

# SENATE BILL 869

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CF HB 1133

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By: **Senator Waldstreicher**

Introduced and read first time: February 3, 2020

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts – Maryland Revised Uniform Anatomical Gift Act – Revisions**

3 FOR the purpose of altering the purposes for which certain anatomical gifts may be used;  
4 repealing provisions of law that require certain persons to search certain individuals  
5 for a document of gift or any other information identifying the individual as a donor,  
6 that specify certain procedures to be taken if a document is located, and that concern  
7 certain administrative sanctions; requiring a certain procurement organization to  
8 make a certain search of certain registries under certain circumstances; authorizing  
9 certain examinations of certain medical and dental records to include examination  
10 of the death certificates of certain individuals; and generally relating to the  
11 Maryland Revised Uniform Anatomical Gift Act.

12 BY repealing and reenacting, without amendments,  
13 Article – Estates and Trusts  
14 Section 4–509(a) and (g) and 4–512(b) and (c)  
15 Annotated Code of Maryland  
16 (2017 Replacement Volume and 2019 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Estates and Trusts  
19 Section 4–509(e) and (f) and 4–512(a) and (d)  
20 Annotated Code of Maryland  
21 (2017 Replacement Volume and 2019 Supplement)

22 BY repealing  
23 Article – Estates and Trusts  
24 Section 4–510  
25 Annotated Code of Maryland  
26 (2017 Replacement Volume and 2019 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 That the Laws of Maryland read as follows:

2 **Article – Estates and Trusts**

3 4–509.

4 (a) An anatomical gift may be made to the following persons named in a document  
5 of gift:

6 (1) A hospital, an accredited medical school, a dental school, a college or  
7 university, an organ procurement organization, the State Anatomy Board, or a  
8 nontransplant tissue bank for research, training, or education;

9 (2) Subject to subsection (b) of this section, if the individual is the recipient  
10 of the part, an individual designated by the person making the anatomical gift; or

11 (3) An eye bank or a transplant tissue bank.

12 (e) If an anatomical gift of one or more specific parts is made in a document of gift  
13 that does not name a person described in subsection (a) of this section and does not identify  
14 the purpose of the gift, the gift passes in accordance with subsection (g) of this section [and  
15 may be used only for transplantation or therapy].

16 (f) If a document of gift specifies only a general intent to make an anatomical gift  
17 by words such as “donor”, “organ donor”, or “body donor”, or by a symbol or statement of  
18 similar import, the gift passes in accordance with subsection (g) of this section and may be  
19 used [only] for transplantation, **RESEARCH, EDUCATION**, or therapy.

20 (g) For purposes of subsections (b), (e), and (f) of this section, the following  
21 provisions apply:

22 (1) If the part is an eye, the gift passes to the appropriate eye bank;

23 (2) If the part is tissue, the gift passes to the appropriate tissue bank; and

24 (3) If the part is an organ, the gift passes to the appropriate organ  
25 procurement organization as custodian of the organ.

26 [4–510.

27 (a) The following persons shall make a reasonable search of an individual who  
28 the person reasonably believes is dead or whose death is imminent for a document of gift  
29 or any other information identifying the individual as a donor or as an individual who made  
30 a refusal:

31 (1) A law enforcement officer, firefighter, paramedic, or any other  
32 emergency rescuer finding the individual; and

1           (2) If no other source of the information is immediately available, a  
2 hospital, as soon as practical after the individual's arrival at the hospital.

3           (b) If a document of gift or a refusal to make an anatomical gift is located by the  
4 search required under subsection (a)(1) of this section and the individual or deceased  
5 individual to whom it relates is taken to a hospital, the person responsible for conducting  
6 the search shall send the document of gift or refusal to the hospital.

7           (c) A person is not subject to criminal or civil liability for failing to discharge the  
8 duties imposed by this section but may be subject to administrative sanctions.]

9 4-512.

10           (a) Whenever a hospital refers an individual who is dead or whose death is  
11 imminent to a procurement organization to ascertain whether the individual has made an  
12 anatomical gift, the organization shall make a reasonable search of any **NATIONAL AND**  
13 **LOCAL** donor registry that [the hospital knows] exists for the geographical area in which  
14 the individual resides.

15           (b) (1) When a hospital refers an individual who is dead or whose death is  
16 imminent to a procurement organization, the organization may conduct any reasonable  
17 examination necessary to ensure the medical suitability of a part that is or could be the  
18 subject of an anatomical gift for transplantation, therapy, research, or education.

19           (2) During the examination period, measures necessary to ensure the  
20 medical suitability of a part from a prospective donor:

21                   (i) May not be withdrawn unless the hospital or procurement  
22 organization knows that the individual expressed a contrary intent; and

23                   (ii) May be administered, unless it is determined that the  
24 administration of those measures would not provide the prospective donor with appropriate  
25 end-of-life care consistent with reasonable medical judgment.

26           (c) Unless prohibited by law other than this subtitle, at any time after a donor's  
27 death, the person to which a part passes under § 4-509 of this subtitle may conduct a  
28 reasonable examination necessary to ensure the medical suitability of the body or part for  
29 its intended purpose.

30           (d) Unless prohibited by law other than this subtitle, an examination under  
31 subsection (b) or (c) of this section may include an examination of all medical and dental  
32 records of the donor or prospective donor, **INCLUDING THE DEATH CERTIFICATE OF THE**  
33 **DONOR OR PROSPECTIVE DONOR.**

34           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 October 1, 2020.