

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 917
Finance

(Senator Carter)

Transport of a Body After Anatomical Gift - Fees - Prohibition

This bill prohibits a unit of State government that provides services for the transportation of a body following a procedure for an anatomical gift from charging a fee for the transportation service if the body is transported to a cemetery, crematory, funeral establishment, place of worship, or residence. Additionally, a person who provides services for the transportation of a body from a hospital to a cemetery, crematory, funeral establishment, place of worship, or residence cannot charge a fee for the transportation service if (1) the body has undergone a procedure to provide an anatomical gift and (2) the deceased's custodian is indigent or medically indigent.

Fiscal Summary

State Effect: There is likely no material fiscal or operational impact on the State Anatomy Board, as discussed below. Revenues are not affected.

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

Small Business Effect: Potential meaningful.

Analysis

Current Law/Background: "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education. 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). 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.

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.

For donated bodies, the donated body must be under the *exclusive control* of the State Board of Anatomy, and may be embalmed. The board advises that, pursuant to board policy, the board does not charge a family for the costs of transporting a body that has been donated.

For unclaimed bodies, after 72 hours after death, the body is under the exclusive control of the State Anatomy Board and may be embalmed. Any relative or friend may claim the body after embalming and, after paying the board for the costs of moving and embalming the body may receive it. The board may waive its costs upon a showing of hardship by the relative or friend.

Background: According to the U.S. Department of Health and Human Services, in 2019, 428 donors donated organs in Maryland, of whom 188 were living donors and 240 were deceased donors.

State Fiscal Effect: To the extent that the State Anatomy Board, as it has exclusive control of a donated body, is considered to be the "custodian" of a body under the bill, there is no material fiscal impact. The board can continue to contract with third-party transport services as necessary. Since the board does not charge any individuals or families a fee for the transport of a body as part of its body donation program, the bill's prohibition on charging a fee has no impact.

Small Business Effect: The bill has a potential impact on any nonprofits or other small businesses that accept donated bodies or deal with organ donation banks. Transport services for affected entities may be unable to charge fees for at least a portion of the bodies that are transported under these programs. However, as there were only 240 deceased organ donors in 2018, the number of them who had indigent or medically indigent custodians is unknown but anticipated to be minimal.

The State Anatomy Board notes that, to its knowledge, donor programs generally do *not* charge families for body transportation costs. Thus, the bill is not anticipated to have any direct impact on families of decedents whose bodies are donated as anatomical gifts.

Additional Comments: It is assumed that the intent of the bill is to ensure indigent families are not charged for the transport of a body for an anatomical gift, which includes organ donation. This analysis reflects that assumption. However, to the extent that the State Anatomy Board is *not* considered to be the “custodian,” the bill may affect contracts with third-party transport services as those services would no longer be able to charge a fee (even though that fee is currently paid by the State Anatomy Board or nonprofit organizations).

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): U.S. Department of Health and Human Services; Maryland Institute for Emergency Medical Services Systems; University of Maryland Medical System; Maryland Department of Health; Maryland Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - March 6, 2020
mr/jc

Analysis by: Kathleen P. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510