

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 415

(Senator Kagan, *et al.*)

Judicial Proceedings

Health and Government Operations

State Donor Registry - Information and Methods of Registration - Clerks of
Circuit Courts, Registers of Wills, and Motor Vehicle Administration (Enhancing
Organ Donation Rates Act)

This bill requires the clerk of circuit court and the registers of wills to make available to the public information about registering with the State donor registry. The bill also requires the Motor Vehicle Administration (MVA) to establish a method by which an individual doing business with MVA may register as a donor. The method must allow the individual to select to have a donor designation on the individual's driver's license or identification card; however, MVA may *not* require such a designation to be on an individual's driver's license or identification card. In addition, MVA must notify the individual that removal from the State donor registry may be requested when doing business with MVA.

Fiscal Summary

State Effect: The bill is not expected to materially affect State operations or finances, as discussed below.

Local Effect: The bill is not expected to materially affect local operations or finances.

Small Business Effect: None.

Analysis

Current Law: Individuals in Maryland choose to designate themselves as donors – generally either by registering directly on the website of the [Maryland donor registry](#) or having a designation (a heart symbol) added to their driver's license or identification card in a transaction with MVA. The designation is sufficient legal authority for the removal

of a body organ or part on the death of the donor. MVA advises that it allows individuals to change their organ donor designations at any time. If a change in an individual's organ donor designation is the only correction to the license, an individual does not pay a fee associated with its reissuance. MVA further advises that, once registered as an organ donor through MVA, a designation (a heart symbol) *must* be added to an individual's license or identification card.

Donate Life Maryland (DLMD) maintains and operates the *registry* for the State, in which an individual commits to becoming an organ, eye, and/or tissue donor securely online. The registry ensures every effort is made to honor a donor's wishes when the donor dies, and DLMD is available to take calls 24 hours a day, 7 days a week. DLMD has an information-sharing program with MVA so all donor designation records can be stored in a central and secure place. Each registrant, including one who registers online, has a unique identifier in the registry (his/her driver's license or identification number) and may change his/her status as a donor – even obtaining a corrected driver's license or identification card as noted above without payment of a fee (if only obtained for that purpose). More than 2.6 million Marylanders have designated themselves as donors.

The Maryland Revised Uniform Anatomical Gift Act (Title 4, Subtitle 5 of the Estates and Trusts Article) governs donations of all or part of a human body (that take effect after the donor's death) for the purpose of transplantation, therapy, research, training, or education. Among other things, the Act specifies:

- who may make an anatomical gift during the life of a donor (taking effect after the donor's death) and how a donor may make a gift, including by a “document of gift,” defined as a donor card or other record such as a statement or symbol on a driver's license, identification card, or donor registry;
- the classifications of individuals, in order of priority, who may make an anatomical gift of a donor's body or part after the donor's death;
- how an anatomical gift may be revoked or amended and how an individual may indicate a refusal to make an anatomical gift of the individual's body or part;
- the relation between, and priorities of, actions taken by the donor and other authorized persons, with respect to making, amending, revoking, or refusing an anatomical gift; and
- the resolution of conflicts between an advance directive and an anatomical gift.

The persons eligible to make an anatomical gift during the life of the donor include an adult donor; a minor who is emancipated or eligible to apply for a driver's license; an agent of a donor (unless prohibited by a power of attorney for health care or other record); a parent of a donor, if the donor is an unemancipated minor; or a guardian of a donor. Directions given by a person authorized to make, amend, revoke, or refuse to make an anatomical gift of a decedent's body or part must be recorded in the decedent's medical record.

Background: MVA advises that its donor registration system is almost exclusively electronic. While at an MVA office, an individual answers a series of questions that include whether the individual would like to register as a donor. MVA further advises that an individual may register as an organ donor through MVA's mail-in driver's license renewal program. Once received by MVA, the answer on the paper, mail-in form is scanned, and the answers are compiled in MVA's central database. The answers to the individual's donor registration question is stored in a central repository and transferred via web service to the registry at the end of every business day.

The organ donor *procurement program* is managed by the Living Legacy Foundation of Maryland (LLF), which coordinates with all hospitals in the State for the procurement of organs. In accordance with State and federal regulations, hospitals in Maryland must contact LLF when a patient dies or death is imminent. LLF reviews the potential donor's medical status and assesses his or her potential suitability as a donor; as appropriate, a family services coordinator discusses donation options with the family. The process encompasses determining whether the patient had made an autonomous decision to designate his or her wish to be a donor through a document of gift (a designation on the driver's license, inclusion in the donor registry, an advance directive, or a living will). If so, the family is provided a disclosure form, outlining the steps in the process. If the patient was not designated as a donor, the coordinator reviews the organs and tissues which the patient *could* donate and, if authorization is given, completes an authorization form with the legal next of kin. Regardless, a thorough physical exam must be conducted and a medical/social history obtained to ensure the safety and suitability of the organs and tissues being considered for donation.

If organ donation is authorized, LLF works collaboratively with the hospital staff to manage the critical care medical and nursing needs of the donor, while conducting further evaluation and testing to determine which organs are suitable for transplant. (A donor family does not incur any financial costs related to the evaluation and recovery of organs and tissues.) The medical information about the organ donor is sent to the United Network for Organ Sharing (UNOS), which operates a centralized computer system to match the donor's characteristics to those of waiting recipients. UNOS allocates organs based on algorithms (which factor in blood type, severity of illness, time waiting, and distance between the donor hospital and potential recipient), but tissues are allocated based on medical need.

Although the rates of organ donor designation have increased in the United States, the need for transplants continues to outpace available organs. According to the U.S. Department of Health and Human Services (HHS), more than 120 million people in the United States have signed up to be an organ donor, and an average of 79 people receive an organ transplant each day. However, HHS reports that 21 people die each day while on the waiting list for an organ and that, as of February 21, 2015, 123,231 Americans are waiting for an organ, 3,716 of whom are on the waiting list in Maryland.

According to the 2014 National Donor Designation Report Card from the organization Donate Life America, Maryland ranked twenty-eighth among states with a 54% donor designation share, which is the number of designated donors as a percentage of all state residents age 18 or older.

State Fiscal Effect: The Maryland Department of Transportation (MDOT) advises that any computer programming changes to comply with the bill's requirements can be handled with existing resources. In addition, MDOT advises that it incurs minimal costs for revising and printing certain forms as a result of the bill's requirements. The Department of Legislative Services advises that such costs can be handled with existing resources.

Additional Information

Prior Introductions: None.

Cross File: HB 592 (Delegate Morhaim, *et al.*) - Health and Government Operations.

Information Source(s): Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Register of Wills, U.S. Department of Health and Human Services, Donate Life Maryland, Donate Life America, Living Legacy Foundation of Maryland, Department of Legislative Services

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