



HOUSE BILL 71: Living Donor Protection Act.

2021-2022 General Assembly

Committee:	House Finance. If favorable, re-refer to Insurance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	June 2, 2021
Introduced by:	Reps. Shepard, Hurley, Morey, Potts	Prepared by:	Trina Griffin
Analysis of:	PCS to Second Edition H71-CSSVf-18		Staff Attorney

OVERVIEW: *House Bill 71 would provide insurance protections and a tax credit for individuals who are living organ donors, including bone marrow, and it would provide paid leave for State employees and State-supported personnel who are living organ or bone marrow donors. The PCS makes technical and clarifying changes.*

BILL ANALYSIS: House Bill 71 contains three components to support and protect live organ and bone marrow donors.

Insurance Protections – Section 1 of the bill would prohibit an insurer from discriminating against an individual based solely on their status as a living organ donor. The following actions would be *prohibited* based solely, and without any additional actuarial risks, on an individual's status as a living organ donor: refusing to insure or to continue to insure; limiting the amount, extent, or kind of coverage available; charging a different amount for the same coverage; otherwise discriminating against the individual in the offering, insurance, cancellation, price, conditions or in the amount of coverage under a policy. For purposes of this statute, a living organ donor is defined as a living individual who donates one or more of that individual's human organs, including bone marrow, to be medically transplanted into the body of another individual.

This section is effective 30 days after it becomes law and applies to insurance contracts issued, renewed, or amended on or after that date.

Tax Credit – Section 2 of the bill would provide to a taxpayer who makes a live organ donation or who claims as a dependent a person who makes a live organ donation, a tax credit for expenses incurred due to the donation. The credit would be equal to the lesser of the expenses incurred or \$5,000. Qualifying expenses would be lost wages, transportation, lodging, and meals that are directly related to the procedure itself or are incurred due to evaluation, recovery, follow-ups, or rehospitalization associated with the procedure. A human organ under this section is defined as human bone marrow, or any organ of a human including intestine, kidney, liver, lung, or pancreas. A taxpayer would not be permitted to take a medical expense deduction for the same expenses in addition to the credit.

This section is effective for taxable years beginning on or after January 1, 2021.

Paid Leave for State Employees and State-supported personnel – Section 3 of the bill would require paid leave for State employees and State-supported personnel for organ donation. The paid leave would be available without requiring the employee to exhaust sick and vacation leave; is in addition to shared leave and other leave authorized by federal or State law; cannot be used for retirement purposes; and has

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no cash value upon termination of employment. The State Human Resources Commission is required to adopt rules and policies to allow full-time and part-time permanent State employees up to 30 days of paid leave for organ donation and up to 7 days for bone marrow donation, in addition to other leave. The section specifically provides that in addition to State employees, the leave would be available to State-supported personnel and the appropriate governing boards must adopt rules accordingly. The statutes outlining employees subject to the State Human Resources Chapter are amended to clarify that this new leave applies to State employees, public school employees, and community college employees. Beginning April 1, 2022, the State Human Resources Commission, the State Board of Education, the State Board of Community Colleges, and all State agencies, departments, and institutions must annually report on the paid organ donation leave program to the Office of State Human Resources.

This section would become effective when it becomes law.

EFFECTIVE DATE: Except as otherwise provided, this bill would become effective when it becomes law.

BACKGROUND: Organ and tissue donation: Individuals can be deceased organ donors or living donors. According to [Organdonor.gov](https://organdonor.gov) 39,000 transplants were performed in 2020, 17 people die each day waiting for an organ transplant, and over 107,000 men, women, and children were on the national transplant waiting list in February 2021. This government entity reports that 4 out of 10 organ and tissue donations, or nearly 6,000, per year are from living donors who on average do very well, but questions remain about the effects of stress on the remaining organ and the National Institutes of Health is conducting a study on the long-term outcomes for living donors. More information on the living donation process can be found [here](#). According to the [American Transplant Foundation](https://www.americantransplantfoundation.org), as of March 12, 2020, 12 states had enacted living donor protection laws and 39 states had paid leave laws for living donors (including those who donate bone marrow). Approximately 4 states offer tax credits and 16 provide a tax deduction for live organ donation expenses.

Bone Marrow Donation: According to the [Health Resources & Services Administration](https://www.hrsa.gov), bone marrow transplant or umbilical cord blood transplant is a treatment option that replaces a patient's unhealthy blood-forming cells with healthy cells. Bone marrow transplants are used to treat blood cancers, sickle cell anemia and other diseases. Donation and transplantation statistics and donor registry data can be found [here](#). Volunteer donors must be between the ages of 18 and 60 and the [Be The Match](https://www.bethematch.org) registry describes itself as managing "the largest and most diverse marrow registry in the world."

Laws in other states: The [American Transplant Association](https://www.americantransplantassociation.org) provides information on donor [laws](#) in other states.

Theresa Matula, Legislative Analyst, substantially contributed to this summary.