

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1133 (Delegate Shetty, *et al.*)  
Health and Government Operations

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**Estates and Trusts - Maryland Revised Uniform Anatomical Gift Act - Revisions**

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This bill expands the scope of purposes for which anatomical gifts not made to a specific person or for a specific purpose can be used, to include research and education. The bill repeals requirements that specified first responders or hospitals conduct a reasonable search of an individual believed to be dead or whose death is imminent for documents related to an individual's status as an anatomical gift donor. The bill requires a procurement organization – to which an individual who is dead or whose death is imminent has been referred by a hospital to ascertain whether the individual has made an anatomical gift – to make a reasonable search of any *national and local* donor registry (in place of any donor registry that the hospital knows exists) for the geographical area in which the individual resides. The bill also allows for a reasonable examination conducted by a procurement organization or a person to which a part passes to ensure the medical suitability of a body or part to include the death certificate of the donor or prospective donor.

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**Fiscal Summary**

**State Effect:** The bill does not materially affect State operations or finances.

**Local Effect:** The bill does not materially affect local government operations or finances.

**Small Business Effect:** Minimal.

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## Analysis

### Current Law/Background:

#### *Maryland Revised Uniform Anatomical Gift Act*

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:

- the classes of individuals, in order of priority, who may make an anatomical gift of a donor's body or part after the donor's death under certain circumstances;
- 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.

#### *Recipients of Anatomical Gifts*

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

- 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;
- an individual designated by the person making the anatomical gift if the individual is the recipient of the part and the transplant can be made; or
- an eye bank or a transplant tissue bank.

If an anatomical gift of one or more specific parts is made in a document of gift that does not name one of the persons above and does not identify the purpose of the gift, the gift passes to the appropriate eye bank, tissue bank, or organ procurement organization, as applicable, and may be used only for transplantation or therapy.

In addition, 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 to the appropriate eye bank, tissue bank, or organ procurement organization, as applicable, and may be used only for transplantation or therapy.

### *Reasonable Search for Document of Gift or Refusal*

The following persons must 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:

- a law enforcement officer, firefighter, paramedic, or any other emergency rescuer finding the individual; and
- if no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

If the document of gift or a refusal to make an anatomical gift is located before an individual or deceased individual is taken to a hospital, the person responsible for conducting the search must send the document to the hospital. A person is not subject to criminal or civil liability for failing to discharge these duties but may be subject to administrative sanctions.

### *Reasonable Search of Donor Registry*

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 must make a reasonable search of any donor registry that the hospital knows exists for the geographical area in which the individual resides.

### *Reasonable Examination to Ensure the Medical Suitability of a Body or Part*

When a hospital refers an individual who is dead or whose death is imminent to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education, and unless prohibited by other law, at any time after a donor's death, a person to which a part passes may conduct a reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose. In both cases, unless prohibited by other law, an examination may include an examination of all medical and dental records of the donor or prospective donor.

**Background:** According to the U.S. Department of Health and Human Services, in 2019, 428 donors donated organs in Maryland, of which 188 were living donors and 240 were deceased donors. As of February 2020, there were 3,257 individuals on the waiting list for an organ in the State. Approximately 56.5% of Maryland candidates have been on the waiting list for more than two years.

## **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** SB 869 (Senator Waldstreicher) - Judicial Proceedings.

**Information Source(s):** Prince George's County; Register of Wills; University of Maryland Medical System; University System of Maryland; Department of State Police; U.S. Department of Health and Human Services; The Living Legacy Foundation of Maryland; Department of Legislative Services

**Fiscal Note History:** First Reader - February 23, 2020  
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