

SENATE BILL 415

N2, D1, R4

5lr1708
CF HB 592

By: **Senators Kagan, Astle, Bates, Benson, Brochin, Cassilly, Conway, Currie, DeGrange, Eckardt, Edwards, Feldman, Ferguson, Guzzone, Hershey, Jennings, Kasemeyer, Kelley, King, Klausmeier, Lee, Madaleno, Manno, Mathias, McFadden, Middleton, Miller, Montgomery, Muse, Nathan-Pulliam, Norman, Peters, Pinsky, Pugh, Ramirez, Raskin, Ready, Reilly, Rosapepe, Salling, Serafini, Simonaire, Waugh, and Young**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action:

Read second time:

CHAPTER _____

1 AN ACT concerning

2 **State Donor Registry – Information and Methods of Registration – Clerks of**
3 **Circuit Courts, Registers of Wills, and Motor Vehicle Administration**
4 **(Enhancing Organ Donation Rates Act)**

5 FOR the purpose of requiring the clerks of the circuit courts and registers of wills to ~~provide~~
6 ~~a method by which certain individuals can register with the State donor registry for~~
7 ~~a certain purpose; requiring, under certain circumstances, the clerks of the circuit~~
8 ~~courts and the registers of wills to transfer certain information received by the clerks~~
9 ~~of the circuit courts or registers of wills to the State donor registry; requiring the~~
10 ~~clerks of the circuit courts and registers of wills to notify certain individuals that a~~
11 ~~certain registration will remain effective until the individual makes a certain request~~
12 make available to the public information about registering with the State donor
13 registry; requiring the Motor Vehicle Administration to provide a method by which
14 an individual doing business with the Administration can register as a donor with
15 the State donor registry for a certain purpose and select to have a donor designation
16 on the individual's driver's license or identification card, rather than providing a
17 method by which an applicant for a driver's license or identification card can
18 designate that the applicant consents to a certain gift; making conforming changes;
19 and generally relating to information about, and methods of registering with, the
20 State donor registry.

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.



1 BY adding to
 2 Article – Courts and Judicial Proceedings
 3 Section 2–214
 4 Annotated Code of Maryland
 5 (2013 Replacement Volume and 2014 Supplement)

6 BY adding to
 7 Article – Estates and Trusts
 8 Section 2–213
 9 Annotated Code of Maryland
 10 (2011 Replacement Volume and 2014 Supplement)

11 BY repealing and reenacting, ~~with~~ without amendments,
 12 Article – Estates and Trusts
 13 Section 4–516
 14 Annotated Code of Maryland
 15 (2011 Replacement Volume and 2014 Supplement)

16 BY repealing and reenacting, with amendments,
 17 Article – Transportation
 18 Section 12–303
 19 Annotated Code of Maryland
 20 (2012 Replacement Volume and 2014 Supplement)

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

23 **Article – Courts and Judicial Proceedings**

24 **2–214.**

25 ~~(A) A CLERK OF A CIRCUIT COURT SHALL PROVIDE A METHOD BY WHICH AN~~
 26 ~~INDIVIDUAL WHO APPLIES FOR A LICENSE UNDER § 2-402 OF THE FAMILY LAW~~
 27 ~~ARTICLE CAN REGISTER WITH THE STATE DONOR REGISTRY ESTABLISHED UNDER~~
 28 ~~§ 4-516 OF THE ESTATES AND TRUSTS ARTICLE FOR THE PURPOSE OF MAKING A~~
 29 ~~GIFT OF ALL BODY ORGANS OR PARTS FOR THE PURPOSES OF TRANSPLANTATION,~~
 30 ~~THERAPY, OR MEDICAL RESEARCH AND EDUCATION.~~

31 ~~(B) IF AN INDIVIDUAL SELECTS TO REGISTER WITH THE STATE DONOR~~
 32 ~~REGISTRY UNDER SUBSECTION (A) OF THIS SECTION, A CLERK OF A CIRCUIT COURT~~
 33 ~~SHALL TRANSFER ALL APPLICABLE INFORMATION RECEIVED BY THE CLERK OF THE~~
 34 ~~CIRCUIT COURT TO THE STATE DONOR REGISTRY.~~

35 ~~(C) A CLERK OF A CIRCUIT COURT SHALL NOTIFY AN INDIVIDUAL WHO~~
 36 ~~SELECTS TO REGISTER WITH THE STATE DONOR REGISTRY THAT THE~~

~~REGISTRATION WILL REMAIN EFFECTIVE UNTIL THE INDIVIDUAL REQUESTS THAT THE INDIVIDUAL BE REMOVED FROM THE STATE DONOR REGISTRY BY REQUESTING THE REMOVAL THROUGH A CLERK OF A CIRCUIT COURT, THE STATE DONOR REGISTRY, OR THE MOTOR VEHICLE ADMINISTRATION.~~

A CLERK OF A CIRCUIT COURT SHALL MAKE AVAILABLE TO THE PUBLIC INFORMATION ABOUT REGISTERING WITH THE STATE DONOR REGISTRY.

Article – Estates and Trusts

2-213.

~~(A) A REGISTER SHALL PROVIDE A METHOD BY WHICH AN INDIVIDUAL WHO IS DEPOSITING A WILL UNDER § 4-201 OF THIS ARTICLE OR DELIVERING A WILL UNDER § 4-202 OF THIS ARTICLE TO REGISTER WITH THE STATE DONOR REGISTRY ESTABLISHED UNDER § 4-516 OF THIS ARTICLE FOR THE PURPOSE OF MAKING A GIFT OF ALL BODY ORGANS OR PARTS FOR THE PURPOSES OF TRANSPLANTATION, THERAPY, OR MEDICAL RESEARCH AND EDUCATION.~~

~~(B) IF AN INDIVIDUAL SELECTS TO REGISTER WITH THE STATE DONOR REGISTRY UNDER SUBSECTION (A) OF THIS SECTION, THE REGISTER SHALL TRANSFER ALL APPLICABLE INFORMATION RECEIVED BY THE REGISTER TO THE STATE DONOR REGISTRY.~~

~~(C) THE REGISTER SHALL NOTIFY AN INDIVIDUAL WHO SELECTS TO REGISTER WITH THE STATE DONOR REGISTRY THAT THE REGISTRATION WILL REMAIN EFFECTIVE UNTIL THE INDIVIDUAL REQUESTS THAT THE INDIVIDUAL BE REMOVED FROM THE STATE DONOR REGISTRY BY REQUESTING THE REMOVAL THROUGH THE REGISTER, THE STATE DONOR REGISTRY, OR THE MOTOR VEHICLE ADMINISTRATION.~~

A REGISTER SHALL MAKE AVAILABLE TO THE PUBLIC INFORMATION ABOUT REGISTERING WITH THE STATE DONOR REGISTRY.

4-516.

(a) In this section, “qualified nonprofit entity” means a procurement organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code or an entity exempt from taxation under § 501(c)(3) of the Internal Revenue Code that actively functions in a supporting relationship to one or more procurement organizations if the procurement organization or other entity has a board of directors whose members are experienced in:

- (1) Organ, tissue, and eye donation;
- (2) Working with donors and donor families; and

1 (3) Educating the public about the importance of the process of organ,
2 tissue, and eye donation.

3 (b) (1) The Secretary of Health and Mental Hygiene shall contract with a
4 qualified nonprofit entity for the establishment, maintenance, and operation of a donor
5 registry.

6 (2) The Secretary of Health and Mental Hygiene shall use funds from the
7 Organ and Tissue Donation Awareness Fund established under Title 13, Subtitle 9 of the
8 Health – General Article or any other funds as may be appropriate to compensate the
9 nonprofit entity contracted with under paragraph (1) of this subsection for the reasonable
10 cost of establishing, maintaining, and operating the donor registry, including the
11 reasonable cost of public education programs to increase public awareness about the
12 existence and purpose of the registry and organ, tissue, and eye donation.

13 (c) The Motor Vehicle Administration, ~~EACH REGISTER OF WILLS, AND EACH~~
14 ~~CLERK OF A CIRCUIT COURT~~ shall cooperate with the qualified nonprofit entity
15 contracted with under subsection (b)(1) of this section for the purpose of transferring to the
16 donor registry all relevant information regarding a donor's making, amending of, or
17 revoking of an anatomical gift.

18 (d) A donor registry shall be accessible 24 hours a day and 7 days a week to allow:

19 (1) A donor to include on the donor registry a statement or symbol that the
20 donor has made or amended an anatomical gift;

21 (2) A donor to revoke an anatomical gift; or

22 (3) A procurement organization to obtain relevant information on the donor
23 registry to determine, at the death or imminent death of a donor or a prospective donor,
24 whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

25 (e) Personally identifiable information on a donor registry about a donor or
26 prospective donor may not be used or disclosed without the express consent of the donor,
27 prospective donor, or person that made the anatomical gift for any purpose other than to
28 determine, at the death or imminent death of the donor or prospective donor, whether the
29 donor or prospective donor has made or amended an anatomical gift.

30 (f) (1) This section does not prohibit a person from creating or maintaining a
31 donor registry that is not established by or under contract with the State.

32 (2) A registry that is not established by or under contract with the State
33 shall comply with subsections (d) and (e) of this section.

1 12-303.

2 (a) (1) The Administration shall provide for a method by which [an applicant
3 for a driver's license or identification card] **AN INDIVIDUAL DOING BUSINESS WITH THE**
4 **ADMINISTRATION** can [designate that the applicant consents to the]:

5 (I) **REGISTER AS A DONOR WITH THE STATE DONOR REGISTRY**
6 **ESTABLISHED UNDER § 4-516 OF THE ESTATES AND TRUSTS ARTICLE FOR THE**
7 **PURPOSE OF MAKING A** gift of all body organs or parts for the purposes of transplantaion,
8 therapy, or medical research and education; **AND**

9 (II) **SELECT TO HAVE A DONOR DESIGNATION ON THE**
10 **INDIVIDUAL'S DRIVER'S LICENSE OR IDENTIFICATION CARD.**

11 (2) **THE ADMINISTRATION MAY NOT REQUIRE AN INDIVIDUAL WHO**
12 **REGISTERS WITH THE STATE DONOR REGISTRY UNDER PARAGRAPH (1)(I) OF THIS**
13 **SUBSECTION TO HAVE A DONOR DESIGNATION ON THE INDIVIDUAL'S DRIVER'S**
14 **LICENSE OR IDENTIFICATION CARD.**

15 (b) If an [applicant] **INDIVIDUAL** selects **TO HAVE A DONOR** designation [as a
16 donor] **ON THE INDIVIDUAL'S DRIVER'S LICENSE OR IDENTIFICATION CARD** under
17 subsection [(a)] **(A)(1)** of this section, the Administration shall make a notation of this fact
18 on [the] **A driver's license or identification card** issued to the [applicant] **INDIVIDUAL.**

19 (c) The Administration shall notify an [applicant] **INDIVIDUAL** who selects
20 [designation] **TO REGISTER** as a donor that [the designation]:

21 (1) [Will] **THE REGISTRATION WILL** remain effective until the
22 [applicant] **INDIVIDUAL** requests that the [designation] **INDIVIDUAL** be removed **FROM**
23 **THE STATE DONOR REGISTRY;** and

24 (2) [May be removed by the applicant] **THE INDIVIDUAL MAY REQUEST**
25 **TO BE REMOVED FROM THE STATE DONOR REGISTRY:**

26 (i) [By] **IF THE INDIVIDUAL SELECTED TO HAVE A DONOR**
27 **DESIGNATION ON THE INDIVIDUAL'S DRIVER'S LICENSE OR IDENTIFICATION CARD,**
28 **BY** requesting a replacement driver's license or identification card:

29 1. Through the Administration's Web site; or

30 2. In person at any full-service Administration office; [or]

31 (II) **BY REQUESTING TO BE REMOVED WHEN DOING BUSINESS**
32 **WITH THE ADMINISTRATION; OR**

1 [(ii)] (iii) Through the State donor registry [established under §
2 4–516 of the Estates and Trusts Article].

3 (d) Unless **AN INDIVIDUAL WHO SELECTED TO HAVE A DONOR DESIGNATION**
4 **ON THE INDIVIDUAL’S DRIVER’S LICENSE OR IDENTIFICATION CARD IS** removed
5 **FROM THE STATE DONOR REGISTRY** as provided in subsection (c)(2) of this section, the
6 Administration shall note [an applicant’s] **THE INDIVIDUAL’S DONOR** designation [as a
7 donor] on all subsequently issued drivers’ licenses or identification cards.

8 (e) [The] A donor designation noted on [the] A driver’s license or identification
9 card:

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

12 (2) Notwithstanding any other provision of law, is valid and effective for all
13 purposes under Title 4, Subtitle 5 of the Estates and Trusts Article, including the immunity
14 from civil or criminal liability set forth in § 4–514 of the Estates and Trusts Article.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2015.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.