

# SENATE BILL 265

N2, J1

(11r1231)

## ENROLLED BILL

— *Judicial Proceedings/Health and Government Operations* —

Introduced by **Senator Waldstreicher**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

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

1 AN ACT concerning

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

3 FOR the purpose of authorizing a person who chooses to be an organ donor on or after a  
4 certain date to designate if the anatomical gift is to be used for certain purposes;  
5 requiring the Organ Procurement Organization or its designee to produce and provide  
6 to each Motor Vehicle Administration location educational materials that include  
7 certain information; requiring each Motor Vehicle Administration location to  
8 prominently display and make available to prospective donors on request the  
9 educational materials; requiring the Motor Vehicle Administration to adopt  
10 regulations to carry out certain provisions of this Act; altering the purposes for which  
11 certain anatomical gifts may be used; requiring that a certain gift registered before a  
12 certain date be used only for certain purposes; repealing provisions of law that require  
13 certain persons to search certain individuals for a document of gift or any other  
14 information identifying the individual as a donor, that specify certain procedures to  
15 be taken if a document is located, and that concern certain administrative sanctions;

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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.

*Italics indicate opposite chamber/conference committee amendments.*



1 requiring a certain procurement organization to make a certain search of certain  
 2 registries under certain circumstances; *providing for a delayed effective date*; and  
 3 generally relating to the Maryland Revised Uniform Anatomical Gift Act.

4 BY repealing and reenacting, without amendments,  
 5 Article – Estates and Trusts  
 6 Section 4–503(a) and (b) and 4–509(a) and (g)  
 7 Annotated Code of Maryland  
 8 (2017 Replacement Volume and 2020 Supplement)

9 BY adding to  
 10 Article – Estates and Trusts  
 11 Section 4–503(f), (g), and (h)  
 12 Annotated Code of Maryland  
 13 (2017 Replacement Volume and 2020 Supplement)

14 BY repealing and reenacting, with amendments,  
 15 Article – Estates and Trusts  
 16 Section 4–509(e) and (f) and 4–512(a)  
 17 Annotated Code of Maryland  
 18 (2017 Replacement Volume and 2020 Supplement)

19 BY repealing  
 20 Article – Estates and Trusts  
 21 Section 4–510  
 22 Annotated Code of Maryland  
 23 (2017 Replacement Volume and 2020 Supplement)

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

26 **Article – Estates and Trusts**

27 4–503.

28 (a) Subject to § 4–506 of this subtitle, an anatomical gift may be made during the  
 29 life of a donor for the purpose of transplantation, therapy, research, or education by:

30 (1) (i) A donor who is an adult; or

31 (ii) A donor who is a minor, if the minor is:

32 1. Emancipated; or

33 2. Authorized under State law to apply for a driver's license  
 34 because the donor is at least 15 years and 9 months old;

1           (2) An agent of a donor, unless a power of attorney for health care or other  
2 record prohibits the agent from making an anatomical gift;

3           (3) A parent of a donor, if the donor is an unemancipated minor; or

4           (4) A guardian of a donor.

5       (b) A donor may make an anatomical gift:

6           (1) By authorizing a statement or symbol indicating that the donor has  
7 made an anatomical gift to be imprinted on the donor's driver's license or identification card;

8           (2) By will;

9           (3) During a terminal illness or an injury of the donor, by any form of  
10 communication addressed to at least two adults, at least one of whom is a disinterested  
11 witness; or

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

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

15           (1) RESEARCH AND EDUCATION; AND

16           (2) TRANSPLANTATION AND THERAPY.

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

21           (I) ANATOMICAL GIFT;

22           (II) RESEARCH AND EDUCATION; AND

23           (III) TRANSPLANTATION AND THERAPY.

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

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

1 4-509.

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

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

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

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

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

14 (f) **(1) ~~IF~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**  
15 **IF** a document of gift specifies only a general intent to make an anatomical gift by words  
16 such as “donor”, “organ donor”, or “body donor”, or by a symbol or statement of similar  
17 import, the gift passes in accordance with subsection (g) of this section and may be used  
18 [only] for transplantation, **RESEARCH, EDUCATION,** or therapy.

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

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

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

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

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

28 [4-510.

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

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

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

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

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

11 4–512.

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.