



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5525

by Rep. Nathan D. Reitz

SYNOPSIS AS INTRODUCED:

215 ILCS 5/155.46
755 ILCS 50/5-15
755 ILCS 50/5-47

was 755 ILCS 50/4.5

Amends the Illinois Insurance Code. Provides that the Department of Insurance shall: provide information to the public on the access to insurance for a living organ donor; and make any received materials related to live organ donation from a recognized live organ procurement organization available to the public. Amends the Illinois Anatomical Gift Act. Provides that a person with a physical or mental disability is not required to demonstrate postoperative independent living abilities in order to have access to a transplant if there is evidence that the person will have sufficient, compensatory support and assistance. Provides that if the Secretary of State receives materials related to live organ donation from a recognized live organ procurement organization, the Secretary shall make the materials available to the public. Provides that the Secretary may seek and accept gifts, grants, or donations from private or public sources. Makes other changes.

LRB101 20515 LNS 70117 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 155.46 as follows:

6 (215 ILCS 5/155.46)

7 Sec. 155.46. Prohibition on denial of coverage or increase
8 in premiums for living organ donors; information to public on
9 insurance for living organ donors.

10 (a) As used in this Section:

11 "Human organ" means all or part of a human's liver,
12 pancreas, kidney, intestine, lung, blood, plasma, skin, or bone
13 marrow.

14 "Living organ donor" means an individual who has donated
15 all or part of a human organ and is not deceased.

16 "Disability insurance policy" means a contract under which
17 an entity promises to pay a person a sum of money if an illness
18 or injury resulting in a disability prevents that person from
19 working.

20 "Life insurance policy" means a contract under which an
21 entity promises to pay a designated beneficiary a sum of money
22 upon the death of the insured.

23 "Long-term care insurance policy" means a contract for

1 which the only insurance protection provided under the contract
2 is coverage of qualified long-term care services.

3 (b) Notwithstanding any other provision of law, it is
4 unlawful to refuse to insure, to refuse to continue to insure,
5 to limit the amount, extent, or kind of coverage available for
6 life insurance, disability insurance, or long-term care
7 insurance to an individual, or to charge an individual a
8 different rate for the same coverage, solely, and without any
9 additional actuarial risks, because of the individual's status
10 as a living organ donor.

11 (c) With respect to all other conditions, persons who are
12 living organ donors shall be subject to the same standards of
13 sound actuarial principles or actual or reasonably anticipated
14 experience as are persons who are not organ donors.

15 (d) The Department shall provide information to the public
16 on the access to insurance for a living organ donor. If the
17 Department receives materials related to live organ donation
18 from a recognized live organ procurement organization, the
19 Department shall make the materials available to the public.

20 (Source: P.A. 101-179, eff. 1-1-20.)

21 Section 10. The Illinois Anatomical Gift Act is amended by
22 changing Sections 5-15 and 5-47 as follows:

23 (755 ILCS 50/5-15) (was 755 ILCS 50/4.5)

24 Sec. 5-15. Disability of recipient.

1 (a) No hospital, physician and surgeon, procurement
2 organization, or other person shall determine the ultimate
3 recipient of an anatomical gift based upon a potential
4 recipient's physical or mental disability, except to the extent
5 that the physical or mental disability has been found by a
6 physician and surgeon, following a case-by-case evaluation of
7 the potential recipient, to be medically significant to the
8 provision of the anatomical gift.

9 (b) Subsection (a) shall apply to each part of the organ
10 transplant process, including, but not limited to:

11 (1) the referral from a primary care provider to a
12 specialist;

13 (2) the referral from a specialist to a transplant
14 center;

15 (3) the evaluation of the patient for the transplant by
16 the transplant center; and

17 (4) the consideration of the patient for placement on
18 an official waiting list.

19 (b-5) A person with a physical or mental disability is not
20 required to demonstrate postoperative independent living
21 abilities in order to have access to a transplant if there is
22 evidence that the person will have sufficient, compensatory
23 support and assistance.

24 (c) The court shall accord priority on its calendar and
25 handle expeditiously any action brought to seek any remedy
26 authorized by law for purposes of enforcing compliance with

1 this Section.

2 (d) This Section shall not be deemed to require referrals
3 or recommendations for or the performance of medically
4 inappropriate organ transplants.

5 (e) As used in this Section "disability" has the same
6 meaning as in the federal Americans with Disabilities Act of
7 1990 (42 U.S.C. 12101 et seq., Public Law 101-336) as may be
8 amended from time to time.

9 (Source: P.A. 98-172, eff. 1-1-14.)

10 (755 ILCS 50/5-47)

11 Sec. 5-47. Rights and duties of procurement organizations,
12 the Secretary of State, and others.

13 (a) When a hospital refers an individual at or near death
14 to a procurement organization, the organization shall make a
15 reasonable search of the records of the Secretary of State and
16 any donor registry that it knows exists for the geographical
17 area in which the individual resides to ascertain whether the
18 individual has made an anatomical gift.

19 (b) A procurement organization shall be allowed reasonable
20 access to information in the records of the Secretary of State
21 to ascertain whether an individual at or near death is a donor.
22 If the individual is a donor who is an unemancipated minor, the
23 procurement organization shall conduct a reasonable search for
24 a parent or guardian of the donor and shall provide the parent
25 or guardian with an opportunity to amend or revoke the

1 anatomical gift of the donor's body.

2 (c) Unless prohibited by law other than this Act, at any
3 time after a donor's death, the person to which a part passes
4 under Section 5-12 may conduct any reasonable examination
5 necessary to ensure the medical suitability of the body or part
6 for its intended purpose.

7 (d) Unless prohibited by law other than this Act, an
8 examination under subsection (c) may include an examination of
9 all medical and dental records of the donor or prospective
10 donor.

11 (e) Upon referral by a hospital under subsection (a) of
12 this Section, a procurement organization shall make a
13 reasonable search for any person listed in subsection (b) of
14 Section 5-5 having priority to make an anatomical gift on
15 behalf of a prospective donor. If a procurement organization
16 receives information that an anatomical gift to any other
17 person was made, amended, or revoked, it shall promptly advise
18 the other person of all relevant information.

19 (f) Subject to subsection (i) of Section 5-12, the rights
20 of the person to which a part passes under Section 5-12 are
21 superior to the rights of all others with respect to the part.
22 The person may accept or reject an anatomical gift in whole or
23 in part. Subject to the terms of the document of gift and this
24 Act, a person who accepts an anatomical gift of an entire body
25 may allow embalming, burial or cremation, and use of remains in
26 a funeral service. If the gift is of a part, the person to

1 which the part passes under Section 5-12, upon the death of the
2 donor and before embalming, burial, or cremation, shall cause
3 the part to be removed without unnecessary mutilation.

4 (g) Neither the physician who attends the decedent at death
5 nor the physician who determines the time of the decedent's
6 death may participate in the procedures for removing or
7 transplanting a part from the decedent.

8 (h) A physician or technician may remove a donated part
9 from the body of a donor that the physician or technician is
10 qualified to remove.

11 (i) Not later than July 1, 2020, the Secretary of State
12 shall create a database consisting of all individuals who have
13 consented to having their names included in the First Person
14 Consent organ and tissue donor registry maintained by the
15 Secretary of State pursuant to Section 6-117 of the Illinois
16 Vehicle Code. This database shall include identifying
17 information for each individual, including, where available,
18 the individual's name, address, gender, date of birth, driver's
19 license or identification card number, social security number
20 only if the donor does not have a driver's license or
21 identification card number, and date of consent to join the
22 registry. The Secretary of State shall update the database not
23 less often than every 7 days. Upon executing a data access
24 agreement with the Secretary of State, an organ procurement
25 organization, as defined in this Act, providing services in the
26 State of Illinois shall be granted online access to the

1 database for the purpose of determining whether a potential
2 organ and tissue donor is included in the First Person Consent
3 organ and tissue donor registry.

4 The organ procurement organization shall indemnify and
5 hold harmless the State of Illinois, its officials, and
6 employees for any judgments, assessments, damages, fines,
7 fees, and legal costs arising out of the acts, omissions,
8 decisions, or other conduct of the organ procurement
9 organization and its officials, employees, and agents in the
10 use of the database.

11 (j) If the Secretary of State receives materials related to
12 live organ donation from a recognized live organ procurement
13 organization, the Secretary of State shall make the materials
14 available to the public. The Secretary of State may seek and
15 accept gifts, grants, or donations from private or public
16 sources for the purposes of this subsection. The Secretary of
17 State may adopt rules as necessary for the implementation of
18 this subsection.

19 (Source: P.A. 100-41, eff. 1-1-18; 101-179, eff. 1-1-20.)