

Chapter 509

(Senate Bill 265)

AN ACT concerning

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

FOR the purpose of authorizing a person who chooses to be an organ donor on or after a certain date to designate if the anatomical gift is to be used for certain purposes; requiring the Organ Procurement Organization or its designee to produce and provide to each Motor Vehicle Administration location educational materials that include certain information; requiring each Motor Vehicle Administration location to prominently display and make available to prospective donors on request the educational materials; requiring the Motor Vehicle Administration to adopt regulations to carry out certain provisions of this Act; altering the purposes for which certain anatomical gifts may be used; requiring that a certain gift registered before a certain date be used only for certain purposes; repealing provisions of law that require certain persons to search certain individuals for a document of gift or any other information identifying the individual as a donor, that specify certain procedures to be taken if a document is located, and that concern certain administrative sanctions; requiring a certain procurement organization to make a certain search of certain registries under certain circumstances; providing for a delayed effective date; and generally relating to the Maryland Revised Uniform Anatomical Gift Act.

BY repealing and reenacting, without amendments,
 Article – Estates and Trusts
 Section 4–503(a) and (b) and 4–509(a) and (g)
 Annotated Code of Maryland
 (2017 Replacement Volume and 2020 Supplement)

BY adding to
Article – Estates and Trusts
Section 4–503(f), (g), and (h)
Annotated Code of Maryland
(2017 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
 Article – Estates and Trusts
 Section 4–509(e) and (f) and 4–512(a)
 Annotated Code of Maryland
 (2017 Replacement Volume and 2020 Supplement)

BY repealing
 Article – Estates and Trusts
 Section 4–510
 Annotated Code of Maryland

(2017 Replacement Volume and 2020 Supplement)

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

Article – Estates and Trusts

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 an injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(4) As provided in subsection (c) of this section.

(F) ON OR AFTER JULY 1, 2022, A PERSON WHO ELECTS TO BE A DONOR MAY DESIGNATE ANY OF THE FOLLOWING PURPOSES FOR THE ANATOMICAL GIFT:

(1) RESEARCH AND EDUCATION; AND

(2) TRANSPLANTATION AND THERAPY.

(G) (1) BY JULY 1, 2022, THE ORGAN PROCUREMENT ORGANIZATION OR ITS DESIGNATED AFFILIATE SHALL PRODUCE AND PROVIDE TO EACH MOTOR VEHICLE ADMINISTRATION LOCATION EDUCATIONAL MATERIALS THAT INCLUDE DEFINITIONS OF:

(I) ANATOMICAL GIFT;

(II) RESEARCH AND EDUCATION; AND

(III) TRANSPLANTATION AND THERAPY.

(2) EACH MOTOR VEHICLE ADMINISTRATION LOCATION SHALL PROMINENTLY DISPLAY THE EDUCATIONAL MATERIALS AND MAKE AVAILABLE THE EDUCATIONAL MATERIALS TO PROSPECTIVE DONORS ON REQUEST.

(H) THE MOTOR VEHICLE ADMINISTRATION SHALL ADOPT REGULATIONS BY JULY 1, 2022, TO CARRY OUT SUBSECTIONS (F) AND (G) OF THIS SECTION.

4-509.

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

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

(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 (g) of this section [and may be used only for transplantation or therapy].

(f) **(1) ¶ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, 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 [only] for transplantation, RESEARCH, EDUCATION, or therapy.

(2) IF A DONOR REGISTERED A DOCUMENT OF GIFT DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION BEFORE JULY 1, 2022, THE GIFT MAY ONLY BE USED FOR TRANSPLANTATION OR THERAPY.

(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.

[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 any other information identifying the individual as a donor or as an individual who made a refusal:

(1) A law enforcement officer, firefighter, paramedic, or any 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 under 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.]

4-512.

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2021~~ January 1, 2022.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.