

# HOUSE BILL 1106

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5lr2694

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By: **Delegate Morhaim**

Introduced and read first time: February 16, 2015

Assigned to: Rules and Executive Nominations

Re-referred to: Health and Government Operations, March 9, 2015

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2015

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Health – Electronic Advance Directives – Witness Requirements**

3 FOR the purpose of ~~prohibiting a certain witness from being required to be physically~~  
4 ~~present at the time a declarant signs or acknowledges the declarant's signature on~~  
5 ~~an electronic advance directive; providing that an electronic advance directive that~~  
6 is created in compliance with certain protocols satisfies the requirement that certain  
7 witnesses sign the advance directive; and generally relating to the witnessing of  
8 electronic advance directives.

9 BY repealing and reenacting, with amendments,  
10 Article – Health – General  
11 Section 5–602(c)  
12 Annotated Code of Maryland  
13 (2009 Replacement Volume and 2014 Supplement)

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

16 **Article – Health – General**

17 5–602.

18 (c) (1) A written or electronic advance directive shall be dated, signed by or at  
19 the express direction of the declarant, and subscribed by two witnesses.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2) (i) Except as provided in subparagraphs (ii) and (iii) of this  
 2 paragraph, any competent individual may serve as a witness to an advance directive,  
 3 including an employee of a health care facility, nurse practitioner, physician assistant, or  
 4 physician caring for the declarant if acting in good faith.

5 (ii) The health care agent of the declarant may not serve as a  
 6 witness.

7 (iii) At least one of the witnesses must be an individual who is not  
 8 knowingly entitled to any portion of the estate of the declarant or knowingly entitled to any  
 9 financial benefit by reason of the death of the declarant.

10 ~~(3) A WITNESS WHO USES AN ELECTRONIC SIGNATURE AT THE~~  
 11 ~~DIRECTION OF THE DECLARANT TO WITNESS AN ELECTRONIC ADVANCE DIRECTIVE~~  
 12 ~~MAY NOT BE REQUIRED TO BE PHYSICALLY PRESENT AT THE TIME THE DECLARANT~~  
 13 ~~SIGNS OR ACKNOWLEDGES THE DECLARANT'S SIGNATURE ON THE ELECTRONIC~~  
 14 ~~ADVANCE DIRECTIVE.~~

15 (3) AN ELECTRONIC ADVANCE DIRECTIVE THAT IS CREATED IN  
 16 COMPLIANCE WITH THE ELECTRONIC WITNESS PROTOCOLS OF THE ADVANCE  
 17 DIRECTIVE REGISTRY OF THE DEPARTMENT SHALL SATISFY THE WITNESS  
 18 REQUIREMENT OF PARAGRAPH (1) OF THIS SUBSECTION.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 20 October 1, 2015.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.