

HOUSE BILL 1451

J1, J3, N2

0lr3277

By: **Delegates Barve and Dumais**

Introduced and read first time: February 25, 2010

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Revised Anatomical Gift Act**

3 FOR the purpose of repealing the Maryland Anatomical Gift Act and enacting the
4 Maryland Revised Anatomical Gift Act; authorizing certain individuals to make,
5 amend, or revoke anatomical gifts; providing the methods by which anatomical
6 gifts may be made; authorizing certain individuals to refuse to make certain
7 anatomical gifts; establishing certain circumstances under which an anatomical
8 gift is prohibited; establishing the persons to which certain anatomical gifts
9 may be made; establishing a certain priority if more than one person in a
10 certain class makes a gift; establishing certain purposes for which certain
11 anatomical gifts can be made; establishing a certain priority for certain
12 anatomical gifts if more than one purpose is given for the anatomical gift;
13 requiring certain persons to search certain individuals for a document of gift or
14 other information identifying the individual as a donor under certain
15 circumstances; requiring certain individuals to allow certain examination and
16 copying of certain anatomical gifts or refusals; requiring that certain
17 procurement organizations be allowed certain access to certain records of the
18 Motor Vehicle Administration; authorizing certain procurement organizations
19 to make certain examinations to ensure the medical suitability of certain
20 anatomical gifts; providing for the acceptance and removal of certain
21 anatomical gifts; establishing certain acts as felonies and establishing certain
22 penalties; providing that certain persons are guilty of a felony and subject to a
23 certain penalty for purchasing or selling certain parts under certain
24 circumstances; authorizing a person to charge a certain amount for providing
25 certain services; establishing that certain donors may make certain gifts by
26 authorizing that certain statements or symbols be included on a certain
27 registry; providing that certain persons that act in good faith are not liable in
28 certain civil actions; requiring the Secretary of Health and Mental Hygiene to
29 contract with and provide compensation to a certain nonprofit entity for the
30 establishment, maintenance, and operation of a donor registry; requiring that
31 the Organ and Tissue Donation Awareness Fund provide funds for the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 establishment, operation, and maintenance of a certain donor registry;
2 requiring the Motor Vehicle Administration to cooperate in the transfer of
3 certain information to the donor registry; establishing certain administrative
4 terms for the donor registry; providing for the resolution of conflicts between
5 certain anatomical gifts and certain advance directives; requiring that certain
6 procurement organizations and the Office of the Chief Medical Examiner
7 (OCME) cooperate to maximize the opportunity to recover certain anatomical
8 gifts and to facilitate certain OCME examinations; providing for the terms of
9 the recoveries between certain procurement organizations and OCME;
10 providing for the resolution of conflicts between certain anatomical gift
11 designations and certain investigations by OCME; providing that this Act
12 supersedes a certain federal statute; requiring that certain directions to make,
13 amend, revoke, or refuse to make an anatomical gift be recorded in certain
14 medical records; altering the circumstances under which the consent of certain
15 representatives is not necessary; requiring the custodian of certain motor
16 vehicle records containing personal information to disclose certain personal
17 information for use by certain procurement organizations under certain
18 circumstances; repealing a certain provision prohibiting that certain donor
19 designations appear on certain minors' drivers' licenses; making certain
20 technical changes; defining certain terms; and generally relating to the
21 Maryland Revised Anatomical Gift Act.

22 BY repealing

23 Article – Estates and Trusts

24 Section 4–501 through 4–513 and the subtitle “Subtitle 5. Maryland Anatomical
25 Gift Act”

26 Annotated Code of Maryland

27 (2001 Replacement Volume and 2009 Supplement)

28 BY adding to

29 Article – Estates and Trusts

30 Section 4–501 through 4–522 to be under the new subtitle “Subtitle 5. Maryland
31 Revised Anatomical Gift Act”

32 Annotated Code of Maryland

33 (2001 Replacement Volume and 2009 Supplement)

34 BY repealing and reenacting, with amendments,

35 Article – Health – General

36 Section 5–408, 5–604.1, 13–901, and 19–310(a)

37 Annotated Code of Maryland

38 (2009 Replacement Volume)

39 BY repealing and reenacting, with amendments,

40 Article – Transportation

41 Section 12–303

42 Annotated Code of Maryland

43 (2009 Replacement Volume and 2009 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That Section(s) 4–501 through 4–513 and the subtitle “Subtitle 5.
3 Maryland Anatomical Gift Act” of Article – Estates and Trusts of the Annotated Code
4 of Maryland be repealed.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
6 read as follows:

7 **Article – Estates and Trusts**

8 **SUBTITLE 5. MARYLAND REVISED ANATOMICAL GIFT ACT.**

9 **4–501.**

10 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
11 **INDICATED.**

12 **(B) “AGENT” MEANS AN INDIVIDUAL:**

13 **(1) AUTHORIZED TO MAKE HEALTH CARE DECISIONS ON BEHALF**
14 **OF A PRINCIPAL BY A POWER OF ATTORNEY FOR HEALTH CARE; OR**

15 **(2) EXPRESSLY AUTHORIZED TO MAKE AN ANATOMICAL GIFT ON**
16 **BEHALF OF A PRINCIPAL BY A RECORD SIGNED BY THE PRINCIPAL.**

17 **(C) “ANATOMICAL GIFT” MEANS A DONATION OF ALL OR PART OF A**
18 **HUMAN BODY TO TAKE EFFECT AFTER THE DONOR’S DEATH FOR THE PURPOSE**
19 **OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.**

20 **(D) (1) “DECEDENT” MEANS A DECEASED INDIVIDUAL WHOSE BODY**
21 **OR PART IS OR MAY BE THE SOURCE OF AN ANATOMICAL GIFT.**

22 **(2) “DECEDENT” INCLUDES:**

23 **(I) A STILLBORN INFANT; AND**

24 **(II) EXCEPT FOR A BLASTOCYST, AN EMBRYO, OR A FETUS**
25 **THAT WAS THE SUBJECT OF AN INDUCED ABORTION, A FETUS.**

26 **(E) (1) “DISINTERESTED WITNESS” MEANS A WITNESS OTHER THAN:**

27 **(I) A SPOUSE, CHILD, PARENT, SIBLING, GRANDCHILD,**
28 **GRANDPARENT, OR GUARDIAN OF AN INDIVIDUAL WHO MAKES, AMENDS,**
29 **REVOKES, OR REFUSES TO MAKE AN ANATOMICAL GIFT; OR**

1 **(II) ANOTHER ADULT WHO EXHIBITS SPECIAL CARE AND**
2 **CONCERN FOR AN INDIVIDUAL WHO MAKES, AMENDS, REVOKES, OR REFUSES TO**
3 **MAKE AN ANATOMICAL GIFT.**

4 **(2) “DISINTERESTED WITNESS” DOES NOT INCLUDE A PERSON TO**
5 **WHICH AN ANATOMICAL GIFT MAY PASS UNDER § 4-509 OF THIS SUBTITLE.**

6 **(F) (1) “DOCUMENT OF GIFT” MEANS A DONOR CARD OR ANY OTHER**
7 **RECORD USED TO MAKE AN ANATOMICAL GIFT.**

8 **(2) “DOCUMENT OF GIFT” INCLUDES A STATEMENT OR SYMBOL**
9 **ON A DRIVER’S LICENSE, AN IDENTIFICATION CARD, OR A DONOR REGISTRY.**

10 **(G) “DONOR” MEANS AN INDIVIDUAL WHOSE BODY OR PART IS THE**
11 **SUBJECT OF AN ANATOMICAL GIFT.**

12 **(H) “DONOR REGISTRY” MEANS A DATABASE THAT CONTAINS RECORDS**
13 **OF ANATOMICAL GIFTS AND AMENDMENTS TO OR REVOCATIONS OF**
14 **ANATOMICAL GIFTS AS PROVIDED IN § 4-516 OF THIS SUBTITLE.**

15 **(I) (1) “DRIVER’S LICENSE” MEANS A LICENSE OR PERMIT ISSUED BY**
16 **THE MOTOR VEHICLE ADMINISTRATION TO OPERATE A VEHICLE, WHETHER OR**
17 **NOT CONDITIONS ARE ATTACHED TO THE LICENSE OR PERMIT.**

18 **(2) “DRIVER’S LICENSE” INCLUDES A LEARNER’S PERMIT.**

19 **(J) “EYE BANK” MEANS A PERSON THAT:**

20 **(1) IS LICENSED, ACCREDITED, OR REGULATED UNDER FEDERAL**
21 **OR STATE LAW TO ENGAGE IN THE RECOVERY, SCREENING, TESTING,**
22 **PROCESSING, STORAGE, OR DISTRIBUTION OF HUMAN EYES OR PORTIONS OF**
23 **HUMAN EYES;**

24 **(2) IS ACCREDITED BY THE EYE BANK ASSOCIATION OF AMERICA**
25 **OR THE AMERICAN ASSOCIATION OF TISSUE BANKS; AND**

26 **(3) HAS A PERMIT ISSUED IN ACCORDANCE WITH TITLE 17,**
27 **SUBTITLE 3 OF THE HEALTH – GENERAL ARTICLE.**

28 **(K) (1) “GUARDIAN” MEANS A PERSON APPOINTED BY A COURT TO**
29 **MAKE DECISIONS REGARDING THE SUPPORT, CARE, EDUCATION, HEALTH, OR**
30 **WELFARE OF AN INDIVIDUAL.**

31 **(2) “GUARDIAN” DOES NOT INCLUDE A GUARDIAN AD LITEM,**

1 UNLESS THE GUARDIAN AD LITEM IS AUTHORIZED BY A COURT TO CONSENT TO
2 DONATION.

3 (L) "HOSPITAL" MEANS A FACILITY LICENSED AS A HOSPITAL UNDER
4 THE LAW OF ANY STATE OR A FACILITY OPERATED AS A HOSPITAL BY THE
5 UNITED STATES, A STATE, OR A SUBDIVISION OF A STATE.

6 (M) "IDENTIFICATION CARD" MEANS AN IDENTIFICATION CARD ISSUED
7 BY THE MOTOR VEHICLE ADMINISTRATION.

8 (N) "KNOW" MEANS TO HAVE ACTUAL KNOWLEDGE.

9 (O) "OCME" MEANS THE OFFICE OF THE CHIEF MEDICAL EXAMINER.

10 (P) "ORGAN PROCUREMENT ORGANIZATION" MEANS A PERSON
11 DESIGNATED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF
12 HEALTH AND HUMAN SERVICES AS AN ORGAN PROCUREMENT ORGANIZATION.

13 (Q) "PARENT" MEANS A PARENT WHOSE PARENTAL RIGHTS HAVE NOT
14 BEEN TERMINATED.

15 (R) (1) "PART" MEANS AN ORGAN, AN EYE, OR TISSUE OF A HUMAN
16 BEING.

17 (2) "PART" DOES NOT INCLUDE THE WHOLE BODY.

18 (S) "PHYSICIAN" MEANS AN INDIVIDUAL AUTHORIZED TO PRACTICE
19 MEDICINE OR OSTEOPATHY UNDER THE LAW OF ANY STATE.

20 (T) "PROCUREMENT ORGANIZATION" MEANS AN EYE BANK, AN ORGAN
21 PROCUREMENT ORGANIZATION, OR A TISSUE BANK.

22 (U) (1) "PROSPECTIVE DONOR" MEANS AN INDIVIDUAL WHO IS DEAD
23 OR WHOSE DEATH IS IMMINENT AND HAS BEEN DETERMINED BY A
24 PROCUREMENT ORGANIZATION TO HAVE A PART THAT COULD BE MEDICALLY
25 SUITABLE FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.

26 (2) "PROSPECTIVE DONOR" DOES NOT INCLUDE AN INDIVIDUAL
27 WHO HAS MADE A REFUSAL.

28 (V) "REASONABLY AVAILABLE" MEANS ABLE TO BE CONTACTED BY A
29 PROCUREMENT ORGANIZATION WITHOUT UNDUE EFFORT AND WILLING AND
30 ABLE TO ACT IN A TIMELY MANNER CONSISTENT WITH EXISTING MEDICAL
31 CRITERIA NECESSARY FOR THE MAKING OF AN ANATOMICAL GIFT.

1 **(W) “RECIPIENT” MEANS AN INDIVIDUAL INTO WHOSE BODY A**
2 **DECEDENT’S PART HAS BEEN OR IS INTENDED TO BE TRANSPLANTED.**

3 **(X) “RECORD” MEANS INFORMATION THAT IS INSCRIBED ON A**
4 **TANGIBLE MEDIUM OR IS STORED IN AN ELECTRONIC OR ANY OTHER MEDIUM**
5 **AND IS RETRIEVABLE IN PERCEIVABLE FORM.**

6 **(Y) “REFUSAL” MEANS A RECORD CREATED UNDER § 4-505 OF THIS**
7 **SUBTITLE THAT EXPRESSLY STATES AN INTENT TO BAR OTHER PERSONS FROM**
8 **MAKING AN ANATOMICAL GIFT OF AN INDIVIDUAL’S BODY OR PART.**

9 **(Z) “SIGN” MEANS TO:**

10 **(1) HAVE PRESENT INTENT TO AUTHENTICATE OR ADOPT A**
11 **RECORD; AND**

12 **(2) (I) EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR**

13 **(II) ATTACH TO OR LOGICALLY ASSOCIATE WITH THE**
14 **RECORD AN ELECTRONIC SYMBOL, SOUND, OR PROCESS.**

15 **(AA) (1) “TECHNICIAN” MEANS AN INDIVIDUAL DETERMINED TO BE**
16 **QUALIFIED TO REMOVE OR PROCESS PARTS BY AN APPROPRIATE**
17 **ORGANIZATION THAT IS LICENSED, ACCREDITED, OR REGULATED UNDER**
18 **FEDERAL OR STATE LAW.**

19 **(2) “TECHNICIAN” INCLUDES AN ENUCLEATOR.**

20 **(BB) (1) “TISSUE” MEANS A PORTION OF THE HUMAN BODY OTHER**
21 **THAN AN ORGAN OR EYE.**

22 **(2) “TISSUE” DOES NOT INCLUDE BLOOD UNLESS THE BLOOD IS**
23 **DONATED FOR THE PURPOSE OF RESEARCH OR EDUCATION.**

24 **(CC) “TISSUE BANK” MEANS A PERSON THAT IS LICENSED, ACCREDITED,**
25 **OR REGULATED UNDER FEDERAL OR STATE LAW TO ENGAGE IN THE RECOVERY,**
26 **SCREENING, TESTING, PROCESSING, STORAGE, OR DISTRIBUTION OF TISSUE.**

27 **(DD) “TRANSPLANT HOSPITAL” MEANS A HOSPITAL THAT FURNISHES**
28 **ORGAN TRANSPLANTS AND OTHER MEDICAL AND SURGICAL SPECIALTY**
29 **SERVICES REQUIRED FOR THE CARE OF TRANSPLANT PATIENTS.**

30 **4-502.**

1 **THIS SUBTITLE APPLIES TO AN ANATOMICAL GIFT OR AN AMENDMENT TO,**
2 **A REVOCATION OF, OR A REFUSAL TO MAKE AN ANATOMICAL GIFT WHENEVER**
3 **MADE.**

4 **4-503.**

5 **(A) SUBJECT TO § 4-506 OF THIS SUBTITLE, AN ANATOMICAL GIFT MAY**
6 **BE MADE DURING THE LIFE OF A DONOR FOR THE PURPOSE OF**
7 **TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION BY:**

8 **(1) (I) A DONOR WHO IS AN ADULT; OR**

9 **(II) A DONOR WHO IS A MINOR, IF THE MINOR IS:**

10 **1. EMANCIPATED; OR**

11 **2. AUTHORIZED UNDER STATE LAW TO APPLY FOR A**
12 **DRIVER'S LICENSE BECAUSE THE DONOR IS AT LEAST 15 YEARS AND 9 MONTHS**
13 **OLD;**

14 **(2) AN AGENT OF A DONOR, UNLESS A POWER OF ATTORNEY FOR**
15 **HEALTH CARE OR OTHER RECORD PROHIBITS THE AGENT FROM MAKING AN**
16 **ANATOMICAL GIFT;**

17 **(3) A PARENT OF A DONOR, IF THE DONOR IS AN**
18 **UNEMANCIPATED MINOR; OR**

19 **(4) A GUARDIAN OF A DONOR.**

20 **(B) A DONOR MAY MAKE AN ANATOMICAL GIFT:**

21 **(1) BY AUTHORIZING A STATEMENT OR SYMBOL INDICATING**
22 **THAT THE DONOR HAS MADE AN ANATOMICAL GIFT TO BE IMPRINTED ON THE**
23 **DONOR'S DRIVER'S LICENSE OR IDENTIFICATION CARD;**

24 **(2) BY WILL;**

25 **(3) DURING A TERMINAL ILLNESS OR AN INJURY OF THE DONOR,**
26 **BY ANY FORM OF COMMUNICATION ADDRESSED TO AT LEAST TWO ADULTS, AT**
27 **LEAST ONE OF WHOM IS A DISINTERESTED WITNESS; OR**

28 **(4) AS PROVIDED IN SUBSECTION (C) OF THIS SECTION.**

1 **(III) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE**
2 **DONOR OR OTHER PERSON IS PHYSICALLY UNABLE TO SIGN, ANOTHER**
3 **INDIVIDUAL ACTING AT THE DIRECTION OF THE DONOR OR THE OTHER PERSON;**
4 **OR**

5 **(2) A LATER-EXECUTED DOCUMENT OF GIFT THAT EXPRESSLY**
6 **OR BY INCONSISTENCY AMENDS OR REVOKES THE PREVIOUS ANATOMICAL GIFT**
7 **OR PORTION OF THE ANATOMICAL GIFT.**

8 **(B) A RECORD SIGNED IN ACCORDANCE WITH SUBSECTION (A)(1)(III)**
9 **OF THIS SECTION SHALL:**

10 **(1) BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF**
11 **WHOM IS A DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF**
12 **THE DONOR OR THE OTHER PERSON; AND**

13 **(2) STATE THAT THE RECORD HAS BEEN SIGNED AND WITNESSED**
14 **AS PROVIDED IN ITEM (1) OF THIS SUBSECTION.**

15 **(C) SUBJECT TO § 4-506 OF THIS SUBTITLE, A DONOR OR ANY OTHER**
16 **PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER § 4-503 OF THIS**
17 **SUBTITLE MAY REVOKE THE ANATOMICAL GIFT BY THE DESTRUCTION OR**
18 **CANCELLATION OF THE DOCUMENT OF GIFT, OR THE PORTION OF THE**
19 **DOCUMENT OF GIFT USED TO MAKE THE GIFT, WITH THE INTENT TO REVOKE**
20 **THE GIFT.**

21 **(D) DURING A TERMINAL ILLNESS OF A DONOR, OR WHILE A DONOR IS**
22 **INJURED, THE DONOR MAY AMEND OR REVOKE AN ANATOMICAL GIFT THAT WAS**
23 **NOT MADE BY WILL BY ANY FORM OF COMMUNICATION ADDRESSED TO AT LEAST**
24 **TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS.**

25 **(E) A DONOR WHO MAKES AN ANATOMICAL GIFT BY WILL MAY AMEND**
26 **OR REVOKE THE GIFT IN THE MANNER PROVIDED FOR AMENDMENT OR**
27 **REVOCATION OF WILLS OR AS PROVIDED IN SUBSECTION (A) OF THIS SECTION.**

28 **(F) (1) AN ANATOMICAL GIFT MADE BY A DONOR DESIGNATION ON A**
29 **DRIVER'S LICENSE OR AN IDENTIFICATION CARD MAY BE REVOKED BY GIVING**
30 **WRITTEN NOTICE TO THE MOTOR VEHICLE ADMINISTRATION IN ACCORDANCE**
31 **WITH § 12-303 OF THE TRANSPORTATION ARTICLE.**

32 **(2) A DONOR MAY MAKE A GIFT BY AUTHORIZING THAT A**
33 **STATEMENT OR SYMBOL INDICATING THAT THE DONOR HAS MADE A GIFT BE**
34 **INCLUDED ON A DONOR REGISTRY.**

1 **4-505.**

2 (A) AN INDIVIDUAL MAY REFUSE TO MAKE AN ANATOMICAL GIFT OF
3 THE INDIVIDUAL'S BODY OR PART BY:

4 (1) A RECORD SIGNED BY:

5 (I) THE INDIVIDUAL; OR

6 (II) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE
7 INDIVIDUAL IS PHYSICALLY UNABLE TO SIGN, ANOTHER INDIVIDUAL ACTING AT
8 THE DIRECTION OF THE INDIVIDUAL;

9 (2) THE INDIVIDUAL'S WILL, WHETHER OR NOT THE WILL IS
10 ADMITTED TO PROBATE OR INVALIDATED AFTER THE INDIVIDUAL'S DEATH; OR

11 (3) DURING A TERMINAL ILLNESS OF THE INDIVIDUAL OR WHILE
12 THE INDIVIDUAL IS INJURED, ANY FORM OF COMMUNICATION ADDRESSED TO
13 AT LEAST TWO ADULTS, AT LEAST ONE OF WHOM IS A DISINTERESTED WITNESS.

14 (B) A RECORD SIGNED IN ACCORDANCE WITH SUBSECTION (A)(1)(II) OF
15 THIS SECTION SHALL:

16 (1) BE WITNESSED BY AT LEAST TWO ADULTS, AT LEAST ONE OF
17 WHOM IS A DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF
18 THE INDIVIDUAL; AND

19 (2) STATE THAT THE RECORD HAS BEEN SIGNED AND WITNESSED
20 AS PROVIDED IN ITEM (1) OF THIS SUBSECTION.

21 (C) AN INDIVIDUAL WHO HAS MADE A REFUSAL MAY AMEND OR REVOKE
22 THE REFUSAL:

23 (1) IN A MANNER FOR MAKING A REFUSAL PROVIDED IN
24 SUBSECTION (A) OF THIS SECTION;

25 (2) BY SUBSEQUENTLY MAKING AN ANATOMICAL GIFT IN
26 ACCORDANCE WITH § 4-503 OF THIS SUBTITLE THAT IS INCONSISTENT WITH
27 THE REFUSAL; OR

28 (3) BY DESTROYING OR CANCELING THE RECORD EVIDENCING
29 THE REFUSAL, OR THE PORTION OF THE RECORD USED TO MAKE THE REFUSAL,
30 WITH THE INTENT TO REVOKE THE REFUSAL.

1 **(D) EXCEPT AS OTHERWISE PROVIDED IN § 4-506(H) OF THIS SUBTITLE,**
2 **IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE INDIVIDUAL**
3 **SET FORTH IN THE REFUSAL, AN INDIVIDUAL'S UNREVOKED REFUSAL TO MAKE**
4 **AN ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR PART BARS ALL OTHER**
5 **PERSONS FROM MAKING AN ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY OR**
6 **PART.**

7 **4-506.**

8 **(A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (G) OF THIS**
9 **SECTION AND SUBJECT TO SUBSECTION (F) OF THIS SECTION, IN THE ABSENCE**
10 **OF AN EXPRESS, CONTRARY INDICATION BY THE DONOR, A PERSON OTHER**
11 **THAN THE DONOR IS BARRED FROM MAKING, AMENDING, OR REVOKING AN**
12 **ANATOMICAL GIFT OF A DONOR'S BODY OR PART IF THE DONOR MADE:**

13 **(1) AN ANATOMICAL GIFT OF THE DONOR'S BODY OR PART UNDER**
14 **§ 4-503 OF THIS SUBTITLE; OR**

15 **(2) AN AMENDMENT TO AN ANATOMICAL GIFT OF THE DONOR'S**
16 **BODY OR PART UNDER § 4-504 OF THIS SUBTITLE.**

17 **(B) A DONOR'S REVOCATION OF AN ANATOMICAL GIFT OF THE DONOR'S**
18 **BODY OR PART UNDER § 4-504 OF THIS SUBTITLE IS NOT A REFUSAL AND DOES**
19 **NOT BAR ANOTHER PERSON SPECIFIED IN § 4-501 OR § 4-507 OF THIS SUBTITLE**
20 **FROM MAKING AN ANATOMICAL GIFT OF THE DONOR'S BODY OR PART UNDER §**
21 **4-503 OR § 4-508 OF THIS SUBTITLE.**

22 **(C) IF A PERSON OTHER THAN A DONOR MAKES AN UNREVOKED**
23 **ANATOMICAL GIFT OF THE DONOR'S BODY OR PART UNDER § 4-503 OF THIS**
24 **SUBTITLE, OR AN AMENDMENT TO AN ANATOMICAL GIFT OF THE DONOR'S BODY**
25 **OR PART UNDER § 4-504 OF THIS SUBTITLE, ANOTHER PERSON MAY NOT MAKE,**
26 **AMEND, OR REVOKE THE GIFT OF THE DONOR'S BODY OR PART UNDER § 4-508**
27 **OF THIS SUBTITLE.**

28 **(D) A REVOCATION OF AN ANATOMICAL GIFT OF A DONOR'S BODY OR**
29 **PART UNDER § 4-504 OF THIS SUBTITLE BY A PERSON OTHER THAN THE DONOR**
30 **DOES NOT BAR ANOTHER PERSON FROM MAKING AN ANATOMICAL GIFT OF THE**
31 **BODY OR PART UNDER § 4-503 OR § 4-508 OF THIS SUBTITLE.**

32 **(E) IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE**
33 **DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER**
34 **§ 4-503 OF THIS SUBTITLE, AN ANATOMICAL GIFT OF A PART IS NOT A REFUSAL**
35 **TO GIVE ANOTHER PART OR A LIMITATION ON THE MAKING OF AN ANATOMICAL**

1 GIFT OF ANOTHER PART AT A LATER TIME BY THE DONOR OR ANOTHER PERSON.

2 (F) IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE
3 DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER
4 § 4-503 OF THIS SUBTITLE, AN ANATOMICAL GIFT OF A PART FOR ONE OR MORE
5 OF THE PURPOSES SET FORTH IN § 4-503 OF THIS SUBTITLE IS NOT A
6 LIMITATION ON THE MAKING OF AN ANATOMICAL GIFT OF THE PART FOR ANY
7 OTHER PURPOSE BY THE DONOR OR OTHER PERSON UNDER § 4-503 OR § 4-508
8 OF THIS SUBTITLE.

9 (G) IF A DONOR WHO IS AN UNEMANCIPATED MINOR DIES, A
10 REASONABLY AVAILABLE PARENT OR GUARDIAN OF THE DONOR MAY REVOKE
11 OR AMEND AN ANATOMICAL GIFT OF THE DONOR'S BODY OR PART.

12 (H) IF AN UNEMANCIPATED MINOR WHO SIGNED A REFUSAL DIES, A
13 REASONABLY AVAILABLE PARENT OR GUARDIAN OF THE MINOR MAY REVOKE
14 THE MINOR'S REFUSAL.

15 4-507.

16 (A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION AND
17 EXCEPT AS PROHIBITED UNDER §§ 4-505 AND 4-506 OF THIS SUBTITLE, IN
18 ACCORDANCE WITH THE ORDER OF PRIORITY LISTED, A MEMBER OF ONE OF
19 THE FOLLOWING CLASSES OF INDIVIDUALS WHO IS REASONABLY AVAILABLE
20 MAY MAKE AN ANATOMICAL GIFT OF A DECEDENT'S BODY OR PART FOR THE
21 PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION:

22 (1) AN AGENT OF THE DECEDENT AT THE TIME OF DEATH WHO
23 COULD HAVE MADE AN ANATOMICAL GIFT UNDER § 4-503(B) OF THIS SUBTITLE
24 IMMEDIATELY BEFORE THE DECEDENT'S DEATH;

25 (2) THE SPOUSE OF THE DECEDENT;

26 (3) THE ADULT CHILDREN OF THE DECEDENT;

27 (4) THE PARENTS OF THE DECEDENT;

28 (5) THE ADULT SIBLINGS OF THE DECEDENT;

29 (6) THE ADULT GRANDCHILDREN OF THE DECEDENT;

30 (7) THE GRANDPARENTS OF THE DECEDENT;

31 (8) AN ADULT WHO EXHIBITED SPECIAL CARE AND CONCERN FOR

1 THE DECEDENT; OR

2 (9) THE PERSONS WHO WERE ACTING AS THE GUARDIAN OF THE
3 PERSON OF THE DECEDENT AT THE TIME OF THE DECEDENT'S DEATH.

4 (B) (1) IF THERE IS MORE THAN ONE MEMBER OF A CLASS LISTED IN
5 SUBSECTION (A)(1), (3), (4), (5), (6), (7), OR (9) OF THIS SECTION ENTITLED TO
6 MAKE AN ANATOMICAL GIFT, AN ANATOMICAL GIFT MAY BE MADE BY A MEMBER
7 OF THE CLASS UNLESS THAT MEMBER OR A PERSON TO WHICH THE GIFT MAY
8 PASS UNDER § 4-509 OF THIS SUBTITLE KNOWS OF AN OBJECTION BY ANOTHER
9 MEMBER OF THE CLASS.

10 (2) IF AN OBJECTION TO AN ANATOMICAL GIFT IS KNOWN, THE
11 GIFT MAY BE MADE ONLY BY A MAJORITY OF THE MEMBERS OF THE CLASS WHO
12 ARE REASONABLY AVAILABLE.

13 (C) A PERSON MAY NOT MAKE AN ANATOMICAL GIFT IF, AT THE TIME OF
14 THE DECEDENT'S DEATH, A PERSON IN A PRIOR CLASS UNDER SUBSECTION (A)
15 OF THIS SECTION IS REASONABLY AVAILABLE TO MAKE OR TO OBJECT TO THE
16 MAKING OF AN ANATOMICAL GIFT.

17 4-508.

18 (A) A PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER §
19 4-507 OF THIS SUBTITLE MAY MAKE AN ANATOMICAL GIFT:

20 (1) BY A DOCUMENT OF GIFT SIGNED BY THE PERSON MAKING
21 THE GIFT; OR

22 (2) BY AN ORAL COMMUNICATION THAT IS ELECTRONICALLY
23 RECORDED OR IS CONTEMPORANEOUSLY REDUCED TO A RECORD AND SIGNED
24 BY THE INDIVIDUAL RECEIVING THE ORAL COMMUNICATION.

25 (B) (1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, AN
26 ANATOMICAL GIFT BY A PERSON AUTHORIZED UNDER § 4-507 OF THIS
27 SUBTITLE MAY BE AMENDED OR REVOKED ORALLY OR IN A RECORD BY A
28 REASONABLY AVAILABLE MEMBER OF A PRIOR CLASS.

29 (2) IF MORE THAN ONE MEMBER OF A PRIOR CLASS IS
30 REASONABLY AVAILABLE, THE GIFT MADE BY A PERSON AUTHORIZED UNDER §
31 4-507 OF THIS SUBTITLE MAY BE:

32 (I) AMENDED ONLY IF A MAJORITY OF THE REASONABLY
33 AVAILABLE MEMBERS AGREE TO THE AMENDMENT; OR

1 **(II) REVOKED ONLY IF:**

2 **1. A MAJORITY OF THE REASONABLY AVAILABLE**
3 **MEMBERS AGREE TO THE REVOCATION; OR**

4 **2. THE REASONABLY AVAILABLE MEMBERS ARE**
5 **EQUALLY DIVIDED AS TO WHETHER TO REVOKE THE GIFT.**

6 **(C) A REVOCATION UNDER SUBSECTION (B) OF THIS SECTION IS**
7 **EFFECTIVE ONLY IF, BEFORE AN INCISION HAS BEEN MADE TO REMOVE A PART**
8 **FROM THE DONOR'S BODY OR BEFORE INVASIVE PROCEDURES HAVE BEGUN TO**
9 **PREPARE THE RECIPIENT, THE PROCUREMENT ORGANIZATION, TRANSPLANT**
10 **HOSPITAL, OR PHYSICIAN OR TECHNICIAN KNOWS OF THE REVOCATION.**

11 **4-509.**

12 **(A) AN ANATOMICAL GIFT MAY BE MADE TO THE FOLLOWING PERSONS**
13 **NAMED IN A DOCUMENT OF GIFT:**

14 **(1) A HOSPITAL, AN ACCREDITED MEDICAL SCHOOL, A DENTAL**
15 **SCHOOL, A COLLEGE OR UNIVERSITY, AN ORGAN PROCUREMENT**
16 **ORGANIZATION, OR THE MARYLAND STATE ANATOMY BOARD, FOR RESEARCH**
17 **OR EDUCATION;**

18 **(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF THE**
19 **INDIVIDUAL IS THE RECIPIENT OF THE PART, AN INDIVIDUAL DESIGNATED BY**
20 **THE PERSON MAKING THE ANATOMICAL GIFT; OR**

21 **(3) AN EYE BANK OR A TISSUE BANK.**

22 **(B) IF AN ANATOMICAL GIFT TO AN INDIVIDUAL UNDER SUBSECTION**
23 **(A)(2) OF THIS SECTION CANNOT BE TRANSPLANTED INTO THE INDIVIDUAL, THE**
24 **PART PASSES IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION IN THE**
25 **ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE PERSON MAKING THE**
26 **ANATOMICAL GIFT.**

27 **(C) IF AN ANATOMICAL GIFT OF ONE OR MORE SPECIFIC PARTS OR OF**
28 **ALL PARTS IS MADE IN A DOCUMENT OF GIFT THAT DOES NOT NAME A PERSON**
29 **DESCRIBED IN SUBSECTION (A) OF THIS SECTION BUT IDENTIFIES THE PURPOSE**
30 **FOR WHICH AN ANATOMICAL GIFT MAY BE USED, THE FOLLOWING PROVISIONS**
31 **APPLY:**

32 **(1) IF THE PART IS AN EYE AND THE GIFT IS FOR THE PURPOSE**

1 OF TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE APPROPRIATE
2 EYE BANK;

3 (2) IF THE PART IS TISSUE AND THE GIFT IS FOR THE PURPOSE OF
4 TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE APPROPRIATE
5 TISSUE BANK;

6 (3) IF THE PART IS AN ORGAN AND THE GIFT IS FOR THE PURPOSE
7 OF TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE APPROPRIATE
8 ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE ORGAN; OR

9 (4) IF THE PART IS AN ORGAN, AN EYE, OR TISSUE AND THE GIFT
10 IS FOR THE PURPOSE OF RESEARCH OR EDUCATION, THE GIFT PASSES TO THE
11 APPROPRIATE PROCUREMENT ORGANIZATION.

12 (D) FOR THE PURPOSE OF SUBSECTION (C) OF THIS SECTION, IF THERE
13 IS MORE THAN ONE PURPOSE OF AN ANATOMICAL GIFT SET FORTH IN THE
14 DOCUMENT OF GIFT BUT THE PURPOSES ARE NOT SET FORTH IN ANY PRIORITY,
15 THE GIFT SHALL BE USED:

16 (1) FOR TRANSPLANTATION OR THERAPY, IF SUITABLE; OR

17 (2) IF THE GIFT CANNOT BE USED FOR TRANSPLANTATION OR
18 THERAPY, FOR RESEARCH OR EDUCATION.

19 (E) IF AN ANATOMICAL GIFT OF ONE OR MORE SPECIFIC PARTS IS MADE
20 IN A DOCUMENT OF GIFT THAT DOES NOT NAME A PERSON DESCRIBED IN
21 SUBSECTION (A) OF THIS SECTION AND DOES NOT IDENTIFY THE PURPOSE OF
22 THE GIFT, THE GIFT PASSES IN ACCORDANCE WITH SUBSECTION (G) OF THIS
23 SECTION AND MAY BE USED ONLY FOR TRANSPLANTATION OR THERAPY.

24 (F) IF A DOCUMENT OF GIFT SPECIFIES ONLY A GENERAL INTENT TO
25 MAKE AN ANATOMICAL GIFT BY WORDS SUCH AS "DONOR", "ORGAN DONOR", OR
26 "BODY DONOR", OR BY A SYMBOL OR STATEMENT OF SIMILAR IMPORT, THE GIFT
27 PASSES IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION AND MAY BE
28 USED ONLY FOR TRANSPLANTATION OR THERAPY.

29 (G) FOR PURPOSES OF SUBSECTIONS (B), (E), AND (F) OF THIS SECTION,
30 THE FOLLOWING PROVISIONS APPLY:

31 (1) IF THE PART IS AN EYE, THE GIFT PASSES TO THE
32 APPROPRIATE EYE BANK;

33 (2) IF THE PART IS TISSUE, THE GIFT PASSES TO THE

1 APPROPRIATE TISSUE BANK; AND

2 (3) IF THE PART IS AN ORGAN, THE GIFT PASSES TO THE
3 APPROPRIATE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE
4 ORGAN.

5 (H) OTHER THAN AN ANATOMICAL GIFT UNDER SUBSECTION (A)(2) OF
6 THIS SECTION, AN ANATOMICAL GIFT OF AN ORGAN FOR TRANSPLANTATION OR
7 THERAPY, RESEARCH, OR EDUCATION PASSES TO THE ORGAN PROCUREMENT
8 ORGANIZATION AS CUSTODIAN OF THE ORGAN.

9 (I) IF AN ANATOMICAL GIFT DOES NOT PASS IN ACCORDANCE WITH
10 SUBSECTIONS (A) THROUGH (H) OF THIS SECTION, OR THE DECEDENT'S BODY
11 OR PART IS NOT USED FOR TRANSPLANTATION, THERAPY, RESEARCH, OR
12 EDUCATION, CUSTODY OF THE BODY OR PART PASSES TO THE PERSON UNDER
13 OBLIGATION TO DISPOSE OF THE BODY OR PART.

14 (J) (1) A PERSON MAY NOT ACCEPT AN ANATOMICAL GIFT IF THE
15 PERSON KNOWS THAT:

16 (I) THE GIFT WAS NOT EFFECTIVELY MADE UNDER §
17 4-503 OR § 4-508 OF THIS SUBTITLE; OR

18 (II) THE DECEDENT MADE A REFUSAL UNDER § 4-504 OF
19 THIS SUBTITLE THAT WAS NOT REVOKED.

20 (2) FOR PURPOSES OF THIS SUBSECTION, IF A PERSON KNOWS
21 THAT AN ANATOMICAL GIFT WAS MADE ON A DOCUMENT OF GIFT, THE PERSON
22 IS DEEMED TO KNOW OF ANY AMENDMENT OR REVOCATION OF THE GIFT OR ANY
23 REFUSAL TO MAKE AN ANATOMICAL GIFT ON THE SAME DOCUMENT OF GIFT.

24 (K) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (A)(2) OF THIS
25 SECTION, NOTHING IN THIS SUBTITLE AFFECTS THE ALLOCATION OF ORGANS
26 FOR TRANSPLANTATION OR THERAPY.

27 4-510.

28 (A) THE FOLLOWING PERSONS SHALL MAKE A REASONABLE SEARCH OF
29 AN INDIVIDUAL WHO THE PERSON REASONABLY BELIEVES IS DEAD OR WHOSE
30 DEATH IS IMMINENT FOR A DOCUMENT OF GIFT OR ANY OTHER INFORMATION
31 IDENTIFYING THE INDIVIDUAL AS A DONOR OR AS AN INDIVIDUAL WHO MADE A
32 REFUSAL:

33 (1) A LAW ENFORCEMENT OFFICER, FIREFIGHTER, PARAMEDIC,

1 OR ANY OTHER EMERGENCY RESCUER FINDING THE INDIVIDUAL; AND

2 (2) IF NO OTHER SOURCE OF THE INFORMATION IS IMMEDIATELY
3 AVAILABLE, A HOSPITAL, AS SOON AS PRACTICAL AFTER THE INDIVIDUAL'S
4 ARRIVAL AT THE HOSPITAL.

5 (B) IF A DOCUMENT OF GIFT OR A REFUSAL TO MAKE AN ANATOMICAL
6 GIFT IS LOCATED BY THE SEARCH REQUIRED UNDER SUBSECTION (A)(1) OF
7 THIS SECTION AND THE INDIVIDUAL OR DECEASED INDIVIDUAL TO WHOM IT
8 RELATES IS TAKEN TO A HOSPITAL, THE PERSON RESPONSIBLE FOR
9 CONDUCTING THE SEARCH SHALL SEND THE DOCUMENT OF GIFT OR REFUSAL
10 TO THE HOSPITAL.

11 (C) A PERSON IS NOT SUBJECT TO CRIMINAL OR CIVIL LIABILITY FOR
12 FAILING TO DISCHARGE THE DUTIES IMPOSED BY THIS SECTION BUT MAY BE
13 SUBJECT TO ADMINISTRATIVE SANCTIONS.

14 4-511.

15 (A) A DOCUMENT OF GIFT NEED NOT BE DELIVERED DURING THE
16 LIFETIME OF A DONOR TO BE EFFECTIVE.

17 (B) ON OR AFTER THE DEATH OF AN INDIVIDUAL, A PERSON IN
18 POSSESSION OF A DOCUMENT OF GIFT OR A REFUSAL TO MAKE AN ANATOMICAL
19 GIFT REGARDING THE INDIVIDUAL SHALL ALLOW EXAMINATION AND COPYING
20 OF THE DOCUMENT OF GIFT OR REFUSAL BY:

21 (1) A PERSON AUTHORIZED TO MAKE OR OBJECT TO THE MAKING
22 OF THE ANATOMICAL GIFT; OR

23 (2) A PERSON TO WHICH THE GIFT COULD PASS UNDER § 4-509
24 OF THIS SUBTITLE.

25 4-512.

26 (A) WHENEVER A HOSPITAL REFERS AN INDIVIDUAL WHO IS DEAD OR
27 WHOSE DEATH IS IMMINENT TO A PROCUREMENT ORGANIZATION TO ASCERTAIN
28 WHETHER THE INDIVIDUAL HAS MADE AN ANATOMICAL GIFT, THE
29 ORGANIZATION SHALL MAKE A REASONABLE SEARCH OF:

30 (1) THE RECORDS OF THE MOTOR VEHICLE ADMINISTRATION;
31 AND

32 (2) ANY DONOR REGISTRY THAT THE HOSPITAL KNOWS EXISTS

1 FOR THE GEOGRAPHICAL AREA IN WHICH THE INDIVIDUAL RESIDES.

2 (B) A PROCUREMENT ORGANIZATION SHALL BE ALLOWED REASONABLE
3 ACCESS TO INFORMATION IN THE RECORDS OF THE MOTOR VEHICLE
4 ADMINISTRATION TO ASCERTAIN WHETHER AN INDIVIDUAL WHO IS DEAD OR
5 WHOSE DEATH IS IMMINENT IS A DONOR.

6 (C) (1) WHEN A HOSPITAL REFERS AN INDIVIDUAL WHO IS DEAD OR
7 WHOSE DEATH IS IMMINENT TO A PROCUREMENT ORGANIZATION, THE
8 ORGANIZATION MAY CONDUCT ANY REASONABLE EXAMINATION NECESSARY TO
9 ENSURE THE MEDICAL SUITABILITY OF A PART THAT IS OR COULD BE THE
10 SUBJECT OF AN ANATOMICAL GIFT FOR TRANSPLANTATION, THERAPY,
11 RESEARCH, OR EDUCATION.

12 (2) DURING THE EXAMINATION PERIOD, MEASURES NECESSARY
13 TO ENSURE THE MEDICAL SUITABILITY OF A PART FROM A PROSPECTIVE
14 DONOR:

15 (I) MAY NOT BE WITHDRAWN UNLESS THE HOSPITAL OR
16 PROCUREMENT ORGANIZATION KNOWS THAT THE INDIVIDUAL EXPRESSED A
17 CONTRARY INTENT; AND

18 (II) MAY BE ADMINISTERED, UNLESS IT IS DETERMINED
19 THAT THE ADMINISTRATION OF THOSE MEASURES WOULD NOT PROVIDE THE
20 PROSPECTIVE DONOR WITH APPROPRIATE END-OF-LIFE CARE OR IT CAN BE
21 ANTICIPATED BY REASONABLE MEDICAL JUDGMENT THAT THE MEASURES
22 WOULD CAUSE THE PROSPECTIVE DONOR'S DEATH OTHER THAN BY THE
23 PROSPECTIVE DONOR'S UNDERLYING PATHOLOGY.

24 (D) UNLESS PROHIBITED BY LAW OTHER THAN THIS SUBTITLE, AT ANY
25 TIME AFTER A DONOR'S DEATH, THE PERSON TO WHICH A PART PASSES UNDER §
26 4-509 OF THIS SUBTITLE MAY CONDUCT A REASONABLE EXAMINATION
27 NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF THE BODY OR PART FOR
28 ITS INTENDED PURPOSE.

29 (E) UNLESS PROHIBITED BY LAW OTHER THAN THIS SUBTITLE, AN
30 EXAMINATION UNDER SUBSECTION (C) OR (D) OF THIS SECTION MAY INCLUDE
31 AN EXAMINATION OF ALL MEDICAL AND DENTAL RECORDS OF THE DONOR OR
32 PROSPECTIVE DONOR.

33 (F) ON THE DEATH OF A MINOR WHO WAS A DONOR OR HAD SIGNED A
34 REFUSAL, UNLESS A PROCUREMENT ORGANIZATION KNOWS THAT THE MINOR IS
35 EMANCIPATED, THE PROCUREMENT ORGANIZATION SHALL CONDUCT A
36 REASONABLE SEARCH FOR THE PARENTS OF THE MINOR AND PROVIDE THE

1 PARENTS WITH AN OPPORTUNITY TO REVOKE OR AMEND THE ANATOMICAL GIFT
2 OR REVOKE THE REFUSAL.

3 (G) (1) ON A REFERRAL BY A HOSPITAL UNDER SUBSECTION (A) OF
4 THIS SECTION, A PROCUREMENT ORGANIZATION SHALL MAKE A REASONABLE
5 SEARCH FOR A PERSON LISTED IN § 4-507 OF THIS SUBTITLE HAVING PRIORITY
6 TO MAKE AN ANATOMICAL GIFT ON BEHALF OF A PROSPECTIVE DONOR.

7 (2) IF A PROCUREMENT ORGANIZATION RECEIVES INFORMATION
8 THAT AN ANATOMICAL GIFT TO ANY OTHER PERSON WAS MADE, AMENDED, OR
9 REVOKED, THE PROCUREMENT ORGANIZATION SHALL PROMPTLY ADVISE THE
10 OTHER PERSON OF ALL RELEVANT INFORMATION.

11 (H) (1) SUBJECT TO §§ 4-509(I) AND 4-519 OF THIS SUBTITLE, THE
12 RIGHTS OF A PERSON TO WHICH A PART PASSES UNDER § 4-509 OF THIS
13 SUBTITLE ARE SUPERIOR TO THE RIGHTS OF ALL OTHERS WITH RESPECT TO
14 THE PART.

15 (2) THE PERSON TO WHICH A PART PASSES UNDER § 4-509 OF
16 THIS SUBTITLE MAY ACCEPT OR REJECT AN ANATOMICAL GIFT IN WHOLE OR IN
17 PART.

18 (3) SUBJECT TO THE TERMS OF A DOCUMENT OF GIFT AND THIS
19 SUBTITLE, A PERSON THAT ACCEPTS AN ANATOMICAL GIFT OF AN ENTIRE BODY
20 MAY ALLOW EMBALMING, BURIAL, OR CREMATION, AND THE USE OF REMAINS IN
21 A FUNERAL SERVICE.

22 (4) IF AN ANATOMICAL GIFT OF A PART IS MADE UNDER § 4-509
23 OF THIS SUBTITLE, ON THE DEATH OF THE DONOR AND BEFORE EMBALMING,
24 BURIAL, OR CREMATION, THE PERSON TO WHICH THE PART PASSES SHALL HAVE
25 THE PART REMOVED WITHOUT UNNECESSARY MUTILATION.

26 (I) A PHYSICIAN WHO ATTENDS A DECEDENT AT DEATH AND A
27 PHYSICIAN WHO DETERMINES THE TIME OF A DECEDENT'S DEATH MAY NOT
28 PARTICIPATE IN THE PROCEDURES FOR REMOVING OR TRANSPLANTING A PART
29 FROM THE DECEDENT.

30 (J) A PHYSICIAN OR TECHNICIAN MAY REMOVE A DONATED PART FROM
31 THE BODY OF A DONOR THAT THE PHYSICIAN OR TECHNICIAN IS QUALIFIED TO
32 REMOVE.

33 (K) EACH HOSPITAL IN THE STATE SHALL ENTER INTO AN AGREEMENT
34 OR AFFILIATION WITH A PROCUREMENT ORGANIZATION FOR COORDINATION OF
35 PROCUREMENT AND USE OF ANATOMICAL GIFTS.

1 4-513.

2 (A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,
3 IF REMOVAL OF A PART FROM AN INDIVIDUAL IS INTENDED TO OCCUR AFTER
4 THE INDIVIDUAL'S DEATH, A PERSON MAY NOT FOR VALUABLE CONSIDERATION
5 KNOWINGLY PURCHASE OR SELL THE PART FOR TRANSPLANTATION OR
6 THERAPY.

7 (2) A PERSON THAT VIOLATES PARAGRAPH (1) OF THIS
8 SUBSECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A
9 FINE NOT EXCEEDING \$50,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR
10 BOTH.

11 (B) (1) A PERSON MAY CHARGE A REASONABLE AMOUNT OF MONEY
12 FOR THE REMOVAL, PROCESSING, PRESERVATION, QUALITY CONTROL,
13 STORAGE, TRANSPORTATION, IMPLANTATION, OR DISPOSAL OF A PART.

14 (2) THE PROHIBITION IN SUBSECTION (A) OF THIS SECTION DOES
15 NOT APPLY TO BLOOD AND PLASMA.

16 (C) (1) A PERSON MAY NOT, IN ORDER TO OBTAIN FINANCIAL GAIN,
17 INTENTIONALLY FALSIFY, FORGE, CONCEAL, DEFACE, OR OBLITERATE A
18 DOCUMENT OF GIFT, AN AMENDMENT OR REVOCATION OF A DOCUMENT OF
19 GIFT, OR A REFUSAL.

20 (2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS
21 SUBSECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A
22 FINE NOT EXCEEDING \$50,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR
23 BOTH.

24 4-514.

25 (A) A PERSON THAT ACTS IN ACCORDANCE WITH THIS SUBTITLE OR
26 WITH THE APPLICABLE ANATOMICAL GIFT LAW OF ANOTHER STATE, OR
27 ATTEMPTS IN GOOD FAITH TO DO SO, IS NOT LIABLE FOR THE ACT IN A CIVIL
28 ACTION, A CRIMINAL PROSECUTION, OR AN ADMINISTRATIVE PROCEEDING.

29 (B) A PERSON MAKING AN ANATOMICAL GIFT OR THE DONOR'S ESTATE
30 IS NOT LIABLE FOR ANY INJURY OR DAMAGE THAT RESULTS FROM THE MAKING
31 OR USE OF THE GIFT.

32 (C) IN DETERMINING WHETHER AN ANATOMICAL GIFT HAS BEEN MADE,
33 AMENDED, OR REVOKED UNDER THIS SUBTITLE, A PERSON MAY RELY ON

1 REPRESENTATIONS OF AN INDIVIDUAL LISTED IN § 4-507(A)(2) THROUGH (8)
2 OF THIS SUBTITLE RELATING TO THE INDIVIDUAL'S RELATIONSHIP TO THE
3 DONOR OR PROSPECTIVE DONOR UNLESS THE PERSON KNOWS THAT THE
4 REPRESENTATION IS UNTRUE.

5 4-515.

6 (A) A DOCUMENT OF GIFT IS VALID IF EXECUTED IN ACCORDANCE
7 WITH:

8 (1) THIS SUBTITLE;

9 (2) THE LAWS OF THE STATE OR COUNTRY WHERE IT WAS
10 EXECUTED; OR

11 (3) THE LAWS OF THE STATE OR COUNTRY WHERE THE PERSON
12 MAKING THE ANATOMICAL GIFT WAS DOMICILED, HAS A PLACE OF RESIDENCE,
13 OR WAS A NATIONAL AT THE TIME THE DOCUMENT OF GIFT WAS EXECUTED.

14 (B) IF A DOCUMENT OF GIFT IS VALID UNDER THIS SECTION, THE LAW
15 OF THIS STATE GOVERNS THE INTERPRETATION OF THE DOCUMENT OF GIFT.

16 (C) A PERSON MAY PRESUME THAT A DOCUMENT OF GIFT OR AN
17 AMENDMENT OF AN ANATOMICAL GIFT IS VALID UNLESS THAT PERSON KNOWS
18 THAT IT WAS NOT VALIDLY EXECUTED OR WAS REVOKED.

19 4-516.

20 (A) IN THIS SECTION, "QUALIFIED NONPROFIT ENTITY" MEANS A
21 PROCUREMENT ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(3) OF
22 THE INTERNAL REVENUE CODE OR AN ENTITY EXEMPT FROM TAXATION UNDER
23 § 501(C)(3) OF THE INTERNAL REVENUE CODE THAT ACTIVELY FUNCTIONS IN A
24 SUPPORTING RELATIONSHIP TO ONE OR MORE PROCUREMENT ORGANIZATIONS
25 IF THE PROCUREMENT ORGANIZATION OR OTHER ENTITY HAS A BOARD OF
26 DIRECTORS WHOSE MEMBERS ARE EXPERIENCED IN:

27 (1) ORGAN, TISSUE, AND EYE DONATION;

28 (2) WORKING WITH DONORS AND DONOR FAMILIES; AND

29 (3) EDUCATING THE PUBLIC ABOUT THE IMPORTANCE OF THE
30 PROCESS OF ORGAN, TISSUE, AND EYE DONATION.

31 (B) (1) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL

1 CONTRACT WITH A QUALIFIED NONPROFIT ENTITY FOR THE ESTABLISHMENT,
2 MAINTENANCE, AND OPERATION OF A DONOR REGISTRY.

3 (2) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL
4 USE FUNDS FROM THE ORGAN AND TISSUE DONOR AWARENESS FUND
5 ESTABLISHED UNDER TITLE 13, SUBTITLE 9 OF THE HEALTH – GENERAL
6 ARTICLE OR ANY OTHER FUNDS AS MAY BE APPROPRIATE TO COMPENSATE THE
7 NONPROFIT ENTITY CONTRACTED WITH UNDER PARAGRAPH (1) OF THIS
8 SUBSECTION FOR THE REASONABLE COST OF ESTABLISHING, MAINTAINING,
9 AND OPERATING THE DONOR REGISTRY, INCLUDING THE REASONABLE COST OF
10 PUBLIC EDUCATION PROGRAMS TO INCREASE PUBLIC AWARENESS ABOUT THE
11 EXISTENCE AND PURPOSE OF THE REGISTRY AND ORGAN, TISSUE, AND EYE
12 DONATION.

13 (C) THE MOTOR VEHICLE ADMINISTRATION SHALL COOPERATE WITH
14 THE QUALIFIED NONPROFIT ENTITY CONTRACTED WITH UNDER SUBSECTION
15 (B)(1) OF THIS SECTION FOR THE PURPOSE OF TRANSFERRING TO THE DONOR
16 REGISTRY ALL RELEVANT INFORMATION REGARDING A DONOR'S MAKING,
17 AMENDING, OR REVOKING OF AN ANATOMICAL GIFT.

18 (D) A DONOR REGISTRY SHALL BE ACCESSIBLE 24 HOURS A DAY AND 7
19 DAYS A WEEK TO ALLOW:

20 (1) A DONOR TO INCLUDE ON THE DONOR REGISTRY A
21 STATEMENT OR SYMBOL THAT THE DONOR HAS MADE OR AMENDED AN
22 ANATOMICAL GIFT;

23 (2) A DONOR TO REVOKE AN ANATOMICAL GIFT; OR

24 (3) A PROCUREMENT ORGANIZATION TO OBTAIN RELEVANT
25 INFORMATION ON THE DONOR REGISTRY TO DETERMINE, AT THE DEATH OR
26 IMMINENT DEATH OF A DONOR OR A PROSPECTIVE DONOR, WHETHER THE
27 DONOR OR PROSPECTIVE DONOR HAS MADE, AMENDED, OR REVOKED AN
28 ANATOMICAL GIFT.

29 (E) PERSONALLY IDENTIFIABLE INFORMATION ON A DONOR REGISTRY
30 ABOUT A DONOR OR PROSPECTIVE DONOR MAY NOT BE USED OR DISCLOSED
31 WITHOUT THE EXPRESS CONSENT OF THE DONOR, PROSPECTIVE DONOR, OR
32 PERSON THAT MADE THE ANATOMICAL GIFT FOR ANY PURPOSE OTHER THAN TO
33 DETERMINE, AT THE DEATH OR IMMINENT DEATH OF THE DONOR OR
34 PROSPECTIVE DONOR, WHETHER THE DONOR OR PROSPECTIVE DONOR HAS
35 MADE OR AMENDED AN ANATOMICAL GIFT.

36 (F) (1) THIS SECTION DOES NOT PROHIBIT A PERSON FROM

1 CREATING OR MAINTAINING A DONOR REGISTRY THAT IS NOT ESTABLISHED BY
2 OR UNDER CONTRACT WITH THE STATE.

3 (2) A REGISTRY THAT IS NOT ESTABLISHED BY OR UNDER
4 CONTRACT WITH THE STATE SHALL COMPLY WITH SUBSECTIONS (D) AND (E) OF
5 THIS SECTION.

6 4-517.

7 (A) IN THIS SECTION, "ADVANCE DIRECTIVE" MEANS A POWER OF
8 ATTORNEY FOR HEALTH CARE OR A RECORD SIGNED OR AUTHORIZED BY A
9 PROSPECTIVE DONOR IN ACCORDANCE WITH §§ 5-601 THROUGH 5-618 OF THE
10 HEALTH - GENERAL ARTICLE CONTAINING THE PROSPECTIVE DONOR'S
11 DIRECTION CONCERNING A HEALTH CARE DECISION FOR THE PROSPECTIVE
12 DONOR.

13 (B) (1) (I) IF A PROSPECTIVE DONOR HAS A DECLARATION OR
14 ADVANCE DIRECTIVE AND THE TERMS OF THE DECLARATION OR DIRECTIVE AND
15 THE EXPRESS OR IMPLIED TERMS OF A POTENTIAL ANATOMICAL GIFT ARE IN
16 CONFLICT WITH REGARD TO THE ADMINISTRATION OF MEASURES NECESSARY
17 TO ENSURE THE MEDICAL SUITABILITY OF A PART FOR TRANSPLANTATION OR
18 THERAPY:

19 1. THE PROSPECTIVE DONOR'S ATTENDING
20 PHYSICIAN AND PROSPECTIVE DONOR SHALL CONFER TO RESOLVE THE
21 CONFLICT; OR

22 2. IF THE PROSPECTIVE DONOR IS INCAPABLE OF
23 RESOLVING THE CONFLICT, AN AGENT ACTING UNDER THE PROSPECTIVE
24 DONOR'S DECLARATION OR DIRECTIVE SHALL ACT FOR THE DONOR TO RESOLVE
25 THE CONFLICT.

26 (II) IF THERE IS NOT AN AGENT OR THE AGENT IS NOT
27 REASONABLY AVAILABLE, ANOTHER PERSON AUTHORIZED BY A LAW OTHER
28 THAN THIS SUBTITLE TO MAKE HEALTH CARE DECISIONS ON BEHALF OF THE
29 PROSPECTIVE DONOR SHALL ACT FOR THE DONOR TO RESOLVE THE CONFLICT.

30 (2) INFORMATION RELEVANT TO THE RESOLUTION OF THE
31 CONFLICT UNDER THIS SUBSECTION MAY BE OBTAINED FROM THE
32 APPROPRIATE PROCUREMENT ORGANIZATION AND ANY OTHER PERSON
33 AUTHORIZED TO MAKE AN ANATOMICAL GIFT FOR THE PROSPECTIVE DONOR
34 UNDER § 4-507 OF THIS SUBTITLE.

35 (3) BEFORE RESOLUTION OF A CONFLICT UNDER THIS

1 SUBSECTION, MEASURES NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF
2 A PART FROM A PROSPECTIVE DONOR MAY BE ADMINISTERED UNLESS IT IS
3 DETERMINED THAT THE ADMINISTRATION OF THOSE MEASURES WOULD NOT
4 PROVIDE THE PROSPECTIVE DONOR WITH APPROPRIATE END-OF-LIFE CARE,
5 OR IT CAN BE ANTICIPATED BY REASONABLE MEDICAL JUDGMENT THAT THE
6 MEASURES WOULD CAUSE THE PROSPECTIVE DONOR'S DEATH OTHER THAN BY
7 THE PROSPECTIVE DONOR'S UNDERLYING PATHOLOGY.

8 (4) IF THE CONFLICT UNDER THIS SUBSECTION IS NOT RESOLVED
9 EXPEDITIOUSLY, THE DIRECTION OF THE DECLARATION OR ADVANCE
10 DIRECTIVE CONTROLS.

11 4-518.

12 (A) OCME AND PROCUREMENT ORGANIZATIONS SHALL COOPERATE
13 WITH EACH OTHER TO MAXIMIZE THE OPPORTUNITY TO RECOVER ANATOMICAL
14 GIFTS FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR
15 EDUCATION.

16 (B) IF OCME RECEIVES NOTICE FROM A PROCUREMENT
17 ORGANIZATION THAT AN ANATOMICAL GIFT MIGHT BE AVAILABLE OR WAS MADE
18 WITH RESPECT TO A DECEDENT WHOSE BODY OR PART IS UNDER THE
19 JURISDICTION OF OCME AND A POSTMORTEM EXAMINATION IS GOING TO BE
20 PERFORMED, UNLESS OCME DENIES RECOVERY IN ACCORDANCE WITH § 4-519
21 OF THIS SUBTITLE, OCME OR THE DESIGNEE SHALL CONDUCT THE
22 POSTMORTEM EXAMINATION OF THE BODY OR PART IN A MANNER AND WITHIN A
23 PERIOD COMPATIBLE WITH ITS PRESERVATION FOR THE PURPOSES OF THE
24 GIFT.

25 (C) (1) A PART MAY NOT BE REMOVED FROM THE BODY OF A
26 DECEDENT UNDER THE JURISDICTION OF OCME FOR TRANSPLANTATION,
27 THERAPY, RESEARCH, OR EDUCATION UNLESS THE PART IS THE SUBJECT OF AN
28 ANATOMICAL GIFT.

29 (2) THE BODY OF A DECEDENT UNDER THE JURISDICTION OF
30 OCME MAY NOT BE DELIVERED TO A PERSON FOR RESEARCH OR EDUCATION
31 UNLESS THE BODY IS THE SUBJECT OF AN ANATOMICAL GIFT.

32 (3) THIS SUBSECTION DOES NOT PRECLUDE OCME FROM
33 PERFORMING A MEDICOLEGAL EXAMINATION ON THE BODY OR PART OF A
34 DECEDENT UNDER THE JURISDICTION OF OCME.

35 4-519.

1 **(A) (1) ON REQUEST OF A PROCUREMENT ORGANIZATION, OCME**
2 **SHALL RELEASE TO THE PROCUREMENT ORGANIZATION THE NAME, CONTACT**
3 **INFORMATION, AND AVAILABLE MEDICAL AND SOCIAL HISTORY OF A DECEDENT**
4 **WHOSE BODY IS UNDER THE JURISDICTION OF OCME.**

5 **(2) IF A BODY OR PART OF A DECEDENT IS MEDICALLY SUITABLE**
6 **FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION, OCME SHALL**
7 **RELEASE POSTMORTEM EXAMINATION RESULTS TO THE PROCUREMENT**
8 **ORGANIZATION THAT MADE A REQUEST UNDER PARAGRAPH (1) OF THIS**
9 **SUBSECTION.**

10 **(3) IF RELEVANT TO TRANSPLANTATION OR THERAPY, A**
11 **PROCUREMENT ORGANIZATION MAY MAKE A SUBSEQUENT DISCLOSURE OF THE**
12 **POSTMORTEM EXAMINATION RESULTS OR OTHER INFORMATION RECEIVED**
13 **FROM OCME.**

14 **(B) OCME MAY CONDUCT A MEDICOLEGAL EXAMINATION BY**
15 **REVIEWING MEDICAL RECORDS, LABORATORY TEST RESULTS, X-RAYS, OTHER**
16 **DIAGNOSTIC RESULTS, AND OTHER INFORMATION THAT OCME DETERMINES**
17 **MAY BE RELEVANT TO THE EXAMINATION.**

18 **(C) A PERSON THAT HAS INFORMATION REQUESTED BY OCME IN**
19 **ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, SHALL PROVIDE THE**
20 **INFORMATION AS EXPEDITIOUSLY AS POSSIBLE TO ALLOW OCME TO CONDUCT**
21 **THE MEDICOLEGAL EXAMINATION WITHIN A PERIOD COMPATIBLE WITH THE**
22 **PRESERVATION OF PARTS FOR THE PURPOSE OF TRANSPLANTATION, THERAPY,**
23 **RESEARCH, OR EDUCATION.**

24 **(D) OCME AND A PROCUREMENT ORGANIZATION SHALL COOPERATE IN**
25 **THE TIMELY REMOVAL OF A PART FROM A DECEDENT IF:**

26 **(1) AN ANATOMICAL GIFT HAS BEEN OR MIGHT BE MADE OF A**
27 **PART OF THE DECEDENT WHOSE BODY IS UNDER THE JURISDICTION OF OCME**
28 **AND A POSTMORTEM EXAMINATION IS NOT REQUIRED; OR**

29 **(2) OCME DETERMINES THAT A POSTMORTEM EXAMINATION IS**
30 **REQUIRED BUT THAT THE RECOVERY OF THE PART THAT IS THE SUBJECT OF**
31 **THE ANATOMICAL GIFT WILL NOT INTERFERE WITH THE EXAMINATION.**

32 **(E) (1) OCME AND PROCUREMENT ORGANIZATIONS SHALL ENTER**
33 **INTO AN AGREEMENT SETTING FORTH PROTOCOLS AND PROCEDURES TO**
34 **GOVERN RELATIONS BETWEEN THE PARTIES WHEN AN ANATOMICAL GIFT OF A**
35 **PART FROM A DECEDENT UNDER THE JURISDICTION OF OCME HAS BEEN OR**
36 **MIGHT BE MADE, BUT OCME BELIEVES THAT THE RECOVERY OF THE PART**

1 COULD INTERFERE WITH THE POSTMORTEM EXAMINATION INTO THE
2 DECEDENT'S CAUSE OR MANNER OF DEATH.

3 (2) DECISIONS REGARDING THE RECOVERY OF ORGANS, TISSUE,
4 AND EYES UNDER THIS SUBSECTION SHALL BE MADE IN ACCORDANCE WITH THE
5 AGREEMENT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

6 (3) IF OCME DENIES RECOVERY OF AN ANATOMICAL GIFT, THE
7 PROCUREMENT ORGANIZATION MAY REQUEST THAT OCME RECONSIDER THE
8 DENIAL AND ALLOW THE RECOVERY TO PROCEED.

9 (4) THE PARTIES SHALL EVALUATE THE EFFECTIVENESS OF THE
10 PROTOCOLS AND PROCEDURES AGREED TO UNDER THIS SUBSECTION AT
11 REGULAR INTERVALS, BUT NO LESS FREQUENTLY THAN EVERY 2 YEARS.

12 (F) IF OCME OR A DESIGNEE ALLOWS RECOVERY OF A PART UNDER
13 SUBSECTION (D) OR (E) OF THIS SECTION, ON REQUEST, THE PROCUREMENT
14 ORGANIZATION SHALL CAUSE THE PHYSICIAN OR TECHNICIAN WHO REMOVES
15 THE PART TO PROVIDE OCME WITH A RECORD DESCRIBING THE CONDITION OF
16 THE PART, A BIOPSY, A PHOTOGRAPH, AND ANY OTHER INFORMATION AND
17 OBSERVATIONS THAT WOULD ASSIST IN THE POSTMORTEM EXAMINATION.

18 (G) IF OCME OR A DESIGNEE IS REQUIRED TO BE PRESENT AT A
19 REMOVAL PROCEDURE UNDER SUBSECTION (E) OF THIS SECTION, ON REQUEST,
20 THE PROCUREMENT ORGANIZATION REQUESTING THE RECOVERY OF THE PART
21 SHALL REIMBURSE OCME OR A DESIGNEE FOR THE ADDITIONAL COSTS
22 INCURRED IN COMPLYING WITH SUBSECTION (F) OF THIS SECTION.

23 4-520.

24 IN APPLYING AND CONSTRUING THIS SUBTITLE, WHICH IS A UNIFORM
25 ACT, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY
26 OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT
27 ENACT THE PROVISIONS OF THIS SUBTITLE.

28 4-521.

29 THIS SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE ELECTRONIC
30 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. SECTION
31 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION 101(A)
32 OF THAT ACT, 15 U.S.C. SECTION 7001 ET SEQ., OR AUTHORIZE ELECTRONIC
33 DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(B) OF THAT
34 ACT, 15 U.S.C. SECTION 7003(B).

1 4-522.

2 THIS SUBTITLE MAY BE CITED AS THE MARYLAND REVISED ANATOMICAL
3 GIFT ACT.

4 Article – Health – General

5 5-408.

6 (a) (1) A person may not sell or buy any body or any part of a body that is
7 under the exclusive control of the Board.

8 (2) A person other than a nonprofit organization that qualifies under §
9 501(c)(3) of the Internal Revenue Code, may not sell, buy, or act as a broker for a profit
10 in the transfer of any human organ that:

11 (i) Is removed from a human body that is alive or dead at the
12 time of removal; and

13 (ii) Is not under the exclusive control of the Board.

14 (3) In this section, “human organ” does not include blood and plasma.

15 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a
16 person may not send, transport, or permit or cause to be sent or transported out of the
17 State any body or any part of a body that is under the exclusive control of the Board.

18 (2) The Board may authorize, by regulation, the transporting of
19 human specimens under its exclusive control to an out-of-state medical study
20 program, provided that:

21 (i) The needs of the schools of the State are met;

22 (ii) The requesting party demonstrates the need for a specimen;

23 (iii) The circumstances of the request are that:

24 1. No other sufficient source of specimens within the
25 requesting state exists; or

26 2. A preexisting organ tissue donation was made by an
27 individual in compliance with the [Uniform Donor Act] **MARYLAND REVISED**
28 **ANATOMICAL GIFT ACT**;

29 (iv) The requesting party bears the responsibility for
30 transporting and the specialized care of the specimen and all associated costs; and

1 (v) The Board retains the right of exclusive control of the
2 specimen including the final disposition when appropriate or necessary to fulfill an
3 obligation to return the remains of a donated specimen to the donor's family.

4 (3) The Board may authorize a physician, teacher, demonstrator, or
5 investigator of advanced human biological sciences to send or transport human
6 specimens out of the State for use by medical study programs.

7 5-604.1.

8 (a) An advance directive may contain a statement by a declarant that the
9 declarant consents to the gift of all or any part of the declarant's body for any one or
10 more of the purposes specified in Title 4, Subtitle 5 of the Estates and Trusts Article.

11 (b) Notwithstanding any other provision of law, an anatomical gift in an
12 advance directive is valid and effective for all purposes under Title 4, Subtitle 5 of the
13 Estates and Trusts Article, including the immunity from civil or criminal liability set
14 forth in [§ 4-508(b)] **§ 4-514** of the Estates and Trusts Article.

15 13-901.

16 (a) (1) There is an Organ and Tissue Donation Awareness Fund.

17 (2) The Fund consists of moneys collected under § 16-111.2(f) of the
18 Transportation Article.

19 (3) The Fund is a special, continuing, nonlapsing fund that is not
20 subject to § 7-302 of the State Finance and Procurement Article.

21 (4) The Treasurer shall separately hold and the Comptroller shall
22 account for the Fund.

23 (5) The Fund shall be invested and reinvested in the same manner as
24 other State funds.

25 (6) Any investment earnings shall be retained to the credit of the
26 Fund.

27 (b) (1) The Fund shall be managed and supervised by the Secretary or the
28 Secretary's designee.

29 (2) The Fund shall be used to promote public education and awareness
30 about organ, tissue, and eye donations and to fund the establishment, operation, and
31 maintenance of a donor registry as provided in [§ 4-512] **§ 4-516** of the Estates and
32 Trusts Article.

1 (3) The Fund shall be subject to audit by the Office of Legislative
2 Audits under Title 2, Subtitle 12 of the State Government Article.

3 19–310.

4 (a) (1) In this subsection, “designated requestor” means a hospital
5 employee who has completed a course offered by an organ, tissue, or eye recovery
6 agency on how to approach potential donor families and request organ or tissue
7 donation.

8 (2) (i) On or before the occurrence of each death in a hospital, the
9 hospital shall contact an appropriate organ, tissue, or eye recovery agency in order to
10 determine the patient’s suitability for organ, tissue, or eye donation.

11 (ii) The contact and its disposition shall be noted in the patient’s
12 medical record.

13 (3) (i) The appropriate organ, tissue, or eye recovery agency, in
14 consultation with the patient’s attending physician or the physician’s designee, shall
15 determine the patient’s suitability for organ, tissue, or eye donation.

16 (ii) If the organ, tissue, or eye recovery agency, in consultation
17 with the patient’s attending physician or the physician’s designee, determines that
18 donation is not appropriate based on established medical criteria, this determination
19 shall be noted by hospital personnel in the patient’s medical record and no further
20 action is necessary.

21 (iii) If the organ, tissue, or eye recovery agency, in consultation
22 with the patient’s attending physician or the physician’s designee, determines that the
23 patient is a suitable candidate for organ, tissue, or eye donation, a representative of
24 the appropriate organ, tissue, or eye recovery agency or a designated requestor shall
25 initiate a request under paragraph (4) of this subsection, if applicable.

26 (4) (i) Except as provided in [paragraph (10) of this subsection]
27 **THE MARYLAND REVISED ANATOMICAL GIFT ACT**, when an individual dies in a
28 hospital in accordance with § 5–202 of this article, a representative of the appropriate
29 organ, tissue, or eye recovery agency or a designated requestor shall request, with
30 [sensitivity, in the order of stated priority] **SENSITIVITY AND IN COMPLIANCE WITH**
31 **§ 4–507 OF THE ESTATES AND TRUSTS ARTICLE**, that the individual’s
32 representative consent to the donation of all or any of the decedent’s organs or tissues
33 as an anatomical donation if suitable.

34 (ii) For the purposes of subparagraph (i) of this paragraph, the
35 representative of the deceased individual is 1 of the following individuals listed in the
36 following order of priority:

1. A spouse or domestic partner, but, if not alive or not competent, then;
 2. A son or daughter who is at least 18 years old, but, if not alive, competent, or immediately available, then;
 3. A parent, but, if not alive, competent, or immediately available, then;
 4. A brother or sister who is at least 18 years old, but, if not alive or not competent, then;
 5. A guardian;
 6. A friend or other relative of the decedent, if the individual:
 - A. Is a competent individual; and
 - B. Presents an affidavit to the attending physician stating:
 - I. That the individual is a relative or close friend of the decedent; and
 - II. Specific facts and circumstances demonstrating that the individual maintained regular contact with the decedent sufficient to be familiar with the decedent's activities, health, and personal beliefs; or
 7. Any other person authorized or required to dispose of the body.
- (iii) 1. This paragraph does not apply if the decedent has given contrary directions.
2. The failure of the decedent to make a gift is not a contrary direction for purposes of this paragraph.
- (iv) Contrary directions given by the decedent under this paragraph shall be recorded in the decedent's medical record.]

(II) DIRECTIONS GIVEN BY A PERSON AUTHORIZED UNDER § 4-503 OF THE ESTATES AND TRUSTS ARTICLE TO MAKE, AMEND, REVOKE, OR REFUSE TO MAKE AN ANATOMICAL GIFT OF A DECEDENT'S BODY OR PARTS SHALL BE RECORDED IN THE DECEDENT'S MEDICAL RECORD.

1 [(v)](III) The representative of the appropriate organ, tissue, or
2 eye recovery agency or the designated requestor and the representative of the
3 deceased patient are entitled to protection from civil and criminal liability as provided
4 in [§ 4-508(b)] § 4-514 of the Estates and Trusts Article.

5 (5) In all discussions concerning donations of organs and tissues, the
6 representative of the appropriate organ, tissue, or eye recovery agency or the
7 designated requestor shall show reasonable discretion and sensitivity:

8 (i) To the circumstances of the family of the decedent;

9 (ii) To the religious beliefs of the decedent; and

10 (iii) To the nonsuitability for organ or tissue donation of the
11 decedent.

12 (6) (i) When a representative of the appropriate organ, tissue, or
13 eye recovery agency or a designated requestor makes a request under paragraph (4)(i)
14 of this subsection, the representative or designated requestor shall document the
15 request and its disposition [by having the appropriate individual described in
16 paragraph (4)(ii) of this subsection sign a consent form or give a witnessed telegraphic,
17 witnessed telephonic, or recorded consent to the donation] **AS REQUIRED BY § 4-508**
18 **OF THE ESTATES AND TRUSTS ARTICLE.**

19 (ii) Hospital personnel shall note the request and its disposition
20 in the decedent's medical record or death certificate.

21 (7) A hospital may not bill the estate of the decedent, a surviving
22 spouse or domestic partner of the decedent, any heirs of the decedent, or an insurer of
23 the decedent for the costs associated with the removal of all or any of the decedent's
24 organs or tissues for the purpose of an anatomical donation.

25 (8) After consultation with the Maryland Hospital Association, Inc.,
26 the Medical and Chirurgical Faculty of the State of Maryland, [the Transplant
27 Resource Center of Maryland, Inc.] **LIVING LEGACY FOUNDATION**, the Washington
28 Regional Transplant [Consortium] **COMMUNITY**, the Medical Eye Bank of Maryland,
29 [the Lions of District 22-C Eye Bank and Research Foundation, Incorporated,] the
30 Health Facilities Association of Maryland, and Tissue Banks International, the
31 Secretary shall publish guidelines designed to implement this subsection, including
32 guidelines:

33 (i) Requiring that, at or near the time of each individual death
34 in a hospital, the hospital contact by telephone an appropriate organ, tissue, or eye
35 recovery agency to determine the suitability of the individual for organ, tissue, and eye
36 donation;

1 (ii) Requiring that each hospital designate a person to make the
2 contact; and

3 (iii) Identifying the information that the person designated by
4 the hospital shall have available before making the contact.

5 (9) The provisions of this subsection shall in no way interfere with the
6 duties of the office of the Chief Medical Examiner. In sudden deaths under the
7 jurisdiction of the office of the Chief Medical Examiner as provided in § 5–309 of this
8 article, notification will be made to the office of the Chief Medical Examiner prior to
9 organ removal.

10 (10) The consent of the decedent’s representative is not necessary and
11 the provisions of paragraph (4) of this subsection do not apply [if:

12 (i) The decedent’s driver’s license or identification card contains
13 a notation that the decedent is an organ donor; or

14 (ii) The decedent has consented to the gift of all or any part of
15 the decedent’s body in accordance with the provisions of:

16 1. § 5–604.1 of this article; or

17 2. Title 4, Subtitle 5 of the Estates and Trusts Article] **IF**
18 **§ 4–506 OF THE ESTATES AND TRUSTS ARTICLE PRECLUDES THE DECEDENT’S**
19 **REPRESENTATIVE FROM MAKING AN ANATOMICAL GIFT.**

20 (11) A person who acts in good faith to recover organs or tissues in
21 accordance with a notation on the decedent’s driver’s license or identification card that
22 the decedent is an organ donor, a gift made in accordance with § 5–604.1 of this article
23 or Title 4, Subtitle 5 of the Estates and Trusts Article, or a gift made in accordance
24 with the anatomical gift laws of another state or country is immune from criminal
25 prosecution and liability for damages in any cause of action related to the recovery and
26 donation of the decedent’s organs or tissues.

27 (12) The Department shall conduct annual death record reviews at each
28 hospital to determine the hospital’s compliance with the provisions of this subsection.
29 The Department may delegate its duty to conduct annual death record reviews to the
30 appropriate organ, tissue, or eye recovery agency serving the region in which a
31 particular hospital is located.

32 Article – Transportation

33 12–303.

34 (a) The Administration shall provide for a method by which an applicant for
35 a driver’s license or identification card can designate that the applicant consents to the

1 gift of all body organs or parts for the purposes of transplantation, therapy, or medical
2 research and education.

3 (b) If an applicant designates that he is such a donor, the Administration
4 may make a notation of this fact on the driver's license or identification card issued to
5 the applicant.

6 (c) The donor designation noted on the driver's license or identification card:

7 (1) Is sufficient legal authority for the removal of a body organ or part
8 on the death of the donor; and

9 (2) May be removed only on written notice to the Administration by
10 the donor.

11 (d) Notwithstanding any other provision of law, the donor designation noted
12 on the driver's license or identification card is valid and effective for all purposes
13 under Title 4, Subtitle 5 of the Estates and Trusts Article, including the immunity
14 from civil or criminal liability set forth in [~~§ 4-508(b)~~] **§ 4-514** of the Estates and
15 Trusts Article.

16 (e) At the time the donor authorizes the donor designation to appear on his
17 driver's license or identification card, the Administration shall notify the donor that
18 the designation can be removed only on written notice to the Administration.

19 **[(f) (1) Except as provided in paragraph (2) of this subsection, a donor**
20 **designation under this section may not be made by or noted on the driver's license or**
21 **special identification card of any minor.**

22 (2) A donor designation under this section may be made by or noted on
23 the driver's license or special identification card of a minor who is at least 16 years old,
24 if a parent or guardian of the minor consents in writing.]

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2010.