

HOUSE BILL 96

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2lr0682

(PRE-FILED)

By: **Delegate Shetty**

Requested: October 7, 2021

Introduced and read first time: January 12, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Nondiscrimination in Access to Anatomical Gifts and Organ**
3 **Transplantation – Financial Status**

4 FOR the purpose of prohibiting covered entities from taking certain actions regarding organ
5 transplantation and anatomical gifts solely on the basis of an individual's financial
6 status; requiring, except under certain circumstances, covered entities to make
7 certain modifications to policies, practices, and procedures to allow an individual
8 with financial issues access to services related to organ transplantation; and
9 generally relating to nondiscrimination in access to anatomical gifts and organ
10 transplantation.

11 BY repealing and reenacting, without amendments,
12 Article – Health – General
13 Section 20–1601(a), (d), and (g)
14 Annotated Code of Maryland
15 (2019 Replacement Volume and 2021 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Health – General
18 Section 20–1605
19 Annotated Code of Maryland
20 (2019 Replacement Volume and 2021 Supplement)

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

23 **Article – Health – General**

24 20–1601.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (a) In this subtitle the following words have the meanings indicated.
- 2 (d) “Covered entity” means:
- 3 (1) A licensed health care provider;
- 4 (2) A health care facility as defined in § 19–114 of this article;
- 5 (3) A laboratory;
- 6 (4) A State psychiatric hospital;
- 7 (5) A State residential center as defined in § 7–101 of this article;
- 8 (6) An alternative living unit as defined in § 7–101 of this article;
- 9 (7) A group home as defined in § 7–101 of this article;
- 10 (8) An institutional medical unit in a correctional facility; or
- 11 (9) Any entity responsible for potential recipients of the anatomical gift.
- 12 (g) “Qualified individual” means an individual who:
- 13 (1) Has a disability; and
- 14 (2) Meets the essential eligibility requirements for the receipt of an
15 anatomical gift, with or without:
- 16 (i) The support networks available to the individual;
- 17 (ii) The provision of auxiliary aids and services; or
- 18 (iii) Reasonable modifications to the policies or practices of a covered
19 entity, including modifications to allow:
- 20 1. Communication with individuals responsible for
21 supporting the individual with postsurgical and posttransplantation care, including
22 medication; and
- 23 2. The consideration of support networks available to the
24 individual, including family, friends, and home- and community-based services funded
25 through the Maryland Medical Assistance Program, Medicare, or another health plan in
26 which the individual is enrolled, or any program or source of funding available to the
27 individual, in determining whether the individual is able to comply with
28 posttransplantation medical requirements.

1 20–1605.

2 (a) A covered entity may not solely on the basis of an individual’s disability **OR**
3 **FINANCIAL STATUS:**

4 (1) Consider a qualified individual **OR ANY OTHER INDIVIDUAL** ineligible
5 to receive an anatomical gift or organ transplant;

6 (2) Deny medical and other services related to organ transplantation,
7 including evaluation, surgery, counseling, and posttransplantation treatment and services;

8 (3) Refuse to refer the individual to a transplant center or a related
9 specialist for the purpose of evaluation or receipt of an organ transplant;

10 (4) Refuse to place a qualified individual **OR ANY OTHER INDIVIDUAL** on
11 an organ transplant waiting list; or

12 (5) Place a qualified individual **OR ANY OTHER INDIVIDUAL** at a
13 lower–priority position on an organ transplant waiting list than the position at which the
14 qualified individual **OR OTHER INDIVIDUAL** would have been placed if not for the
15 disability **OR THE INDIVIDUAL’S FINANCIAL STATUS.**

16 (b) (1) Subject to paragraph (2) of this subsection, a covered entity may take
17 an individual’s disability into account when making treatment or coverage
18 recommendations or decisions, solely to the extent that the disability has been found by a
19 physician, following an individualized evaluation of the individual, to be medically
20 significant to the provision of the anatomical gift.

21 (2) If an individual has the necessary support system to assist the
22 individual in complying with posttransplantation medical requirements, a covered entity
23 may not consider the individual’s inability to independently comply with the
24 posttransplantation medical requirements to be medically significant for the purposes of
25 paragraph (1) of this subsection.

26 (c) A covered entity shall make reasonable modifications in policies, practices, or
27 procedures, when the modifications are necessary to allow an individual with a disability
28 **OR FINANCIAL ISSUES** access to services, including transplantation–related counseling,
29 information, coverage, or treatment, unless the covered entity can demonstrate that
30 making the modifications would fundamentally alter the nature of the services.

31 (d) A covered entity shall take such steps as may be necessary to ensure that an
32 individual with a disability is not denied services, including transplantation–related
33 counseling, information, coverage, or treatment, due to the absence of auxiliary aids and
34 services, unless the covered entity can demonstrate that taking the steps would
35 fundamentally alter the nature of the services being offered or would result in an undue
36 burden.

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