE MAY BE AMENDED OR REVOKED ORALLY OR IN A RECORD BY A REASONABLY AVAILABLE MEMBER OF A PRIOR CLASS.~~

~~(2) IF MORE THAN ONE MEMBER OF A PRIOR CLASSIFICATION IS REASONABLY AVAILABLE, THE GIFT MADE BY A PERSON AUTHORIZED UNDER § 4-507 OF THIS SUBTITLE MAY BE AMENDED OR REVOKED IF A MAJORITY OF THE REASONABLY AVAILABLE MEMBERS AGREE TO THE AMENDMENT OR REVOCATION.~~

~~(C) A REVOCATION UNDER SUBSECTION (B) OF THIS SECTION IS EFFECTIVE ONLY IF, BEFORE AN INCISION HAS BEEN MADE TO REMOVE A PART FROM THE DONOR'S BODY OR BEFORE INVASIVE PROCEDURES HAVE BEGUN TO PREPARE THE RECIPIENT, THE PROCUREMENT ORGANIZATION, TRANSPLANT HOSPITAL, OR PHYSICIAN OR TECHNICIAN KNOWS OF THE REVOCATION.~~

~~4-509.~~

~~(A) AN ANATOMICAL GIFT MAY BE MADE TO THE FOLLOWING PERSONS NAMED IN A DOCUMENT OF GIFT:~~

~~(1) A HOSPITAL, ACCREDITED MEDICAL SCHOOL, DENTAL SCHOOL, COLLEGE OR UNIVERSITY, ORGAN PROCUREMENT ORGANIZATION, OR THE MARYLAND STATE ANATOMY BOARD, FOR RESEARCH OR EDUCATION;~~

~~(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE INDIVIDUAL IS THE RECIPIENT OF THE PART, AN INDIVIDUAL DESIGNATED BY THE PERSON MAKING THE ANATOMICAL GIFT; OR~~

~~(3) AN EYE BANK OR TISSUE BANK.~~

~~(B) IF AN ANATOMICAL GIFT TO AN INDIVIDUAL UNDER SUBSECTION (A)(2) OF THIS SECTION CANNOT BE TRANSPLANTED INTO THE INDIVIDUAL, THE PART PASSES IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE PERSON MAKING THE ANATOMICAL GIFT.~~

~~(C) IF AN ANATOMICAL GIFT OF ONE OR MORE SPECIFIC PARTS OR OF ALL PARTS IS MADE IN A DOCUMENT OF GIFT THAT DOES NOT NAME A PERSON~~

~~DESCRIBED IN SUBSECTION (A) OF THIS SECTION BUT IDENTIFIES THE PURPOSE FOR WHICH AN ANATOMICAL GIFT MAY BE USED, THE FOLLOWING PROVISIONS APPLY:~~

~~(1) IF THE PART IS AN EYE AND THE GIFT IS FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE APPROPRIATE EYE BANK;~~

~~(2) IF THE PART IS TISSUE AND THE GIFT IS FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE APPROPRIATE TRANSPLANT TISSUE BANK;~~

~~(3) IF THE PART IS AN ORGAN AND THE GIFT IS FOR THE PURPOSE OF TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE APPROPRIATE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE ORGAN; OR~~

~~(4) IF THE PART IS AN ORGAN, AN EYE, OR TISSUE AND THE GIFT IS FOR THE PURPOSE OF RESEARCH OR EDUCATION, THE GIFT PASSES TO THE APPROPRIATE PROCUREMENT ORGANIZATION.~~

~~(D) FOR THE PURPOSE OF SUBSECTION (C) OF THIS SECTION, IF THERE IS MORE THAN ONE PURPOSE OF AN ANATOMICAL GIFT SET FORTH IN THE DOCUMENT OF GIFT BUT THE PURPOSES ARE NOT SET FORTH IN ANY PRIORITY, THE GIFT SHALL BE USED:~~

~~(1) FOR TRANSPLANTATION OR THERAPY, IF SUITABLE; OR~~

~~(2) IF THE GIFT CANNOT BE USED FOR TRANSPLANTATION OR THERAPY, FOR RESEARCH OR EDUCATION.~~

~~(E) IF AN ANATOMICAL GIFT OF ONE OR MORE SPECIFIC PARTS IS MADE IN A DOCUMENT OF GIFT THAT DOES NOT NAME A PERSON DESCRIBED IN SUBSECTION (A) OF THIS SECTION AND DOES NOT IDENTIFY THE PURPOSE OF THE GIFT, THE GIFT PASSES IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION AND MAY BE USED:~~

~~(1) FOR TRANSPLANTATION OR THERAPY, IF SUITABLE; OR~~

~~(2) IF THE GIFT CANNOT BE USED FOR TRANSPLANTATION OR THERAPY, FOR RESEARCH OR EDUCATION.~~

~~(F) IF A DOCUMENT OF GIFT SPECIFIES ONLY A GENERAL INTENT TO MAKE AN ANATOMICAL GIFT BY WORDS SUCH AS "DONOR", "ORGAN DONOR", OR~~

~~“BODY DONOR”, OR BY A SYMBOL OR STATEMENT OF SIMILAR IMPORT, THE GIFT PASSES IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION AND MAY BE USED;~~

~~(1) FOR TRANSPLANTATION OR THERAPY, IF SUITABLE; OR~~

~~(2) IF THE GIFT CANNOT BE USED FOR TRANSPLANTATION OR THERAPY, FOR RESEARCH OR EDUCATION.~~

~~(G) FOR PURPOSES OF SUBSECTIONS (B), (E), AND (F) OF THIS SECTION, THE FOLLOWING PROVISIONS APPLY:~~

~~(1) IF THE PART IS AN EYE, THE GIFT PASSES TO THE APPROPRIATE EYE BANK;~~

~~(2) IF THE PART IS TISSUE, THE GIFT PASSES TO THE APPROPRIATE TISSUE BANK; AND~~

~~(3) IF THE PART IS AN ORGAN, THE GIFT PASSES TO THE APPROPRIATE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE ORGAN.~~

~~(H) OTHER THAN AN ANATOMICAL GIFT UNDER SUBSECTION (A)(2) OF THIS SECTION, AN ANATOMICAL GIFT OF AN ORGAN FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION PASSES TO THE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE ORGAN.~~

~~(I) IF AN ANATOMICAL GIFT DOES NOT PASS IN ACCORDANCE WITH SUBSECTIONS (A) THROUGH (H) OF THIS SECTION OR THE DECEDENT'S BODY OR PART IS NOT USED FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION, CUSTODY OF THE BODY OR PART PASSES TO THE PERSON UNDER OBLIGATION TO DISPOSE OF THE BODY OR PART.~~

~~(J) (1) A PERSON MAY NOT ACCEPT AN ANATOMICAL GIFT IF THE PERSON KNOWS THAT:~~

~~(i) THE GIFT WAS NOT EFFECTIVELY MADE UNDER § 4-503 OR § 4-508 OF THIS SUBTITLE; OR~~

~~(ii) THE DECEDENT MADE A REFUSAL UNDER § 4-504 OF THIS SUBTITLE THAT WAS NOT REVOKED.~~

~~(2) FOR PURPOSES OF THIS SUBSECTION, IF A PERSON KNOWS THAT AN ANATOMICAL GIFT WAS MADE ON A DOCUMENT OF GIFT, THE PERSON~~

~~IS DEEMED TO KNOW OF ANY AMENDMENT OR REVOCATION OF THE GIFT OR ANY REFUSAL TO MAKE AN ANATOMICAL GIFT ON THE SAME DOCUMENT OF GIFT.~~

~~(K) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (A)(2) OF THIS SECTION, NOTHING IN THIS SUBTITLE AFFECTS THE ALLOCATION OF ORGANS FOR TRANSPLANTATION OR THERAPY.~~

~~4-510.~~

~~(A) THE FOLLOWING PERSONS SHALL MAKE A REASONABLE SEARCH OF AN INDIVIDUAL WHO THE PERSON REASONABLY BELIEVES IS DEAD OR WHOSE DEATH IS IMMINENT FOR A DOCUMENT OF GIFT OR OTHER INFORMATION IDENTIFYING THE INDIVIDUAL AS A DONOR OR AS AN INDIVIDUAL WHO MADE A REFUSAL:~~

~~(1) A LAW ENFORCEMENT OFFICER, FIREFIGHTER, PARAMEDIC, OR OTHER EMERGENCY RESCUER FINDING THE INDIVIDUAL; AND~~

~~(2) IF NO OTHER SOURCE OF THE INFORMATION IS IMMEDIATELY AVAILABLE, A HOSPITAL, AS SOON AS PRACTICAL AFTER THE INDIVIDUAL'S ARRIVAL AT THE HOSPITAL.~~

~~(B) IF A DOCUMENT OF GIFT OR A REFUSAL TO MAKE AN ANATOMICAL GIFT IS LOCATED BY THE SEARCH REQUIRED BY SUBSECTION (A)(1) OF THIS SECTION AND THE INDIVIDUAL OR DECEASED INDIVIDUAL TO WHOM IT RELATES IS TAKEN TO A HOSPITAL, THE PERSON RESPONSIBLE FOR CONDUCTING THE SEARCH SHALL SEND THE DOCUMENT OF GIFT OR REFUSAL TO THE HOSPITAL.~~

~~(C) A PERSON IS NOT SUBJECT TO CRIMINAL OR CIVIL LIABILITY FOR FAILING TO DISCHARGE THE DUTIES IMPOSED BY THIS SECTION BUT MAY BE SUBJECT TO ADMINISTRATIVE SANCTIONS.~~

~~4-511.~~

~~(A) A DOCUMENT OF GIFT NEED NOT BE DELIVERED DURING THE LIFETIME OF A DONOR TO BE EFFECTIVE.~~

~~(B) ON OR AFTER THE DEATH OF AN INDIVIDUAL, A PERSON IN POSSESSION OF A DOCUMENT OF GIFT OR A REFUSAL TO MAKE AN ANATOMICAL GIFT REGARDING THE INDIVIDUAL SHALL ALLOW EXAMINATION AND COPYING OF THE DOCUMENT OF GIFT OR REFUSAL BY:~~

~~(1) A PERSON AUTHORIZED TO MAKE OR OBJECT TO THE MAKING OF THE ANATOMICAL GIFT; OR~~

~~(2) A PERSON THAT THE GIFT COULD PASS TO UNDER § 4-509 OF THIS SUBTITLE.~~

~~4-512.~~

~~(A) WHENEVER A HOSPITAL REFERS AN INDIVIDUAL WHO IS DEAD OR WHOSE DEATH IS IMMINENT TO A PROCUREMENT ORGANIZATION, THE ORGANIZATION SHALL ASCERTAIN WHETHER THE INDIVIDUAL HAS MADE AN ANATOMICAL GIFT BY MAKING A REASONABLE SEARCH OF:~~

~~(1) THE RECORDS OF THE MOTOR VEHICLE ADMINISTRATION; AND~~

~~(2) ANY DONOR REGISTRY THAT IT KNOWS EXISTS FOR THE GEOGRAPHICAL AREA IN WHICH THE INDIVIDUAL RESIDES.~~

~~(B) A PROCUREMENT ORGANIZATION SHALL BE ALLOWED REASONABLE ACCESS TO INFORMATION IN THE RECORDS OF THE MOTOR VEHICLE ADMINISTRATION TO ASCERTAIN WHETHER AN INDIVIDUAL WHO IS DEAD OR WHOSE DEATH IS IMMINENT IS A DONOR.~~

~~(C) (1) WHENEVER A HOSPITAL REFERS AN INDIVIDUAL WHO IS DEAD OR WHOSE DEATH IS IMMINENT TO A PROCUREMENT ORGANIZATION, THE ORGANIZATION MAY CONDUCT ANY REASONABLE EXAMINATION ON THE INDIVIDUAL TO ENSURE THE MEDICAL SUITABILITY OF A PART THAT IS OR COULD BE THE SUBJECT OF AN ANATOMICAL GIFT FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(2) DURING THE EXAMINATION PERIOD, MEASURES NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF A PART MAY NOT BE WITHDRAWN UNLESS THE HOSPITAL OR PROCUREMENT ORGANIZATION KNOWS THAT THE INDIVIDUAL EXPRESSED A CONTRARY INTENT.~~

~~(D) UNLESS PROHIBITED BY LAW OTHER THAN THIS SUBTITLE, AT ANY TIME AFTER A DONOR'S DEATH, THE PERSON TO WHICH A PART PASSES UNDER § 4-509 OF THIS SUBTITLE MAY CONDUCT A REASONABLE EXAMINATION NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF THE BODY OR PART FOR ITS INTENDED PURPOSE.~~

~~(E) UNLESS PROHIBITED BY LAW OTHER THAN THIS SUBTITLE, AN EXAMINATION UNDER SUBSECTION (C) OR (D) MAY INCLUDE AN EXAMINATION~~

~~OF ALL MEDICAL AND DENTAL RECORDS OF THE DONOR OR PROSPECTIVE DONOR.~~

~~(F) ON THE DEATH OF A MINOR WHO WAS A DONOR OR HAD SIGNED A REFUSAL, UNLESS A PROCUREMENT ORGANIZATION KNOWS THE MINOR IS EMANCIPATED, THE PROCUREMENT ORGANIZATION SHALL CONDUCT A REASONABLE SEARCH FOR THE PARENTS OF THE MINOR AND PROVIDE THE PARENTS WITH AN OPPORTUNITY TO REVOKE OR AMEND THE ANATOMICAL GIFT OR REVOKE THE REFUSAL.~~

~~(G) (1) ON A REFERRAL BY A HOSPITAL UNDER SUBSECTION (A) OF THIS SECTION, A PROCUREMENT ORGANIZATION SHALL MAKE A REASONABLE SEARCH FOR A PERSON LISTED IN § 4-507 OF THIS SUBTITLE HAVING PRIORITY TO MAKE AN ANATOMICAL GIFT ON BEHALF OF A PROSPECTIVE DONOR.~~

~~(2) IF A PROCUREMENT ORGANIZATION RECEIVES INFORMATION THAT AN ANATOMICAL GIFT TO ANY OTHER PERSON WAS MADE, AMENDED, OR REVOKED, IT SHALL PROMPTLY ADVISE THE OTHER PERSON OF ALL RELEVANT INFORMATION.~~

~~(H) (1) SUBJECT TO §§ 4-509(I) AND 4-519 OF THIS SUBTITLE, THE RIGHTS OF A PERSON TO WHICH A PART PASSES UNDER § 4-509 OF THIS SUBTITLE ARE SUPERIOR TO THE RIGHTS OF ALL OTHERS WITH RESPECT TO THE PART.~~

~~(2) A PERSON MAY ACCEPT OR REJECT AN ANATOMICAL GIFT IN WHOLE OR IN PART.~~

~~(3) SUBJECT TO THE TERMS OF A DOCUMENT OF GIFT AND THIS SUBTITLE, A PERSON THAT ACCEPTS AN ANATOMICAL GIFT OF AN ENTIRE BODY MAY ALLOW EMBALMING, BURIAL, OR CREMATION, AND USE OF REMAINS IN A FUNERAL SERVICE.~~

~~(4) IF AN ANATOMICAL GIFT OF A PART IS MADE UNDER § 4-509 OF THIS SUBTITLE, ON THE DEATH OF THE DONOR AND BEFORE EMBALMING, BURIAL, OR CREMATION, THE PERSON TO WHICH THE PART PASSES SHALL HAVE THE PART REMOVED WITHOUT UNNECESSARY MUTILATION.~~

~~(I) A PHYSICIAN WHO ATTENDS A DECEDENT AT DEATH AND A PHYSICIAN WHO DETERMINES THE TIME OF A DECEDENT'S DEATH MAY NOT PARTICIPATE IN THE PROCEDURES FOR REMOVING OR TRANSPLANTING A PART FROM THE DECEDENT.~~

~~(J) (1) A PHYSICIAN OR TECHNICIAN MAY REMOVE A DONATED PART FROM THE BODY OF A DONOR THAT THE PHYSICIAN OR TECHNICIAN IS QUALIFIED TO REMOVE.~~

~~(2) AN ORGAN PROCUREMENT ORGANIZATION MAY RECOVER A DONATED PART FROM THE BODY OF A DONOR ON BEHALF OF AN EYE BANK OR TISSUE BANK.~~

~~(K) EACH HOSPITAL IN THE STATE SHALL ENTER INTO AN AGREEMENT OR AFFILIATION WITH A PROCUREMENT ORGANIZATION FOR COORDINATION OF PROCUREMENT AND USE OF ANATOMICAL GIFTS.~~

~~4-513.~~

~~(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF REMOVAL OF A PART FROM AN INDIVIDUAL IS INTENDED TO OCCUR AFTER THE INDIVIDUAL'S DEATH, A PERSON MAY NOT KNOWINGLY PURCHASE OR SELL THE PART FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(2) ANY PERSON THAT VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$50,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.~~

~~(B) (1) A PERSON MAY CHARGE A REASONABLE AMOUNT OF MONEY FOR THE REMOVAL, PROCESSING, PRESERVATION, QUALITY CONTROL, STORAGE, TRANSPORTATION, IMPLANTATION, OR DISPOSAL OF A PART.~~

~~(2) THE PROHIBITION IN SUBSECTION (A) OF THIS SUBSECTION DOES NOT APPLY TO BLOOD AND PLASMA.~~

~~(C) A PERSON THAT, IN ORDER TO OBTAIN A FINANCIAL GAIN, INTENTIONALLY FALSIFIES, FORGES, CONCEALS, DEFACES, OR OBLITERATES A DOCUMENT OF GIFT, AN AMENDMENT OR REVOCATION OF A DOCUMENT OF GIFT, OR A REFUSAL IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$50,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.~~

~~4-514.~~

~~(A) A PERSON THAT ACTS IN ACCORDANCE WITH THIS SUBTITLE OR WITH THE APPLICABLE ANATOMICAL GIFT LAW OF ANOTHER STATE, OR ATTEMPTS IN GOOD FAITH TO DO SO, IS NOT LIABLE FOR THE ACT IN A CIVIL ACTION, CRIMINAL PROSECUTION, OR ADMINISTRATIVE PROCEEDING.~~

~~(B) A PERSON MAKING AN ANATOMICAL GIFT OR A DONOR'S ESTATE IS NOT LIABLE FOR AN INJURY OR DAMAGE THAT RESULTS FROM THE MAKING OR USE OF THE GIFT.~~

~~(C) IN DETERMINING WHETHER AN ANATOMICAL GIFT HAS BEEN MADE, AMENDED, OR REVOKED UNDER THIS SUBTITLE, A PERSON MAY RELY ON REPRESENTATIONS OF AN INDIVIDUAL LISTED IN § 4-507(A)(2) THROUGH (9) OF THIS SUBTITLE UNLESS THE PERSON KNOWS THAT THE REPRESENTATION IS UNTRUE.~~

~~4-515.~~

~~(A) A DOCUMENT OF GIFT IS VALID IF EXECUTED IN ACCORDANCE WITH:~~

~~(1) THIS SUBTITLE;~~

~~(2) THE LAWS OF THE STATE OR COUNTRY WHERE IT WAS EXECUTED; OR~~

~~(3) THE LAWS OF THE STATE OR COUNTRY WHERE THE PERSON MAKING THE ANATOMICAL GIFT WAS DOMICILED, HAS A PLACE OF RESIDENCE, OR WAS A NATIONAL AT THE TIME THE DOCUMENT OF GIFT WAS EXECUTED.~~

~~(B) IF A DOCUMENT OF GIFT IS VALID UNDER THIS SECTION, THE LAW OF THIS STATE GOVERNS THE INTERPRETATION OF THE DOCUMENT OF GIFT.~~

~~(C) A PERSON MAY PRESUME THAT A DOCUMENT OF GIFT OR AMENDMENT OF AN ANATOMICAL GIFT IS VALID UNLESS THAT PERSON KNOWS THAT IT WAS NOT VALIDLY EXECUTED OR WAS REVOKED.~~

~~4-516.~~

~~(A) (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.~~

~~(B) THE MOTOR VEHICLE ADMINISTRATION SHALL COOPERATE WITH THE QUALIFIED NONPROFIT ENTITY CONTRACTED WITH UNDER SUBSECTION (A)(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.~~

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

~~(1) A DONOR OR OTHER PERSON AUTHORIZED UNDER § 4-503 OF THIS SUBTITLE TO INCLUDE ON THE DONOR REGISTRY A STATEMENT OR SYMBOL THAT THE DONOR HAS MADE OR AMENDED AN ANATOMICAL GIFT;~~

~~(2) A DONOR OR OTHER PERSON AUTHORIZED UNDER § 4-503 OF THIS SUBTITLE 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.~~

~~(D) 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.~~

~~(E) (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 (C) AND (D) OF THIS SECTION.~~

~~4-517.~~

~~(A) IN THIS SECTION, "ADVANCE DIRECTIVE" MEANS A POWER OF ATTORNEY FOR HEALTH CARE OR A RECORD SIGNED BY A PROSPECTIVE DONOR IN ACCORDANCE WITH §§ 5-601 THROUGH 5-618 OF THE HEALTH GENERAL ARTICLE.~~

~~(B) (1) (i) IF A PROSPECTIVE DONOR HAS A DECLARATION OR ADVANCE DIRECTIVE AND THE TERMS OF THE DECLARATION OR DIRECTIVE AND THE EXPRESS OR IMPLIED TERMS OF A POTENTIAL ANATOMICAL GIFT ARE IN CONFLICT WITH REGARD TO THE ADMINISTRATION OF MEASURES NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF A PART FOR TRANSPLANTATION OR THERAPY:~~

~~1. THE PROSPECTIVE DONOR'S ATTENDING PHYSICIAN AND PROSPECTIVE DONOR SHALL CONFER TO RESOLVE THE CONFLICT; OR~~

~~2. IF THE PROSPECTIVE DONOR IS INCAPABLE OF RESOLVING THE CONFLICT, AN AGENT ACTING UNDER THE PROSPECTIVE DONOR'S DECLARATION OR DIRECTIVE SHALL ACT FOR THE DONOR TO RESOLVE THE CONFLICT.~~

~~(ii) IF THERE IS NOT AN AGENT OR THE AGENT IS NOT REASONABLY AVAILABLE, ANOTHER PERSON AUTHORIZED BY A LAW OTHER THAN THIS SUBTITLE TO MAKE HEALTH CARE DECISIONS ON BEHALF OF THE PROSPECTIVE DONOR SHALL ACT FOR THE DONOR TO RESOLVE THE CONFLICT.~~

~~(3) A CONFLICT UNDER THIS SUBSECTION SHALL BE RESOLVED AS EXPEDITIOUSLY AS POSSIBLE.~~

~~(4) INFORMATION RELEVANT TO THE RESOLUTION OF THE CONFLICT UNDER THIS SUBSECTION MAY BE OBTAINED FROM THE APPROPRIATE PROCUREMENT ORGANIZATION AND ANY OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT FOR THE PROSPECTIVE DONOR UNDER § 4-507 OF THIS SUBTITLE.~~

~~(5) BEFORE RESOLUTION OF A CONFLICT UNDER THIS SUBSECTION, A MEASURE TO ENSURE THE MEDICAL SUITABILITY OF A PART~~

~~MAY NOT BE WITHHELD OR WITHDRAWN FROM THE PROSPECTIVE DONOR IF WITHHOLDING OR WITHDRAWING THE MEASURE IS NOT CONTRAINDICATED BY APPROPRIATE END-OF-LIFE CARE.~~

~~4-518.~~

~~(A) THE OCME AND PROCUREMENT ORGANIZATIONS SHALL COOPERATE WITH EACH OTHER TO MAXIMIZE THE OPPORTUNITY TO RECOVER ANATOMICAL GIFTS FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(B) IF THE OCME RECEIVES NOTICE FROM A PROCUREMENT ORGANIZATION THAT AN ANATOMICAL GIFT MIGHT BE AVAILABLE OR WAS MADE WITH RESPECT TO A DECEDENT WHOSE BODY OR PART IS UNDER THE JURISDICTION OF THE OCME FOR A POSTMORTEM INVESTIGATION, UNLESS THE OCME DENIES RECOVERY IN ACCORDANCE WITH § 4-519 OF THIS SUBTITLE, THE CHIEF MEDICAL EXAMINER OR DESIGNEE SHALL CONDUCT THE POSTMORTEM INVESTIGATION OF THE BODY OR PART IN A MANNER AND WITHIN A PERIOD COMPATIBLE WITH ITS PRESERVATION FOR THE PURPOSE OF THE GIFT.~~

~~(C) (1) A PART MAY NOT BE REMOVED FROM THE BODY OF A DECEDENT UNDER THE JURISDICTION OF OCME FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION UNLESS THE PART IS THE SUBJECT OF AN ANATOMICAL GIFT.~~

~~(2) THE BODY OF A DECEDENT UNDER THE JURISDICTION OF THE OCME MAY NOT BE DELIVERED TO A PERSON FOR RESEARCH OR EDUCATION UNLESS THE BODY IS THE SUBJECT OF AN ANATOMICAL GIFT.~~

~~(3) THIS SUBSECTION DOES NOT PRECLUDE THE OCME FROM:~~

~~(i) PERFORMING A MEDICOLEGAL INVESTIGATION ON THE BODY OR PART OF A DECEDENT UNDER THE JURISDICTION OF THE OCME; OR~~

~~(ii) USING THE BODY OR PART UNDER THE JURISDICTION OF THE OCME FOR THE PURPOSES OF EDUCATION, TRAINING, AND RESEARCH REQUIRED BY OCME.~~

~~4-519.~~

~~(A) (1) ON REQUEST OF A PROCUREMENT ORGANIZATION, THE OCME SHALL RELEASE TO THE PROCUREMENT ORGANIZATION THE NAME,~~

~~CONTACT INFORMATION, AND AVAILABLE MEDICAL AND SOCIAL HISTORY OF A DECEDENT WHOSE BODY IS UNDER THE JURISDICTION OF THE OCME.~~

~~(2) IF A BODY OR PART OF A DECEDENT IS MEDICALLY SUITABLE FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION, THE OCME SHALL RELEASE POSTMORTEM INVESTIGATION RESULTS TO THE PROCUREMENT ORGANIZATION THAT MADE A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(3) IF RELEVANT TO TRANSPLANTATION, RESEARCH, EDUCATION, OR THERAPY, A PROCUREMENT ORGANIZATION MAY MAKE A SUBSEQUENT DISCLOSURE OF A POSTMORTEM INVESTIGATION RESULTS OR OTHER INFORMATION RECEIVED FROM THE OCME.~~

~~(B) THE OCME MAY CONDUCT A MEDICOLEGAL INVESTIGATION BY REVIEWING MEDICAL RECORDS, LABORATORY TEST RESULTS, X-RAYS, OTHER DIAGNOSTIC RESULTS, AND OTHER INFORMATION THAT THE OCME DETERMINES MAY BE RELEVANT TO THE INVESTIGATION.~~

~~(C) A PERSON THAT HAS INFORMATION REQUESTED BY THE OCME IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, SHALL PROVIDE THE INFORMATION AS EXPEDITIOUSLY AS POSSIBLE TO ALLOW THE OCME TO CONDUCT THE MEDICOLEGAL INVESTIGATION WITHIN A PERIOD COMPATIBLE WITH THE PRESERVATION OF PARTS FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.~~

~~(D) THE OCME AND A PROCUREMENT ORGANIZATION SHALL COOPERATE IN THE TIMELY REMOVAL OF A PART FROM A DECEDENT FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION, IF:~~

~~(1) AN ANATOMICAL GIFT HAS BEEN OR MIGHT BE MADE OF THE PART OF THE DECEDENT WHOSE BODY IS UNDER THE JURISDICTION OF THE OCME AND A POSTMORTEM INVESTIGATION IS NOT REQUIRED; OR~~

~~(2) THE OCME DETERMINES THAT A POSTMORTEM EXAMINATION IS REQUIRED BUT THAT THE RECOVERY OF THE PART THAT IS THE SUBJECT OF THE ANATOMICAL GIFT WILL NOT INTERFERE WITH THE INVESTIGATION.~~

~~(E) (1) THE OCME AND PROCUREMENT ORGANIZATIONS SHALL ENTER INTO AN AGREEMENT SETTING FORTH PROTOCOLS AND PROCEDURES TO GOVERN RELATIONS BETWEEN THE PARTIES WHEN AN ANATOMICAL GIFT OF A PART FROM A DECEDENT UNDER THE JURISDICTION OF THE OCME HAS BEEN~~

~~OR MIGHT BE MADE BUT THE OCME BELIEVES THAT THE RECOVERY OF THE PART COULD INTERFERE WITH THE POSTMORTEM INVESTIGATION INTO THE DECEDENT'S CAUSE OR MANNER OF DEATH.~~

~~(2) DECISIONS REGARDING THE RECOVERY OF ORGANS, TISSUE, AND EYES UNDER THIS SUBSECTION SHALL BE MADE IN ACCORDANCE WITH THE AGREEMENT.~~

~~(3) IF THE MEDICAL EXAMINER DENIES RECOVERY OF AN ANATOMICAL GIFT, THE PROCUREMENT ORGANIZATION MAY REQUEST THE CHIEF MEDICAL EXAMINER TO RECONSIDER THE DENIAL AND ALLOW THE RECOVERY TO PROCEED.~~

~~(4) THE PARTIES SHALL EVALUATE THE EFFECTIVENESS OF THE PROTOCOLS AND PROCEDURES AGREED TO UNDER THIS SUBSECTION AT REGULAR INTERVALS BUT NO LESS FREQUENTLY THAN EVERY 2 YEARS.~~

~~(F) IF THE CHIEF MEDICAL EXAMINER OR DESIGNEE ALLOWS RECOVERY OF A PART UNDER SUBSECTION (D) OR (E) OF THIS SECTION, ON REQUEST, THE PROCUREMENT ORGANIZATION SHALL CAUSE THE PHYSICIAN OR TECHNICIAN WHO REMOVES THE PART TO PROVIDE THE MEDICAL EXAMINER WITH A RECORD DESCRIBING THE CONDITION OF THE PART, A BIOPSY, A PHOTOGRAPH, AND ANY OTHER INFORMATION AND OBSERVATIONS THAT WOULD ASSIST IN THE POSTMORTEM EXAMINATION.~~

~~(G) IF A MEDICAL EXAMINER OR DESIGNEE IS REQUIRED TO BE PRESENT AT A REMOVAL PROCEDURE UNDER SUBSECTION (E) OF THIS SECTION, THE PROCUREMENT ORGANIZATION REQUESTING THE RECOVERY OF THE PART SHALL REIMBURSE OCME FOR THE ADDITIONAL COSTS INCURRED IN COMPLYING WITH THE SUBSECTION.~~

~~4-520.~~

~~IN APPLYING AND CONSTRUING THIS SUBTITLE, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT THE PROVISIONS OF THIS SUBTITLE.~~

~~4-521.~~

~~THIS SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. SECTION 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT OR SUPERSEDE SECTION 101(A) OF THAT ACT, 15 U.S.C. SECTION 7001 ET SEQ., OR AUTHORIZE ELECTRONIC~~

~~DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(B) OF THAT ACT, 15 U.S.C. SECTION 7003(B).~~

~~4-522.~~

~~THIS SUBTITLE MAY BE CITED AS THE MARYLAND REVISED ANATOMICAL GIFT ACT.~~

~~Article Health General~~

~~5-408.~~

~~(a) (1) A person may not sell or buy any body or any part of a body that is under the exclusive control of the Board.~~

~~(2) A person other than a nonprofit organization that qualifies under § 501(c)(3) of the Internal Revenue Code, may not sell, buy, or act as a broker for a profit in the transfer of any human organ that:~~

~~(i) Is removed from a human body that is alive or dead at the time of removal; and~~

~~(ii) Is not under the exclusive control of the Board.~~

~~(3) In this section, "human organ" does not include blood and plasma.~~

~~(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person may not send, transport, or permit or cause to be sent or transported out of the State any body or any part of a body that is under the exclusive control of the Board.~~

~~(2) The Board may authorize, by regulation, the transporting of human specimens under its exclusive control to an out-of-state medical study program, provided that:~~

~~(i) The needs of the schools of the State are met;~~

~~(ii) The requesting party demonstrates the need for a specimen;~~

~~(iii) The circumstances of the request are that:~~

~~1. No other sufficient source of specimens within the requesting state exists; or~~

~~2. A preexisting organ tissue donation was made by an individual in compliance with the [Uniform Donor Act] **MARYLAND REVISED ANATOMICAL GIFT ACT;**~~

~~(iv) The requesting party bears the responsibility for transporting and the specialized care of the specimen and all associated costs; and~~

~~(v) The Board retains the right of exclusive control of the specimen including the final disposition when appropriate or necessary to fulfill an obligation to return the remains of a donated specimen to the donor's family.~~

~~(3) The Board may authorize a physician, teacher, demonstrator, or investigator of advanced human biological sciences to send or transport human specimens out of the State for use by medical study programs.~~

~~5-604.1.~~

~~(a) An advance directive may contain a statement by a declarant that the declarant consents to the gift of all or any part of the declarant's body for any one or more of the purposes specified in Title 4, Subtitle 5 of the Estates and Trusts Article.~~

~~(b) Notwithstanding any other provision of law, an anatomical gift in an advance directive is valid and effective for all purposes under Title 4, Subtitle 5 of the Estates and Trusts Article, including the immunity from civil or criminal liability set forth in [~~§ 4-508(b)~~] ~~§ 4-514~~ of the Estates and Trusts Article.~~

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.

(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

(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

13-901.

(a) (1) There is an Organ and Tissue Donation Awareness Fund.

(2) The Fund consists of moneys collected under § 16-111.2(f) of the Transportation Article.

(3) The Fund is a special, continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(4) The Treasurer shall separately hold and the Comptroller shall account for the Fund.

(5) The Fund shall be invested and reinvested in the same manner as other State funds.

(6) Any investment earnings shall be retained to the credit of the Fund.

(b) (1) The Fund shall be managed and supervised by the Secretary or the Secretary's designee.

(2) The Fund shall be used to promote public education and awareness about organ, tissue, and eye donations **AND TO FUND THE ESTABLISHMENT, OPERATION, AND MAINTENANCE OF A DONOR REGISTRY AS PROVIDED IN § 4-516 4-512 OF THE ESTATES AND TRUSTS ARTICLE.**

[(3) The Secretary shall contract with a qualified, independent, nonprofit third party to promote public education and awareness about organ, tissue, and eye donations.]

[(4) (3) The Fund shall be subject to audit by the Office of Legislative Audits under Title 2, Subtitle 12 of the State Government Article.

~~19-310.~~

~~(a) (1) In this subsection, "designated requestor" means a hospital employee who has completed a course offered by an organ, tissue, or eye recovery agency on how to approach potential donor families and request organ or tissue donation.~~

~~(2) (i) On or before the occurrence of each death in a hospital, the hospital shall contact an appropriate organ, tissue, or eye recovery agency in order to determine the patient's suitability for organ, tissue, or eye donation.~~

~~(ii) The contact and its disposition shall be noted in the patient's medical record.~~

~~(3) (i) The appropriate organ, tissue, or eye recovery agency, in consultation with the patient's attending physician or the physician's designee, shall determine the patient's suitability for organ, tissue, or eye donation.~~

~~(ii) If the organ, tissue, or eye recovery agency, in consultation with the patient's attending physician or the physician's designee, determines that donation is not appropriate based on established medical criteria, this determination~~

~~shall be noted by hospital personnel in the patient's medical record and no further action is necessary.~~

~~(iii) If the organ, tissue, or eye recovery agency, in consultation with the patient's attending physician or the physician's designee, determines that the patient is a suitable candidate for organ, tissue, or eye donation, a representative of the appropriate organ, tissue, or eye recovery agency or a designated requestor shall initiate a request under paragraph (4) of this subsection, if applicable.~~

~~(4) (i) Except as provided in [paragraph (10) of this subsection,] **THE MARYLAND REVISED ANATOMICAL GIFT ACT**, when an individual dies in a hospital in accordance with § 5-202 of this article, a representative of the appropriate organ, tissue, or eye recovery agency or a designated requestor shall request, with [sensitivity, in the order of stated priority,] **SENSITIVITY AND IN COMPLIANCE WITH § 4-507 OF THE ESTATES AND TRUSTS ARTICLE** that the individual's representative consent to the donation of all or any of the decedent's organs or tissues as an anatomical donation if suitable.~~

~~[(ii) For the purposes of subparagraph (i) of this paragraph, the representative of the deceased individual is 1 of the following individuals listed in the following order of priority:~~

- ~~1. A spouse, but, if not alive or not competent, then;~~
- ~~2. A son or daughter who is at least 18 years old, but, if not alive, competent, or immediately available, then;~~
- ~~3. A parent, but, if not alive, competent, or immediately available, then;~~
- ~~4. A brother or sister who is at least 18 years old, but, if not alive or not competent, then;~~
- ~~5. A guardian;~~
- ~~6. A friend or other relative of the decedent, if the individual:~~
 - ~~A. Is a competent individual; and~~
 - ~~B. Presents an affidavit to the attending physician stating:~~
 - ~~I. That the individual is a relative or close friend of the decedent; and~~

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

~~7. Any other person authorized or required to dispose of the body.~~

~~(iii) 1. This paragraph does not apply if the decedent has given contrary directions.~~

~~2. The failure of the decedent to make a gift is not a contrary direction for purposes of this paragraph.~~

~~(iv) Contrary directions given by the decedent under this paragraph shall be recorded in the decedent's medical record.]~~

~~**(H) DIRECTIONS GIVEN BY A PERSON AUTHORIZED UNDER § 4-503 OF THE ESTATES AND TRUSTS ARTICLE TO MAKE, AMEND, REVOKE, OR REFUSE TO MAKE AN ANATOMICAL GIFT OF A DECEDENT'S BODY OR PARTS SHALL BE RECORDED IN THE DECEDENT'S MEDICAL RECORD.**~~

~~**(v)(H)** The representative of the appropriate organ, tissue, or eye recovery agency or the designated requestor and the representative of the deceased patient are entitled to protection from civil and criminal liability as provided in [~~§ 4-508(b)~~] ~~§ 4-514~~ of the Estates and Trusts Article.~~

~~(5) In all discussions concerning donations of organs and tissues, the representative of the appropriate organ, tissue, or eye recovery agency or the designated requestor shall show reasonable discretion and sensitivity:~~

~~(i) To the circumstances of the family of the decedent;~~

~~(ii) To the religious beliefs of the decedent; and~~

~~(iii) To the nonsuitability for organ or tissue donation of the decedent.~~

~~(6) (i) When a representative of the appropriate organ, tissue, or eye recovery agency or a designated requestor makes a request under paragraph (4)(i) of this subsection, the representative or designated requestor shall document the request and its disposition [by having the appropriate individual described in paragraph (4)(ii) of this subsection sign a consent form or give a witnessed telegraphic, witnessed telephonic, or recorded consent to the donation] **AS REQUIRED BY § 4-508 OF THE ESTATES AND TRUSTS ARTICLE.**~~

~~(ii) Hospital personnel shall note the request and its disposition in the decedent's medical record or death certificate.~~

~~(7) A hospital may not bill the estate of the decedent, a surviving spouse of the decedent, any heirs of the decedent, or an insurer of the decedent for the costs associated with the removal of all or any of the decedent's organs or tissues for the purpose of an anatomical donation.~~

~~(8) After consultation with the Maryland Hospital Association, Inc., the Medical and Chirurgical Faculty of the State of Maryland, [the Transplant Resource Center of Maryland, Inc.,] LIVING LEGACY FOUNDATION, the Washington Regional Transplant [Consortium,] COMMUNITY, the Medical Eye Bank of Maryland, [the Lions of District 22 C Eye Bank and Research Foundation, Incorporated,] the Health Facilities Association of Maryland, and Tissue Banks International, the Secretary shall publish guidelines designed to implement this subsection, including guidelines:~~

~~(i) Requiring that, at or near the time of each individual death in a hospital, the hospital contact by telephone an appropriate organ, tissue, or eye recovery agency to determine the suitability of the individual for organ, tissue, and eye donation;~~

~~(ii) Requiring that each hospital designate a person to make the contact; and~~

~~(iii) Identifying the information that the person designated by the hospital shall have available before making the contact.~~

~~(9) The provisions of this subsection shall in no way interfere with the duties of the office of the Chief Medical Examiner. In sudden deaths under the jurisdiction of the office of the Chief Medical Examiner as provided in § 5-309 of this article, notification will be made to the office of the Chief Medical Examiner prior to organ removal.~~

~~(10) The consent of the decedent's representative is not necessary and the provisions of paragraph (4) of this subsection do not apply if:~~

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

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

~~1. § 5-604.1 of this article; or~~

~~2. Title 4, Subtitle 5 of the Estates and Trusts Article.]~~
~~**IF § 4-506 OF THE ESTATES AND TRUSTS ARTICLE PRECLUDES THE**~~
~~**DECEDENT'S REPRESENTATIVE FROM MAKING AN ANATOMICAL GIFT.**~~

~~(11) A person who acts in good faith to recover organs or tissues in accordance with a notation on the decedent's driver's license or identification card that the decedent is an organ donor, a gift made in accordance with § 5-604.1 of this article or Title 4, Subtitle 5 of the Estates and Trusts Article, or a gift made in accordance with the anatomical gift laws of another state or country is immune from criminal prosecution and liability for damages in any cause of action related to the recovery and donation of the decedent's organs or tissues.~~

~~(12) The Department shall conduct annual death record reviews at each hospital to determine the hospital's compliance with the provisions of this subsection. The Department may delegate its duty to conduct annual death record reviews to the appropriate organ, tissue, or eye recovery agency serving the region in which a particular hospital is located.~~

Article – State Government

10-616.

(p) (5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, a custodian shall disclose personal information:

(xiii) for a use specifically authorized by the law of this State, if the use is related to the operation of a motor vehicle or public safety; [and]

(xiv) for use by a hospital to obtain, for hospital security purposes, information relating to ownership of vehicles parked on hospital [property.]
PROPERTY; AND

(XV) FOR USE BY A PROCUREMENT ORGANIZATION REQUESTING INFORMATION UNDER § 4-512 OF THE ESTATES AND TRUSTS ARTICLE FOR THE PURPOSES OF ORGAN, TISSUE, AND EYE DONATION.

~~**Article – Transportation**~~

~~12-303.~~

~~(a) The Administration shall provide for a method by which an applicant for a driver's license or identification card can designate that the applicant consents to the gift of all body organs or parts for the purposes of transplantation, therapy, or medical research and education.~~

~~(b) If an applicant designates that he is such a donor, the Administration may make a notation of this fact on the driver's license or identification card issued to the applicant.~~

~~(c) The donor designation noted on the driver's license or identification card:~~

~~(1) Is sufficient legal authority for the removal of a body organ or part on the death of the donor; and~~

~~(2) May be removed only on written notice to the Administration by the donor.~~

~~(d) Notwithstanding any other provision of law, the donor designation noted on the driver's license or identification card is valid and effective for all purposes under Title 4, Subtitle 5 of the Estates and Trusts Article, including the immunity from civil or criminal liability set forth in [§ 4-508(b)] § 4-514 of the Estates and Trusts Article.~~

~~(e) At the time the donor authorizes the donor designation to appear on his driver's license or identification card, the Administration shall notify the donor that the designation can be removed only on written notice to the Administration.~~

~~[(f) (1) Except as provided in paragraph (2) of this subsection, a donor designation under this section may not be made by or noted on the driver's license or special identification card of any minor.~~

~~(2) A donor designation under this section may be made by or noted on the driver's license or special identification card of a minor who is at least 16 years old, if a parent or guardian of the minor consents in writing.]~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That, subject to an express appropriation or donated funds for this project, the General Assembly directs the Department of Health and Mental Hygiene to conduct a study on nontransplant tissue banks, which shall:~~

~~(1) review the need for and usage of whole body and body parts for medical study and research and current existence of nontransplant tissue banks both inside and outside of Maryland;~~

~~(2) explore standards for hygiene and sterile practices that exist to protect the public health from contagious disease and other dangers from the procurement, storage, transportation, delivery, and usage of whole body and body parts by nontransplant tissue banks for medical study and research;~~

~~(3) examine regulatory systems, including that of the State of New York, for standards that protect the public health and that inspect and review compliance with regulatory criteria for nontransplant tissue banks; and~~

~~(4) in accordance with § 2-1246 of the State Government Article, and as to the report's findings and recommendations, be reported to the Senate Finance Committee and the House Health and Government Operations Committee on or before October 1, 2009.~~

SECTION 4. ~~2.~~ AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, April 24, 2008.