

SENATE BILL 756

J1, J3, N2
HB 1451/10 – HGO

11r2448

By: **Senator Kelley**
Introduced and read first time: February 4, 2011
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Revised Uniform Anatomical Gift Act**

3 FOR the purpose of repealing the Maryland Anatomical Gift Act and enacting the
4 Maryland Revised Uniform Anatomical Gift Act; authorizing certain individuals
5 to make, amend, or revoke anatomical gifts; providing the methods by which
6 anatomical gifts may be made; authorizing certain individuals to refuse to make
7 certain anatomical gifts; establishing certain circumstances under which an
8 anatomical gift is prohibited; establishing the persons to which certain
9 anatomical gifts may be made; establishing a certain priority if more than one
10 person in a certain class makes a gift; establishing certain purposes for which
11 certain anatomical gifts can be made; establishing a certain priority for certain
12 anatomical gifts if more than one purpose is given for the anatomical gift;
13 requiring certain persons to search certain individuals for a document of gift or
14 other information identifying the individual as a donor under certain
15 circumstances; requiring certain individuals to allow certain examination and
16 copying of certain anatomical gifts or refusals; requiring that certain
17 procurement organizations be allowed certain access to certain records of the
18 Motor Vehicle Administration; authorizing certain procurement organizations
19 to make certain examinations to ensure the medical suitability of certain
20 anatomical gifts; providing for the acceptance and removal of certain anatomical
21 gifts; establishing certain acts as felonies and establishing certain penalties;
22 providing that certain persons are guilty of a felony and subject to a certain
23 penalty for purchasing or selling certain parts under certain circumstances;
24 authorizing a person to charge a certain amount for providing certain services;
25 establishing that certain donors may make certain gifts by authorizing that
26 certain statements or symbols be included on a certain registry; providing that
27 certain persons that act in good faith are not liable in certain civil actions;
28 requiring the Secretary of Health and Mental Hygiene to contract with and
29 provide compensation to a certain nonprofit entity for the establishment,
30 maintenance, and operation of a donor registry; requiring that the Organ and
31 Tissue Donation Awareness Fund provide funds for the establishment,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 operation, and maintenance of a certain donor registry; requiring the Motor
2 Vehicle Administration to cooperate in the transfer of certain information to the
3 donor registry; establishing certain administrative terms for the donor registry;
4 providing for the resolution of conflicts between certain anatomical gifts and
5 certain advance directives; requiring that certain procurement organizations
6 and the Office of the Chief Medical Examiner (OCME) cooperate to maximize
7 the opportunity to recover certain anatomical gifts and to facilitate certain
8 OCME examinations; providing for the terms of the recoveries between certain
9 procurement organizations and OCME; providing for the resolution of conflicts
10 between certain anatomical gift designations and certain investigations by
11 OCME; providing that this Act supersedes a certain federal statute; requiring
12 that certain directions to make, amend, revoke, or refuse to make an anatomical
13 gift be recorded in certain medical records; altering the circumstances under
14 which the consent of certain representatives is not necessary; requiring the
15 custodian of certain motor vehicle records containing personal information to
16 disclose certain personal information for use by certain procurement
17 organizations under certain circumstances; repealing a certain provision
18 prohibiting that certain donor designations appear on certain minors' drivers'
19 licenses; making certain technical changes; defining certain terms; and
20 generally relating to the Maryland Revised Uniform Anatomical Gift Act.

21 BY repealing

22 Article – Estates and Trusts

23 Section 4–501 through 4–513 and the subtitle “Subtitle 5. Maryland Anatomical
24 Gift Act”

25 Annotated Code of Maryland

26 (2001 Replacement Volume and 2010 Supplement)

27 BY adding to

28 Article – Estates and Trusts

29 Section 4–501 through 4–522 to be under the new subtitle “Subtitle 5. Maryland
30 Revised Uniform Anatomical Gift Act”

31 Annotated Code of Maryland

32 (2001 Replacement Volume and 2010 Supplement)

33 BY repealing and reenacting, with amendments,

34 Article – Health – General

35 Section 5–408, 5–604.1, 13–901, and 19–310(a)

36 Annotated Code of Maryland

37 (2009 Replacement Volume and 2010 Supplement)

38 BY repealing and reenacting, with amendments,

39 Article – Transportation

40 Section 12–303

41 Annotated Code of Maryland

42 (2009 Replacement Volume and 2009 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That Section(s) 4–501 through 4–513 and the subtitle “Subtitle 5.
3 Maryland Anatomical Gift Act” of Article – Estates and Trusts of the Annotated Code
4 of Maryland be repealed.

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

7 **Article – Estates and Trusts**

8 **SUBTITLE 5. MARYLAND REVISED UNIFORM ANATOMICAL GIFT ACT.**

9 **4–501.**

10 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
11 **INDICATED.**

12 **(B) “AGENT” MEANS AN INDIVIDUAL:**

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

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

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

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

22 **(2) “DECEDENT” INCLUDES:**

23 **(I) A STILLBORN INFANT; AND**

24 **(II) SUBJECT TO RESTRICTIONS IMPOSED BY LAW OTHER**
25 **THAN THIS SUBTITLE, A FETUS.**

26 **(3) “DECEDENT” DOES NOT INCLUDE A BLASTOCYST, EMBRYO,**
27 **OR FETUS THAT IS THE SUBJECT OF AN INDUCED ABORTION.**

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

29 **(I) A SPOUSE, CHILD, PARENT, SIBLING, GRANDCHILD,**

1 GRANDPARENT, OR GUARDIAN OF AN INDIVIDUAL WHO MAKES, AMENDS,
2 REVOKES, OR REFUSES TO MAKE AN ANATOMICAL GIFT; OR

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

6 (2) "DISINTERESTED WITNESS" DOES NOT INCLUDE A PERSON TO
7 WHICH AN ANATOMICAL GIFT MAY PASS UNDER § 4-509 OF THIS SUBTITLE.

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

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

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

14 (H) "DONOR REGISTRY" MEANS A DATABASE THAT CONTAINS RECORDS
15 OF ANATOMICAL GIFTS AND AMENDMENTS TO OR REVOCATIONS OF
16 ANATOMICAL GIFTS AS PROVIDED IN § 4-516 OF THIS SUBTITLE.

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

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

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

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

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

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

30 (K) (1) "GUARDIAN" MEANS A PERSON APPOINTED BY A COURT TO
31 MAKE DECISIONS REGARDING THE SUPPORT, CARE, EDUCATION, HEALTH, OR

1 WELFARE OF AN INDIVIDUAL.

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

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

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

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

11 (O) "OCME" MEANS THE OFFICE OF THE CHIEF MEDICAL EXAMINER.

12 (P) "ORGAN PROCUREMENT ORGANIZATION" MEANS A PERSON
13 DESIGNATED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF
14 HEALTH AND HUMAN SERVICES AS AN ORGAN PROCUREMENT ORGANIZATION.

15 (Q) "PARENT" MEANS A PARENT WHOSE PARENTAL RIGHTS HAVE NOT
16 BEEN TERMINATED.

17 (R) (1) "PART" MEANS AN ORGAN, AN EYE, OR TISSUE OF A HUMAN
18 BEING.

19 (2) "PART" DOES NOT INCLUDE THE WHOLE BODY.

20 (S) "PHYSICIAN" MEANS AN INDIVIDUAL AUTHORIZED TO PRACTICE
21 MEDICINE OR OSTEOPATHY UNDER THE LAW OF ANY STATE.

22 (T) "PROCUREMENT ORGANIZATION" MEANS AN EYE BANK, AN ORGAN
23 PROCUREMENT ORGANIZATION, OR A TISSUE BANK.

24 (U) (1) "PROSPECTIVE DONOR" MEANS AN INDIVIDUAL WHO IS DEAD
25 OR WHOSE DEATH IS IMMINENT AND HAS BEEN DETERMINED BY A
26 PROCUREMENT ORGANIZATION TO HAVE A PART THAT COULD BE MEDICALLY
27 SUITABLE FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.

28 (2) "PROSPECTIVE DONOR" DOES NOT INCLUDE AN INDIVIDUAL
29 WHO HAS MADE A REFUSAL.

30 (V) "REASONABLY AVAILABLE" MEANS ABLE TO BE CONTACTED BY A

1 **PROCUREMENT ORGANIZATION WITHOUT UNDUE EFFORT AND WILLING AND**
2 **ABLE TO ACT IN A TIMELY MANNER CONSISTENT WITH EXISTING MEDICAL**
3 **CRITERIA NECESSARY FOR THE MAKING OF AN ANATOMICAL GIFT.**

4 **(W) “RECIPIENT” MEANS AN INDIVIDUAL INTO WHOSE BODY A**
5 **DECEDENT’S PART HAS BEEN OR IS INTENDED TO BE TRANSPLANTED.**

6 **(X) “RECORD” MEANS INFORMATION THAT IS INSCRIBED ON A**
7 **TANGIBLE MEDIUM OR IS STORED IN AN ELECTRONIC OR ANY OTHER MEDIUM**
8 **AND IS RETRIEVABLE IN PERCEIVABLE FORM.**

9 **(Y) “REFUSAL” MEANS A RECORD CREATED UNDER § 4-505 OF THIS**
10 **SUBTITLE THAT EXPRESSLY STATES AN INTENT TO BAR OTHER PERSONS FROM**
11 **MAKING AN ANATOMICAL GIFT OF AN INDIVIDUAL’S BODY OR PART.**

12 **(Z) “SIGN” MEANS TO:**

13 **(1) HAVE PRESENT INTENT TO AUTHENTICATE OR ADOPT A**
14 **RECORD; AND**

15 **(2) (I) EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR**

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

18 **(AA) (1) “TECHNICIAN” MEANS AN INDIVIDUAL DETERMINED TO BE**
19 **QUALIFIED TO REMOVE OR PROCESS PARTS BY AN APPROPRIATE**
20 **ORGANIZATION THAT IS LICENSED, ACCREDITED, OR REGULATED UNDER**
21 **FEDERAL OR STATE LAW.**

22 **(2) “TECHNICIAN” INCLUDES AN ENUCLEATOR.**

23 **(BB) (1) “TISSUE” MEANS A PORTION OF THE HUMAN BODY OTHER**
24 **THAN AN ORGAN OR EYE.**

25 **(2) “TISSUE” DOES NOT INCLUDE:**

26 **(I) BLOOD UNLESS THE BLOOD IS DONATED FOR THE**
27 **PURPOSE OF RESEARCH OR EDUCATION; OR**

28 **(II) AN OVUM OR SPERM FOR THE PURPOSE OF CREATING**
29 **AN EMBRYO TO USE IN THERAPY, RESEARCH, OR EDUCATION, UNLESS THE**
30 **ANATOMICAL GIFT IS MADE BY THE DONOR TO THE SPOUSE OF THE DONOR.**

1 **(CC) “TISSUE BANK” MEANS A PERSON THAT:**

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

5 **(2) IS ACCREDITED BY THE AMERICAN ASSOCIATION OF TISSUE**
6 **BANKS; AND**

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

9 **(DD) “TRANSPLANT HOSPITAL” MEANS A HOSPITAL THAT FURNISHES**
10 **ORGAN TRANSPLANTS AND OTHER MEDICAL AND SURGICAL SPECIALTY**
11 **SERVICES REQUIRED FOR THE CARE OF TRANSPLANT PATIENTS.**

12 **4–502.**

13 **THIS SUBTITLE APPLIES TO AN ANATOMICAL GIFT OR AN AMENDMENT TO,**
14 **A REVOCATION OF, OR A REFUSAL TO MAKE AN ANATOMICAL GIFT WHENEVER**
15 **MADE.**

16 **4–503.**

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

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

21 **(II) A DONOR WHO IS A MINOR, IF THE MINOR IS:**

22 **1. EMANCIPATED; OR**

23 **2. AUTHORIZED UNDER STATE LAW TO APPLY FOR A**
24 **DRIVER’S LICENSE BECAUSE THE DONOR IS AT LEAST 15 YEARS AND 9 MONTHS**
25 **OLD;**

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

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

1 **(4) A GUARDIAN OF A DONOR.**

2 **(B) A DONOR MAY MAKE AN ANATOMICAL GIFT:**

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

6 **(2) BY WILL;**

7 **(3) DURING A TERMINAL ILLNESS OR AN INJURY OF THE DONOR,**
8 **BY ANY FORM OF COMMUNICATION ADDRESSED TO AT LEAST TWO ADULTS, AT**
9 **LEAST ONE OF WHOM IS A DISINTERESTED WITNESS; OR**

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

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

13 **(I) A DONOR CARD OR OTHER RECORD SIGNED BY THE**
14 **DONOR OR OTHER PERSON MAKING THE GIFT; OR**

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

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

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

25 **(II) STATE THAT THE RECORD HAS BEEN SIGNED AND**
26 **WITNESSED AS PROVIDED IN ITEM (I) OF THIS PARAGRAPH.**

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

30 **(E) (1) AN ANATOMICAL GIFT MADE BY WILL TAKES EFFECT ON THE**

1 DONOR'S DEATH WHETHER OR NOT THE WILL IS PROBATED.

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

5 4-504.

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

9 (1) A RECORD SIGNED BY:

10 (I) THE DONOR;

11 (II) THE OTHER PERSON; OR

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

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

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

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

24 (2) STATE THAT THE RECORD HAS BEEN SIGNED AND WITNESSED
25 AS PROVIDED IN ITEM (1) OF THIS SUBSECTION.

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

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

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

8 **(F) (1) AN ANATOMICAL GIFT MADE BY A DONOR DESIGNATION ON A**
9 **DRIVER'S LICENSE OR AN IDENTIFICATION CARD MAY BE REVOKED BY GIVING**
10 **WRITTEN NOTICE TO THE MOTOR VEHICLE ADMINISTRATION IN ACCORDANCE**
11 **WITH § 12-303 OF THE TRANSPORTATION ARTICLE.**

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

15 **4-505.**

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

18 **(1) A RECORD SIGNED BY:**

19 **(I) THE INDIVIDUAL; OR**

20 **(II) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE**
21 **INDIVIDUAL IS PHYSICALLY UNABLE TO SIGN, ANOTHER INDIVIDUAL ACTING AT**
22 **THE DIRECTION OF THE INDIVIDUAL;**

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

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

28 **(B) A RECORD SIGNED IN ACCORDANCE WITH SUBSECTION (A)(1)(II) OF**
29 **THIS SECTION SHALL:**

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

1 **(2) STATE THAT THE RECORD HAS BEEN SIGNED AND WITNESSED**
2 **AS PROVIDED IN ITEM (1) OF THIS SUBSECTION.**

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

5 **(1) IN A MANNER FOR MAKING A REFUSAL PROVIDED IN**
6 **SUBSECTION (A) OF THIS SECTION;**

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

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

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

19 **4-506.**

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

25 **(1) AN ANATOMICAL GIFT OF THE DONOR'S BODY OR PART UNDER**
26 **§ 4-503 OF THIS SUBTITLE; OR**

27 **(2) AN AMENDMENT TO AN ANATOMICAL GIFT OF THE DONOR'S**
28 **BODY OR PART UNDER § 4-504 OF THIS SUBTITLE.**

29 **(B) A DONOR'S REVOCATION OF AN ANATOMICAL GIFT OF THE DONOR'S**
30 **BODY OR PART UNDER § 4-504 OF THIS SUBTITLE IS NOT A REFUSAL AND DOES**
31 **NOT BAR ANOTHER PERSON SPECIFIED IN § 4-501 OR § 4-507 OF THIS SUBTITLE**
32 **FROM MAKING AN ANATOMICAL GIFT OF THE DONOR'S BODY OR PART UNDER §**
33 **4-503 OR § 4-508 OF THIS SUBTITLE.**

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

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

11 **(E) IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE**
12 **DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER**
13 **§ 4-503 OF THIS SUBTITLE, AN ANATOMICAL GIFT OF A PART IS NOT A REFUSAL**
14 **TO GIVE ANOTHER PART OR A LIMITATION ON THE MAKING OF AN ANATOMICAL**
15 **GIFT OF ANOTHER PART AT A LATER TIME BY THE DONOR OR ANOTHER PERSON.**

16 **(F) IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE**
17 **DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER**
18 **§ 4-503 OF THIS SUBTITLE, AN ANATOMICAL GIFT OF A PART FOR ONE OR MORE**
19 **OF THE PURPOSES SET FORTH IN § 4-503 OF THIS SUBTITLE IS NOT A**
20 **LIMITATION ON THE MAKING OF AN ANATOMICAL GIFT OF THE PART FOR ANY**
21 **OTHER PURPOSE BY THE DONOR OR OTHER PERSON UNDER § 4-503 OR § 4-508**
22 **OF THIS SUBTITLE.**

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

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

29 **4-507.**

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

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

4 (2) THE PERSONS WHO WERE ACTING AS THE GUARDIANS OF THE
5 DECEDENT AT THE TIME OF THE DEATH OF THE DECEDENT;

6 (3) THE SPOUSE OR DOMESTIC PARTNER OF THE DECEDENT;

7 (4) THE ADULT CHILDREN OF THE DECEDENT;

8 (5) THE PARENTS OF THE DECEDENT;

9 (6) THE ADULT SIBLINGS OF THE DECEDENT;

10 (7) THE ADULT GRANDCHILDREN OF THE DECEDENT;

11 (8) THE GRANDPARENTS OF THE DECEDENT;

12 (9) AN ADULT WHO EXHIBITED SPECIAL CARE AND CONCERN FOR
13 THE DECEDENT; OR

14 (10) ANOTHER PERSON HAVING THE AUTHORITY TO DISPOSE OF
15 THE BODY OF THE DECEDENT.

16 (B) (1) IF THERE IS MORE THAN ONE MEMBER OF A CLASS LISTED IN
17 SUBSECTION (A)(1), (3), (4), (5), (6), (7), OR (9) OF THIS SECTION ENTITLED TO
18 MAKE AN ANATOMICAL GIFT, AN ANATOMICAL GIFT MAY BE MADE BY A MEMBER
19 OF THE CLASS UNLESS THAT MEMBER OR A PERSON TO WHICH THE GIFT MAY
20 PASS UNDER § 4-509 OF THIS SUBTITLE KNOWS OF AN OBJECTION BY ANOTHER
21 MEMBER OF THE CLASS.

22 (2) IF AN OBJECTION TO AN ANATOMICAL GIFT IS KNOWN, THE
23 GIFT MAY BE MADE ONLY BY A MAJORITY OF THE MEMBERS OF THE CLASS WHO
24 ARE REASONABLY AVAILABLE.

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

29 4-508.

30 (A) A PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER §

1 **4-507 OF THIS SUBTITLE MAY MAKE AN ANATOMICAL GIFT:**

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

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

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

11 (2) IF MORE THAN ONE MEMBER OF A PRIOR CLASS IS
12 REASONABLY AVAILABLE, THE GIFT MADE BY A PERSON AUTHORIZED UNDER §
13 4-507 OF THIS SUBTITLE MAY BE:

14 (I) AMENDED ONLY IF A MAJORITY OF THE REASONABLY
15 AVAILABLE MEMBERS AGREE TO THE AMENDMENT; OR

16 (II) REVOKED ONLY IF:

17 1. A MAJORITY OF THE REASONABLY AVAILABLE
18 MEMBERS AGREE TO THE REVOCATION; OR

19 2. THE REASONABLY AVAILABLE MEMBERS ARE
20 EQUALLY DIVIDED AS TO WHETHER TO REVOKE THE GIFT.

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

26 **4-509.**

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

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

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

4 **(3) AN EYE BANK OR A TISSUE BANK.**

5 **(B) IF AN ANATOMICAL GIFT TO AN INDIVIDUAL UNDER SUBSECTION**
6 **(A)(2) OF THIS SECTION CANNOT BE TRANSPLANTED INTO THE INDIVIDUAL, THE**
7 **PART PASSES IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION IN THE**
8 **ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE PERSON MAKING THE**
9 **ANATOMICAL GIFT.**

10 **(C) IF AN ANATOMICAL GIFT OF ONE OR MORE SPECIFIC PARTS OR OF**
11 **ALL PARTS IS MADE IN A DOCUMENT OF GIFT THAT DOES NOT NAME A PERSON**
12 **DESCRIBED IN SUBSECTION (A) OF THIS SECTION BUT IDENTIFIES THE PURPOSE**
13 **FOR WHICH AN ANATOMICAL GIFT MAY BE USED, THE FOLLOWING PROVISIONS**
14 **APPLY:**

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

18 **(2) IF THE PART IS TISSUE AND THE GIFT IS FOR THE PURPOSE OF**
19 **TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE APPROPRIATE**
20 **TISSUE BANK;**

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

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

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

31 **(1) FOR TRANSPLANTATION OR THERAPY, IF SUITABLE; OR**

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

1 **(E) IF AN ANATOMICAL GIFT OF ONE OR MORE SPECIFIC PARTS IS MADE**
2 **IN A DOCUMENT OF GIFT THAT DOES NOT NAME A PERSON DESCRIBED IN**
3 **SUBSECTION (A) OF THIS SECTION AND DOES NOT IDENTIFY THE PURPOSE OF**
4 **THE GIFT, THE GIFT PASSES IN ACCORDANCE WITH SUBSECTION (G) OF THIS**
5 **SECTION AND MAY BE USED ONLY FOR TRANSPLANTATION OR THERAPY.**

6 **(F) IF A DOCUMENT OF GIFT SPECIFIES ONLY A GENERAL INTENT TO**
7 **MAKE AN ANATOMICAL GIFT BY WORDS SUCH AS “DONOR”, “ORGAN DONOR”, OR**
8 **“BODY DONOR”, OR BY A SYMBOL OR STATEMENT OF SIMILAR IMPORT, THE GIFT**
9 **PASSES IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION AND MAY BE**
10 **USED ONLY FOR TRANSPLANTATION OR THERAPY.**

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

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

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

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

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

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

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

31 **(I) THE GIFT WAS NOT EFFECTIVELY MADE UNDER §**
32 **4-503 OR § 4-508 OF THIS SUBTITLE; OR**

33 **(II) THE DECEDENT MADE A REFUSAL UNDER § 4-505 OF**

1 THIS SUBTITLE THAT WAS NOT REVOKED.

2 (2) FOR PURPOSES OF THIS SUBSECTION, IF A PERSON KNOWS
3 THAT AN ANATOMICAL GIFT WAS MADE ON A DOCUMENT OF GIFT, THE PERSON
4 IS DEEMED TO KNOW OF ANY AMENDMENT OR REVOCATION OF THE GIFT OR ANY
5 REFUSAL TO MAKE AN ANATOMICAL GIFT ON THE SAME DOCUMENT OF GIFT.

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

9 4-510.

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

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

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

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

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

29 4-511.

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

32 (B) ON OR AFTER THE DEATH OF AN INDIVIDUAL, A PERSON IN
33 POSSESSION OF A DOCUMENT OF GIFT OR A REFUSAL TO MAKE AN ANATOMICAL

1 GIFT REGARDING THE INDIVIDUAL SHALL ALLOW EXAMINATION AND COPYING
2 OF THE DOCUMENT OF GIFT OR REFUSAL BY:

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

5 (2) A PERSON TO WHICH THE GIFT COULD PASS UNDER § 4-509
6 OF THIS SUBTITLE.

7 4-512.

8 (A) WHENEVER A HOSPITAL REFERS AN INDIVIDUAL WHO IS DEAD OR
9 WHOSE DEATH IS IMMINENT TO A PROCUREMENT ORGANIZATION TO ASCERTAIN
10 WHETHER THE INDIVIDUAL HAS MADE AN ANATOMICAL GIFT, THE
11 ORGANIZATION SHALL MAKE A REASONABLE SEARCH OF:

12 (1) THE RECORDS OF THE MOTOR VEHICLE ADMINISTRATION;
13 AND

14 (2) ANY DONOR REGISTRY THAT THE HOSPITAL KNOWS EXISTS
15 FOR THE GEOGRAPHICAL AREA IN WHICH THE INDIVIDUAL RESIDES.

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

20 (C) (1) WHEN A HOSPITAL REFERS AN INDIVIDUAL WHO IS DEAD OR
21 WHOSE DEATH IS IMMINENT TO A PROCUREMENT ORGANIZATION, THE
22 ORGANIZATION MAY CONDUCT ANY REASONABLE EXAMINATION NECESSARY TO
23 ENSURE THE MEDICAL SUITABILITY OF A PART THAT IS OR COULD BE THE
24 SUBJECT OF AN ANATOMICAL GIFT FOR TRANSPLANTATION, THERAPY,
25 RESEARCH, OR EDUCATION.

26 (2) DURING THE EXAMINATION PERIOD, MEASURES NECESSARY
27 TO ENSURE THE MEDICAL SUITABILITY OF A PART FROM A PROSPECTIVE
28 DONOR:

29 (I) MAY NOT BE WITHDRAWN UNLESS THE HOSPITAL OR
30 PROCUREMENT ORGANIZATION KNOWS THAT THE INDIVIDUAL EXPRESSED A
31 CONTRARY INTENT; AND

32 (II) MAY BE ADMINISTERED, UNLESS IT IS DETERMINED
33 THAT THE ADMINISTRATION OF THOSE MEASURES WOULD NOT PROVIDE THE

1 PROSPECTIVE DONOR WITH APPROPRIATE END-OF-LIFE CARE CONSISTENT
2 WITH REASONABLE MEDICAL JUDGMENT.

3 (D) UNLESS PROHIBITED BY LAW OTHER THAN THIS SUBTITLE, AT ANY
4 TIME AFTER A DONOR'S DEATH, THE PERSON TO WHICH A PART PASSES UNDER §
5 4-509 OF THIS SUBTITLE MAY CONDUCT A REASONABLE EXAMINATION
6 NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF THE BODY OR PART FOR
7 ITS INTENDED PURPOSE.

8 (E) UNLESS PROHIBITED BY LAW OTHER THAN THIS SUBTITLE, AN
9 EXAMINATION UNDER SUBSECTION (C) OR (D) OF THIS SECTION MAY INCLUDE
10 AN EXAMINATION OF ALL MEDICAL AND DENTAL RECORDS OF THE DONOR OR
11 PROSPECTIVE DONOR.

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

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

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

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

30 (2) THE PERSON TO WHICH A PART PASSES UNDER § 4-509 OF
31 THIS SUBTITLE MAY ACCEPT OR REJECT AN ANATOMICAL GIFT IN WHOLE OR IN
32 PART.

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

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

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

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

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

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

18 **4-513.**

19 **(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
20 **IF REMOVAL OF A PART FROM AN INDIVIDUAL IS INTENDED TO OCCUR AFTER**
21 **THE INDIVIDUAL'S DEATH, A PERSON MAY NOT FOR VALUABLE CONSIDERATION**
22 **KNOWINGLY PURCHASE OR SELL THE PART FOR TRANSPLANTATION OR**
23 **THERAPY.**

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

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

31 **(2) THE PROHIBITION IN SUBSECTION (A) OF THIS SECTION DOES**
32 **NOT APPLY TO BLOOD AND PLASMA.**

33 **(C) (1) A PERSON MAY NOT, IN ORDER TO OBTAIN FINANCIAL GAIN,**

1 INTENTIONALLY FALSIFY, FORGE, CONCEAL, DEFACE, OR OBLITERATE A
2 DOCUMENT OF GIFT, AN AMENDMENT OR REVOCATION OF A DOCUMENT OF
3 GIFT, OR A REFUSAL.

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

8 4-514.

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

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

16 (C) IN DETERMINING WHETHER AN ANATOMICAL GIFT HAS BEEN MADE,
17 AMENDED, OR REVOKED UNDER THIS SUBTITLE, A PERSON MAY RELY ON
18 REPRESENTATIONS OF AN INDIVIDUAL LISTED IN § 4-507(A)(2) THROUGH (9)
19 OF THIS SUBTITLE RELATING TO THE INDIVIDUAL'S RELATIONSHIP TO THE
20 DONOR OR PROSPECTIVE DONOR UNLESS THE PERSON KNOWS THAT THE
21 REPRESENTATION IS UNTRUE.

22 4-515.

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

25 (1) THIS SUBTITLE;

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

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

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

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

4 **4-516.**

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

12 **(1) ORGAN, TISSUE, AND EYE DONATION;**

13 **(2) WORKING WITH DONORS AND DONOR FAMILIES; AND**

14 **(3) EDUCATING THE PUBLIC ABOUT THE IMPORTANCE OF THE**
15 **PROCESS OF ORGAN, TISSUE, AND EYE DONATION.**

16 **(B) (1) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL**
17 **CONTRACT WITH A QUALIFIED NONPROFIT ENTITY FOR THE ESTABLISHMENT,**
18 **MAINTENANCE, AND OPERATION OF A DONOR REGISTRY.**

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

29 **(C) THE MOTOR VEHICLE ADMINISTRATION SHALL COOPERATE WITH**
30 **THE QUALIFIED NONPROFIT ENTITY CONTRACTED WITH UNDER SUBSECTION**
31 **(B)(1) OF THIS SECTION FOR THE PURPOSE OF TRANSFERRING TO THE DONOR**
32 **REGISTRY ALL RELEVANT INFORMATION REGARDING A DONOR’S MAKING,**
33 **AMENDING OF, OR REVOKING OF AN ANATOMICAL GIFT.**

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

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

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

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

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

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

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

23 4-517.

24 (A) IN THIS SECTION, "ADVANCE HEALTH CARE DIRECTIVE" MEANS A
25 POWER OF ATTORNEY FOR HEALTH CARE OR A RECORD SIGNED OR
26 AUTHORIZED BY A PROSPECTIVE DONOR IN ACCORDANCE WITH §§ 5-601
27 THROUGH 5-618 OF THE HEALTH - GENERAL ARTICLE CONTAINING THE
28 PROSPECTIVE DONOR'S DIRECTION CONCERNING A HEALTH-CARE DECISION
29 FOR THE PROSPECTIVE DONOR.

30 (B) (1) (I) IF A PROSPECTIVE DONOR HAS A DECLARATION OR
31 ADVANCE HEALTH CARE DIRECTIVE AND THE TERMS OF THE DECLARATION OR
32 DIRECTIVE AND THE EXPRESS OR IMPLIED TERMS OF A POTENTIAL
33 ANATOMICAL GIFT ARE IN CONFLICT WITH REGARD TO THE ADMINISTRATION
34 OF MEASURES NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF A PART
35 FOR TRANSPLANTATION OR THERAPY:

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

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

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

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

17 **(3) BEFORE RESOLUTION OF A CONFLICT UNDER THIS**
18 **SUBSECTION, MEASURES NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF**
19 **A PART FROM A PROSPECTIVE DONOR MAY BE ADMINISTERED UNLESS IT IS**
20 **DETERMINED THAT THE ADMINISTRATION OF THOSE MEASURES WOULD NOT**
21 **PROVIDE THE PROSPECTIVE DONOR WITH APPROPRIATE END-OF-LIFE CARE,**
22 **CONSISTENT WITH REASONABLE MEDICAL JUDGMENT.**

23 **(4) IF THE CONFLICT UNDER THIS SUBSECTION IS NOT RESOLVED**
24 **EXPEDITIOUSLY, THE DIRECTION OF THE DECLARATION OR ADVANCE**
25 **HEALTH CARE DIRECTIVE CONTROLS.**

26 **4-518.**

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

31 **(B) IF OCME RECEIVES NOTICE FROM A PROCUREMENT**
32 **ORGANIZATION THAT AN ANATOMICAL GIFT MIGHT BE AVAILABLE OR WAS MADE**
33 **WITH RESPECT TO A DECEDENT WHOSE BODY OR PART IS UNDER THE**
34 **JURISDICTION OF OCME AND A POSTMORTEM EXAMINATION IS GOING TO BE**
35 **PERFORMED, UNLESS OCME DENIES RECOVERY IN ACCORDANCE WITH § 4-519**

1 OF THIS SUBTITLE, OCME OR OCME'S DESIGNEE SHALL CONDUCT THE
2 POSTMORTEM EXAMINATION OF THE BODY OR PART IN A MANNER AND WITHIN A
3 PERIOD COMPATIBLE WITH ITS PRESERVATION FOR THE PURPOSES OF THE
4 GIFT.

5 (C) (1) A PART MAY NOT BE REMOVED FROM THE BODY OF A
6 DECEDENT UNDER THE JURISDICTION OF OCME FOR TRANSPLANTATION,
7 THERAPY, RESEARCH, OR EDUCATION UNLESS THE PART IS THE SUBJECT OF AN
8 ANATOMICAL GIFT OR AN AUTHORIZATION GIVEN BY OCME IN ACCORDANCE
9 WITH § 4-518(D) OF THIS SUBTITLE.

10 (2) THE BODY OF A DECEDENT UNDER THE JURISDICTION OF
11 OCME MAY NOT BE DELIVERED TO A PERSON FOR RESEARCH OR EDUCATION
12 UNLESS THE BODY IS THE SUBJECT OF AN ANATOMICAL GIFT OR AN
13 AUTHORIZATION GIVEN BY OCME IN ACCORDANCE WITH SUBSECTION (D) OF
14 THIS SECTION.

15 (3) THIS SUBSECTION DOES NOT PRECLUDE OCME FROM
16 PERFORMING A POSTMORTEM EXAMINATION OF THE BODY OR PART OF A
17 DECEDENT UNDER THE JURISDICTION OF OCME FOR THE PURPOSES OF
18 EDUCATION, TRAINING, AND RESEARCH REQUIRED BY OCME.

19 (D) (1) THE CHIEF MEDICAL EXAMINER, THE DEPUTY CHIEF
20 MEDICAL EXAMINER, OR AN ASSISTANT MEDICAL EXAMINER MAY PROVIDE A
21 PART ON THE REQUEST OF A PROCUREMENT ORGANIZATION UNDER THE
22 FOLLOWING CONDITIONS:

23 (I) THE MEDICAL EXAMINER HAS CHARGE OF A DECEDENT
24 WHO MAY PROVIDE A SUITABLE PART FOR TRANSPLANT;

25 (II) A REASONABLE, UNSUCCESSFUL SEARCH HAS BEEN
26 MADE BY THE PROCUREMENT ORGANIZATION AS REQUIRED BY § 4-512(G) OF
27 THIS SUBTITLE TO CONTACT THE PERSONS AUTHORIZED UNDER § 4-507 OF
28 THIS SUBTITLE TO MAKE AN ANATOMICAL GIFT;

29 (III) NO OBJECTION BY THE PERSONS AUTHORIZED UNDER §
30 4-507 OF THIS SUBTITLE TO MAKE AN ANATOMICAL GIFT IS KNOWN BY THE
31 MEDICAL EXAMINER; AND

32 (IV) THE PROVISION OF THE PART FOR TRANSPLANT WILL
33 NOT INTERFERE WITH THE SUBSEQUENT COURSE OF AN INVESTIGATION OR
34 AUTOPSY.

35 (2) (I) IF THE CHIEF MEDICAL EXAMINER HAS OBTAINED A

1 WRITTEN OR VERBAL STATEMENT FROM THE PROCUREMENT ORGANIZATION
2 THAT A REASONABLE, UNSUCCESSFUL SEARCH WAS CONDUCTED PRIOR TO THE
3 REMOVAL OF A PART FOR TRANSPLANTATION, THE CHIEF MEDICAL EXAMINER,
4 THE DEPUTY CHIEF MEDICAL EXAMINER, AN ASSISTANT CHIEF MEDICAL
5 EXAMINER, AND THE PROCUREMENT ORGANIZATION ARE NOT CIVILLY LIABLE
6 IF A PERSON AUTHORIZED UNDER § 4-507 OF THIS SUBTITLE TO MAKE AN
7 ANATOMICAL GIFT IS SUBSEQUENTLY LOCATED AND CONTENDS THAT THE
8 AUTHORIZATION OF THAT PERSON WAS REQUIRED TO MAKE THE GIFT.

9 (ii) A VERBAL STATEMENT UNDER SUBPARAGRAPH (1) OF
10 THIS PARAGRAPH SHALL BE DOCUMENTED IN THE MEDICAL RECORD OF THE
11 DECEDENT.

12 4-519.

13 (A) (1) ON REQUEST OF A PROCUREMENT ORGANIZATION, OCME
14 SHALL RELEASE TO THE PROCUREMENT ORGANIZATION THE NAME, CONTACT
15 INFORMATION, AND AVAILABLE MEDICAL AND SOCIAL HISTORY OF A DECEDENT
16 WHOSE BODY IS UNDER THE JURISDICTION OF OCME.

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

22 (3) IF RELEVANT TO TRANSPLANTATION OR THERAPY, A
23 PROCUREMENT ORGANIZATION MAY MAKE A SUBSEQUENT DISCLOSURE OF THE
24 POSTMORTEM EXAMINATION RESULTS OR OTHER INFORMATION RECEIVED
25 FROM OCME.

26 (B) OCME MAY CONDUCT A POSTMORTEM EXAMINATION BY
27 REVIEWING MEDICAL RECORDS, LABORATORY TEST RESULTS, X-RAYS, OTHER
28 DIAGNOSTIC RESULTS, AND OTHER INFORMATION THAT OCME DETERMINES
29 MAY BE RELEVANT TO THE EXAMINATION.

30 (C) A PERSON THAT HAS INFORMATION REQUESTED BY OCME IN
31 ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, SHALL PROVIDE THE
32 INFORMATION AS EXPEDITIOUSLY AS POSSIBLE TO ALLOW OCME TO CONDUCT
33 THE POSTMORTEM EXAMINATION WITHIN A PERIOD COMPATIBLE WITH THE
34 PRESERVATION OF PARTS FOR THE PURPOSE OF TRANSPLANTATION, THERAPY,
35 RESEARCH, OR EDUCATION.

36 (D) OCME AND A PROCUREMENT ORGANIZATION SHALL COOPERATE IN

1 THE TIMELY REMOVAL OF A PART FROM A DECEDENT IF:

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

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

8 (E) (1) OCME AND PROCUREMENT ORGANIZATIONS SHALL ENTER
9 INTO AN AGREEMENT SETTING FORTH PROTOCOLS AND PROCEDURES TO
10 GOVERN RELATIONS BETWEEN THE PARTIES WHEN AN ANATOMICAL GIFT OF A
11 PART FROM A DECEDENT UNDER THE JURISDICTION OF OCME HAS BEEN OR
12 MIGHT BE MADE, BUT OCME BELIEVES THAT THE RECOVERY OF THE PART
13 COULD INTERFERE WITH THE POSTMORTEM EXAMINATION INTO THE
14 DECEDENT'S CAUSE OR MANNER OF DEATH.

15 (2) DECISIONS REGARDING THE RECOVERY OF ORGANS, TISSUE,
16 AND EYES UNDER THIS SUBSECTION SHALL BE MADE IN ACCORDANCE WITH THE
17 AGREEMENT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

18 (3) IF OCME DENIES RECOVERY OF AN ANATOMICAL GIFT, THE
19 PROCUREMENT ORGANIZATION MAY REQUEST THAT OCME RECONSIDER THE
20 DENIAL AND ALLOW THE RECOVERY TO PROCEED.

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

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

30 (G) IF OCME OR A DESIGNEE IS REQUIRED TO BE PRESENT AT A
31 REMOVAL PROCEDURE UNDER SUBSECTION (E) OF THIS SECTION, ON REQUEST,
32 THE PROCUREMENT ORGANIZATION REQUESTING THE RECOVERY OF THE PART
33 SHALL REIMBURSE OCME OR A DESIGNEE FOR THE ADDITIONAL COSTS
34 INCURRED IN COMPLYING WITH SUBSECTION (F) OF THIS SECTION.

35 4-520.

1 **IN APPLYING AND CONSTRUING THIS SUBTITLE, WHICH IS A UNIFORM**
2 **ACT, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY**
3 **OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT**
4 **ENACT THE PROVISIONS OF THIS SUBTITLE.**

5 **4-521.**

6 **THIS SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE ELECTRONIC**
7 **SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. SECTION**
8 **7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION 101(A)**
9 **OF THAT ACT, 15 U.S.C. SECTION 7001 ET SEQ., OR AUTHORIZE ELECTRONIC**
10 **DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(B) OF THAT**
11 **ACT, 15 U.S.C. SECTION 7003(B).**

12 **4-522.**

13 **THIS SUBTITLE MAY BE CITED AS THE MARYLAND REVISED UNIFORM**
14 **ANATOMICAL GIFT ACT.**

15 **Article – Health – General**

16 **5-408.**

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

19 (2) A person other than a nonprofit organization that qualifies under §
20 501(c)(3) of the Internal Revenue Code, may not sell, buy, or act as a broker for a profit
21 in the transfer of any human organ that:

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

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

25 (3) In this section, “human organ” does not include blood and plasma.

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

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

- 1 (i) The needs of the schools of the State are met;
- 2 (ii) The requesting party demonstrates the need for a specimen;
- 3 (iii) The circumstances of the request are that:
- 4 1. No other sufficient source of specimens within the
5 requesting state exists; or
- 6 2. A preexisting organ tissue donation was made by an
7 individual in compliance with the [Uniform Donor Act] **MARYLAND REVISED**
8 **UNIFORM ANATOMICAL GIFT ACT**;
- 9 (iv) The requesting party bears the responsibility for
10 transporting and the specialized care of the specimen and all associated costs; and
- 11 (v) The Board retains the right of exclusive control of the
12 specimen including the final disposition when appropriate or necessary to fulfill an
13 obligation to return the remains of a donated specimen to the donor's family.
- 14 (3) The Board may authorize a physician, teacher, demonstrator, or
15 investigator of advanced human biological sciences to send or transport human
16 specimens out of the State for use by medical study programs.
- 17 5-604.1.
- 18 (a) An advance directive may contain a statement by a declarant that the
19 declarant consents to the gift of all or any part of the declarant's body for any one or
20 more of the purposes specified in Title 4, Subtitle 5 of the Estates and Trusts Article.
- 21 (b) Notwithstanding any other provision of law, an anatomical gift in an
22 advance directive is valid and effective for all purposes under Title 4, Subtitle 5 of the
23 Estates and Trusts Article, including the immunity from civil or criminal liability set
24 forth in [§ 4-508(b)] **§ 4-514** of the Estates and Trusts Article.
- 25 13-901.
- 26 (a) (1) There is an Organ and Tissue Donation Awareness Fund.
- 27 (2) The Fund consists of moneys collected under § 16-111.2(f) of the
28 Transportation Article.
- 29 (3) The Fund is a special, continuing, nonlapsing fund that is not
30 subject to § 7-302 of the State Finance and Procurement Article.
- 31 (4) The Treasurer shall separately hold and the Comptroller shall
32 account for the Fund.

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

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

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

7 (2) The Fund shall be used to promote public education and awareness
8 about organ, tissue, and eye donations and to fund the establishment, operation, and
9 maintenance of a donor registry as provided in [§ 4-512] **§ 4-516** of the Estates and
10 Trusts Article.

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

13 19-310.

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

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

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

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

26 (ii) If the organ, tissue, or eye recovery agency, in consultation
27 with the patient's attending physician or the physician's designee, determines that
28 donation is not appropriate based on established medical criteria, this determination
29 shall be noted by hospital personnel in the patient's medical record and no further
30 action is necessary.

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

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

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

12 1. A spouse or domestic partner, but, if not alive or not
 13 competent, then;

14 2. A son or daughter who is at least 18 years old, but, if
 15 not alive, competent, or immediately available, then;

16 3. A parent, but, if not alive, competent, or immediately
 17 available, then;

18 4. A brother or sister who is at least 18 years old, but, if
 19 not alive or not competent, then;

20 5. A guardian;

21 6. A friend or other relative of the decedent, if the
 22 individual:

23 A. Is a competent individual; and

24 B. Presents an affidavit to the attending physician
 25 stating:

26 I. That the individual is a relative or close friend of the
 27 decedent; and

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

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

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

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

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

7 (II) DIRECTIONS GIVEN BY A PERSON AUTHORIZED UNDER §
8 4-503 OF THE ESTATES AND TRUSTS ARTICLE TO MAKE, AMEND, REVOKE, OR
9 REFUSE TO MAKE AN ANATOMICAL GIFT OF A DECEDENT'S BODY OR PARTS
10 SHALL BE RECORDED IN THE DECEDENT'S MEDICAL RECORD.

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (10) The consent of the decedent’s representative is not necessary and
23 the provisions of paragraph (4) of this subsection do not apply [if:

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

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

28 1. § 5–604.1 of this article; or

29 2. Title 4, Subtitle 5 of the Estates and Trusts Article] **IF**
30 **§ 4–506 OF THE ESTATES AND TRUSTS ARTICLE PRECLUDES THE DECEDENT’S**
31 **REPRESENTATIVE FROM MAKING AN ANATOMICAL GIFT.**

32 (11) A person who acts in good faith to recover organs or tissues in
33 accordance with a notation on the decedent’s driver’s license or identification card that
34 the decedent is an organ donor, a gift made in accordance with § 5–604.1 of this article
35 or Title 4, Subtitle 5 of the Estates and Trusts Article, or a gift made in accordance
36 with the anatomical gift laws of another state or country is immune from criminal

1 prosecution and liability for damages in any cause of action related to the recovery and
2 donation of the decedent's organs or tissues.

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

8 Article – Transportation

9 12–303.

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

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

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

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

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

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

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

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

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

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2011.