

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0800.01 Brita Darling x2241

HOUSE BILL 24-1132

HOUSE SPONSORSHIP

Rutinel and Bradfield,

SENATE SPONSORSHIP

Buckner,

House Committees

Health & Human Services
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING COMPREHENSIVE SUPPORT FOR ORGAN DONATION BY**
102 **LIVING ORGAN DONORS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill creates the "CARE for Living Organ Donors Act" (act) to include benefits and recognition for living organ donors. The act includes:

- A list of provisions in current law, as well as in the bill, that may benefit a living organ donor;
- Certification of living organ donors by the department of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

public health and environment to allow living organ donors to verify their status as living organ donors, which may be required for a benefit or recognition;

- Authorization for a health-care provider to make a qualified payment to a certified living organ donor or an individual who will become a certified living organ donor for expenses associated with a living organ donation; and
- Before performing an organ donation recovery operation on a living organ donor donating an organ without an intended recipient, a requirement that a transplant center participate in a national-level organ voucher program or have its own internal organ voucher program that satisfies specified requirements.

Section 3 prohibits an employer from intimidating, threatening, coercing, discriminating, or retaliating against or taking an adverse action against an employee who is or becomes a living organ donor.

Section 5 designates April 11 each year as "Living Organ Donor Recognition Day".

Sections 6 and 7 create:

- The organ donation qualified payment tax credit, which allows a health-care provider that makes a qualified payment to a certified living organ donor for certain expenses related to organ donation to claim a refundable credit equal to the total amount of the qualified payment; and
- The living organ donor tax credit, which allows a certified living organ donor to claim a refundable credit equal to the total amount of qualified expenses the donor incurred in connection with an organ donation, up to \$40,000.

Sections 8 and 9 create a distinctive special license plate for living organ donors featuring the statement "Living Organ Donor".

Sections 2 and 4 of the bill make technical amendments to or relocate current law.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add with amended**
3 **and relocated provisions** article 59 to title 25 as follows:

4 **ARTICLE 59**

5 **Living Organ Donation**

6 **25-59-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 59 IS

1 THE "COMPREHENSIVE ASSISTANCE, RECOGNITION, AND EMPOWERMENT
2 (CARE) FOR LIVING ORGAN DONORS ACT" OR "CARE FOR LIVING
3 ORGAN DONORS ACT".

4 **25-59-102. Legislative declaration.** (1) THE GENERAL ASSEMBLY
5 FINDS AND DECLARES THAT:

6 (a) THE EXTRAORDINARY GIFT OF LIVING ORGAN DONATION HAS
7 A TRANSFORMATIVE IMPACT ON A RECIPIENT'S LIFE, OFTEN PROVIDING A
8 REPRIEVE FROM EXHAUSTIVE MEDICAL TREATMENTS AND SIGNIFICANTLY
9 IMPROVING THE QUALITY AND LENGTH OF LIFE OF THE RECIPIENT;

10 (b) DESPITE THE COMMENDABLE RISE IN LIVING ORGAN
11 DONATIONS, A CRITICAL SHORTAGE REMAINS, WITH COUNTLESS
12 INDIVIDUALS ON TRANSPLANT WAITING LISTS. THIS SITUATION CAN BE
13 AMELIORATED BY FACILITATING THE DONATION PROCESS AND PROVIDING
14 ROBUST SUPPORT TO DONORS.

15 (c) LIVING ORGAN DONORS WILLINGLY ACCEPT THE PERSONAL AND
16 MEDICAL BURDENS ASSOCIATED WITH THE ORGAN DONATION PROCESS,
17 INCLUDING UNDERGOING COMPREHENSIVE AND INVASIVE MEDICAL
18 EVALUATIONS, FACING THE INHERENT RISKS OF SURGERIES, AND ENDURING
19 THE PHYSICAL AND EMOTIONAL CHALLENGES OF POSTOPERATIVE
20 RECOVERY;

21 (d) LIVING ORGAN DONORS MAY BE REQUIRED TO MAKE
22 SUBSTANTIAL FINANCIAL SACRIFICES, INCLUDING SUFFERING A LOSS OF
23 INCOME DURING RECOVERY, INCURRING EXPENSES FOR TRAVEL,
24 ACCOMMODATIONS, AND CHILD CARE OR ELDER CARE DURING
25 HOSPITALIZATION OR RECOVERY, AND FACING THE POTENTIAL FOR
26 LONG-TERM FINANCIAL IMPLICATIONS RELATED TO MEDICAL CARE;

27 (e) NOTWITHSTANDING THE WILLINGNESS OF DONORS TO

1 CONTRIBUTE TO THE PUBLIC GOOD, THE POTENTIAL FOR EMPLOYMENT
2 DISCRIMINATION AND RETALIATION POST-DONATION, INCLUDING JOB
3 INSECURITY, DEMOTIONS, OR UNWARRANTED DISCIPLINARY ACTIONS, CAN
4 BE A SIGNIFICANT DETERRENT TO PROSPECTIVE LIVING ORGAN DONORS;

5 (f) THERE ARE SIGNIFICANT SOCIETAL BENEFITS TO FACILITATING
6 LIVING ORGAN DONATION, WHICH NOT ONLY SAVES LIVES, BUT ALSO
7 REDUCES THE OVERALL HEALTH-CARE COSTS ASSOCIATED WITH
8 LONG-TERM TREATMENTS FOR END-STAGE ORGAN DISEASE, SUCH AS
9 DIALYSIS FOR KIDNEY FAILURE, THAT ARE OFTEN MORE COSTLY AND LESS
10 EFFECTIVE THAN TRANSPLANTATION;

11 (g) IT IS WITHIN THE POWER AND RESPONSIBILITY OF THE GENERAL
12 ASSEMBLY TO ENACT MEASURES THAT ALLEVIATE THE BURDENS BORNE BY
13 LIVING ORGAN DONORS AND TO ENSURE THAT THEY ARE NOT PENALIZED
14 OR PLACED AT A DISADVANTAGE FOR THEIR ALTRUISTIC ACTS;

15 (h) BY SUPPORTING LIVING ORGAN DONORS, COLORADO NOT ONLY
16 INVESTS IN THE HEALTH AND WELL-BEING OF ITS CITIZENS, BUT ALSO
17 FOSTERS A CULTURE OF GENEROSITY AND CIVIC RESPONSIBILITY,
18 PROMOTING THE WELFARE OF THE COMMUNITY AT LARGE; AND

19 (i) COLORADO'S COMMITMENT TO PROVIDING COMPREHENSIVE
20 SUPPORT, INCLUDING EMPLOYMENT PROTECTIONS AND THE REMOVAL OF
21 FINANCIAL BARRIERS, IN ADDITION TO OTHER EFFORTS THAT RECOGNIZE
22 A LIVING ORGAN DONOR'S PERSONAL AND FINANCIAL SACRIFICE,
23 EMPOWERS MORE COLORADANS TO CONSIDER THE NOBLE ACT OF LIVING
24 ORGAN DONATION.

25 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT
26 THE ENACTMENT OF THE "CARE FOR LIVING ORGAN DONORS ACT" WILL
27 ADDRESS THE CRITICAL NEEDS OF LIVING ORGAN DONORS, PROVIDE

1 NECESSARY PROTECTIONS FOR LIVING ORGAN DONORS, REMOVE BARRIERS
2 TO LIVING ORGAN DONATION, AND HONOR THOSE INDIVIDUALS WHO
3 UNDERTAKE THIS GENEROUS ACT OF LIVING ORGAN DONATION THAT
4 ULTIMATELY BENEFITS SOCIETY BY INCREASING THE AVAILABILITY OF
5 ORGANS FOR TRANSPLANTATION AND AFFIRMING COLORADO'S
6 COMMITMENT TO THE HEALTH AND DIGNITY OF ITS RESIDENTS.

7 **25-59-103. Definitions.** AS USED IN THIS ARTICLE 59, UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

9

10 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
11 AND ENVIRONMENT.

12 (2) "HEALTH-CARE PROVIDER" MEANS A HOSPITAL OR OTHER
13 HEALTH FACILITY LICENSED OR CERTIFIED PURSUANT TO SECTION
14 25-1.5-103 (1)(a).

15 (3) "HEALTH-CARE SERVICES RELATED TO LIVING ORGAN
16 DONATION" MEANS AN ORGAN DONATION RECOVERY OPERATION AND ALL
17 SERVICES REQUIRED BEFORE AND AFTER THE OPERATION.

18 (4) "LIVING ORGAN DONATION" MEANS THE DONATION OF AN
19 ORGAN BY A LIVING ORGAN DONOR.

20 (5) "LIVING ORGAN DONOR" MEANS A LIVING INDIVIDUAL WHO
21 HAS DONATED ALL OR PART OF AN ORGAN.

22 (6) "MAJOR SURGERY" MEANS A:

23 (a) SURGICAL INTERVENTION THAT PENETRATES OR EXPOSES A
24 BODY CAVITY;

25 (b) PROCEDURE THAT HAS THE POTENTIAL FOR INDUCING
26 PERMANENT ANATOMIC OR PHYSIOLOGIC IMPAIRMENT; OR

27 (c) PROCEDURE ASSOCIATED WITH ORTHOPEDICS OR EXTENSIVE

1 TISSUE DISSECTION OR TRANSECTION.

2

3 (7) "NONDIRECTED LIVING ORGAN DONOR" MEANS A LIVING
4 ORGAN DONOR WHO DOES NOT HAVE AN INTENDED RECIPIENT OF THE
5 DONATED ORGAN AT THE TIME OF THE DONATION.

6 (8) "ORGAN" MEANS ALL OR PART OF A KIDNEY, A LUNG, THE
7 LIVER, THE PANCREAS, THE INTESTINE, OR ANY OTHER ORGAN THAT
8 REQUIRES MAJOR SURGERY TO BE DONATED AND THAT, WHEN DONATED,
9 MAY LEAD TO A LIFE-SAVING ORGAN DONATION, AS DETERMINED BY THE
10 DEPARTMENT.

11 (9) "ORGAN DONATION RECOVERY OPERATION" MEANS A
12 PROCEDURE TO RECOVER AN ORGAN FROM A LIVING ORGAN DONOR.

13 (10) "ORGAN VOUCHER PROGRAM" MEANS A PROGRAM, AS
14 DEFINED BY EACH ORGANIZATION OFFERING A PROGRAM, THAT ALLOWS
15 A NONDIRECTED LIVING ORGAN DONOR TO DESIGNATE INDIVIDUALS TO BE
16 VOUCHER HOLDERS WHO WILL BE PRIORITIZED FOR A VIABLE ORGAN
17 TRANSPLANT FROM ANOTHER NONDIRECTED LIVING ORGAN DONOR IF THE
18 VOUCHER HOLDER IS PLACED ON A TRANSPLANT WAITING LIST AND
19 ANOTHER VOUCHER HOLDER HAS NOT ALREADY REDEEMED A VOUCHER.

20

21 (11) "TRANSPLANT CENTER" MEANS A HEALTH-CARE PROVIDER
22 THAT PERFORMS ORGAN DONATION RECOVERY OPERATIONS OR
23 TRANSPLANTATION OF ORGANS RECOVERED FROM A LIVING ORGAN
24 DONOR.

25 **25-59-104. Organ donation - benefits and recognition -**
26 **legislative declaration.** (1) LIVING ORGAN DONORS MAY BENEFIT FROM
27 THE FOLLOWING:

1 (a) PURSUANT TO SECTION 8-2-132, A PROHIBITION AGAINST AN
2 EMPLOYER INTIMIDATING, THREATENING, COERCING, DISCRIMINATING, OR
3 RETALIATING AGAINST OR TAKING AN ADVERSE ACTION AGAINST AN
4 EMPLOYEE WHO IS OR BECOMES A LIVING ORGAN DONOR;

5 (b) PURSUANT TO SECTION 10-1-142, A PROHIBITION AGAINST AN
6 INSURER DENYING OR LIMITING COVERAGE OR INCREASING PREMIUMS FOR
7 A POLICY OR CONTRACT FOR LIFE INSURANCE, DISABILITY INCOME
8 INSURANCE, HEALTH INSURANCE, OR LONG-TERM CARE INSURANCE DUE
9 TO THE STATUS OF THE PERSON AS A LIVING ORGAN DONOR;

10 (c) PURSUANT TO SECTION 10-16-104 (24), MANDATORY
11 COVERAGE UNDER INDIVIDUAL AND GROUP HEALTH BENEFIT PLANS FOR
12 HEALTH-CARE SERVICES RELATED TO LIVING ORGAN DONATION;

13 (d) PURSUANT TO SECTION 24-11-117, THE ESTABLISHMENT OF
14 THE ELEVENTH DAY OF APRIL EACH YEAR AS "LIVING ORGAN DONOR
15 RECOGNITION DAY";

16 ■ ■

17 (e) PURSUANT TO SECTION 25-59-106, A PROHIBITION AGAINST A
18 HEALTH-CARE PROVIDER BILLING OR CHARGING A LIVING ORGAN DONOR
19 FOR ANY COSTS ASSOCIATED WITH PROVIDING HEALTH-CARE SERVICES
20 RELATED TO LIVING ORGAN DONATION; AND

21 (f) PURSUANT TO SECTION 25-59-107, A REQUIREMENT THAT A
22 TRANSPLANT CENTER ADVISE A POTENTIAL NONDIRECTED LIVING ORGAN
23 DONOR, PRIOR TO PERFORMING AN ORGAN DONATION RECOVERY
24 OPERATION, THAT AN ORGAN VOUCHER PROGRAM, AS DEFINED BY EACH
25 ORGANIZATION OFFERING A PROGRAM, MAY BE AVAILABLE FOR THE
26 SPECIFIC ORGAN; AND

27 ■ ■

1 (2) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT NONE OF
2 THE BENEFITS DESCRIBED IN SUBSECTION (1) OF THIS SECTION ARE
3 VALUABLE CONSIDERATION, AS DEFINED IN 42 U.S.C. SEC. 274e, AS
4 AMENDED.

5
6 **25-59-106. [Formerly 25-1.5-116 (1)] Costs associated with**
7 **living organ donation.** On and after January 1, 2022, a ~~hospital or other~~
8 ~~health facility licensed or certified pursuant to section 25-1.5-103 (1)~~
9 HEALTH-CARE PROVIDER shall not bill or charge a living organ donor for
10 any costs associated with providing ~~the~~ health-care services related to
11 living organ donation.

12 **25-59-107. Organ transplantation - transplant center -**
13 **required notice to nondirected living organ donors.** (1) PRIOR TO
14 CONDUCTING AN ORGAN DONATION RECOVERY OPERATION ON A
15 NONDIRECTED LIVING ORGAN DONOR, A TRANSPLANT CENTER SHALL
16 ADVISE THE POTENTIAL DONOR OF THE FOLLOWING INFORMATION:

17 (a) THAT THE TRANSPLANT CENTER OR ANOTHER TRANSPLANT
18 CENTER IN COLORADO HAS OR MAY HAVE AN ORGAN VOUCHER PROGRAM;
19 AND

20 (b) THAT A NATIONAL-LEVEL ORGAN VOUCHER PROGRAM EXISTS
21 OR MAY EXIST FOR THE ORGAN BEING DONATED.

22
23 **SECTION 2. Repeal of relocated and nonrelocated provisions**
24 **in this act.** In Colorado Revised Statutes, **repeal** 25-1.5-116; except that
25 25-1.5-116 (2) is not relocated.

26 **SECTION 3.** In Colorado Revised Statutes, **add** 8-2-132 as
27 follows:

1 **8-2-132. Prohibition on employers - living organ donation -**
2 **retaliation - adverse action - civil action - penalty for violation -**
3 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
4 OTHERWISE REQUIRES:

5 (a) "ADVERSE ACTION" MEANS:

6 (I) DEMOTION; REASSIGNMENT TO A LOWER-RANKED POSITION OR
7 TO A POSITION WITH A LOWER LEVEL OF COMPENSATION; DECREASE IN
8 COMPENSATION LEVEL; DENIAL OF PROMOTION; REDUCTION IN WORKING
9 CONDITIONS OR PERKS, PRIVILEGES, LOCATION, OR STATUS; OR
10 TERMINATION OF EMPLOYMENT; OR

11 (II) ANY OTHER DECISION FOR EMPLOYMENT PURPOSES THAT
12 ADVERSELY AFFECTS AN EMPLOYEE THAT DOES NOT APPLY TO OTHER
13 SIMILARLY SITUATED EMPLOYEES OR IS APPLIED DIFFERENTLY TO AN
14 EMPLOYEE WHO IS A LIVING ORGAN DONOR.

15 (b) "EMPLOYEE" MEANS EVERY PERSON WHO MAY BE PERMITTED,
16 REQUIRED, OR DIRECTED BY ANY EMPLOYER IN CONSIDERATION OF DIRECT
17 OR INDIRECT GAIN OR PROFIT TO ENGAGE IN ANY EMPLOYMENT.

18 (c) "EMPLOYER" MEANS AN INDIVIDUAL OR ENTITY THAT:

19 (I) TRANSACTS BUSINESS IN COLORADO;

20 (II) AT ANY TIME, EMPLOYS ANOTHER PERSON TO PERFORM
21 SERVICES OF ANY NATURE; AND

22 (III) HAS CONTROL OF THE PAYMENT OF WAGES OR OTHER
23 COMPENSATION FOR SUCH SERVICES OR IS THE OFFICER, AGENT, OR
24 EMPLOYEE OF THE PERSON HAVING CONTROL OF THE PAYMENT OF WAGES
25 OR OTHER COMPENSATION FOR SUCH SERVICES.

26 (d) "LIVING ORGAN DONOR" HAS THE MEANING SET FORTH IN
27 SECTION 25-59-103 (5).

1 (e) "ORGAN DONATION RECOVERY OPERATION" HAS THE MEANING
2 SET FORTH IN SECTION 25-59-103 (9).

3 (f) "PROHIBITED PERIOD" MEANS:

4 (I) THE THIRTY-DAY PERIOD BEFORE AN EMPLOYEE'S ORGAN
5 DONATION RECOVERY OPERATION, WITH RESPECT TO EMPLOYEE ACTIONS
6 NECESSARY FOR A SUCCESSFUL ORGAN DONATION RECOVERY OPERATION,
7 AS DETERMINED BY A HEALTH-CARE PROVIDER PERFORMING OR
8 FACILITATING THE ORGAN DONATION RECOVERY OPERATION; AND

9 (II) THE NINETY-DAY PERIOD AFTER AN EMPLOYEE HAS AN ORGAN
10 DONATION RECOVERY OPERATION.

11 (2) AN EMPLOYER SHALL NOT INTIMIDATE, THREATEN, COERCE, OR
12 IN ANY MANNER DISCRIMINATE OR RETALIATE AGAINST OR TAKE ANY
13 ADVERSE ACTION AGAINST AN EMPLOYEE WHO IS OR BECOMES A LIVING
14 ORGAN DONOR.

15 (3) NOTHING IN THIS SECTION REQUIRES AN EMPLOYER TO ALLOW
16 A LIVING ORGAN DONOR TO TAKE ANY UNPAID LEAVE THAT THE LIVING
17 ORGAN DONOR HAS NOT ALREADY ACCRUED UNDER THE EMPLOYER'S
18 EXISTING POLICIES APPLICABLE TO SIMILARLY SITUATED EMPLOYEES OR
19 THAT IS NOT REQUIRED UNDER ANY OTHER APPLICABLE LAW.

20 (4) THERE IS A REBUTTABLE PRESUMPTION THAT AN EMPLOYER
21 HAS ENGAGED IN AN ACTION DESCRIBED IN SUBSECTION (2) OF THIS
22 SECTION IF THE ACTION IS TAKEN AGAINST AN EMPLOYEE DURING THE
23 PROHIBITED PERIOD. THE EMPLOYER MUST OVERCOME THE PRESUMPTION
24 BY CLEAR AND CONVINCING EVIDENCE THAT THE PROHIBITED ACT WAS
25 TAKEN FOR A LAWFUL REASON.

26 (5) (a) AN EMPLOYEE WHO ALLEGES A VIOLATION OF THIS SECTION
27 MAY FILE A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION

1 AGAINST THE EMPLOYER ALLEGED TO HAVE VIOLATED THIS SECTION TO
2 SEEK LEGAL AND EQUITABLE RELIEF AS APPROPRIATE TO REMEDY THE
3 VIOLATION, INCLUDING:

4 (I) BACK PAY;

5 (II) REINSTATEMENT OF EMPLOYMENT OR, IF REINSTATEMENT IS
6 NOT FEASIBLE, FRONT PAY;

7 (III) THE PAYMENT OF WAGES UNLAWFULLY WITHHELD,
8 INCLUDING INTEREST ON THOSE WAGES;

9 (IV) MONETARY PENALTIES;

10 (V) FINES;

11 (VI) INJUNCTIVE RELIEF; AND

12 (VII) ANY OTHER APPROPRIATE REMEDY.

13 (b) IF THE EMPLOYEE PREVAILS IN A CIVIL ACTION BROUGHT
14 PURSUANT TO THIS SECTION, THE COURT SHALL AWARD THE EMPLOYEE
15 REASONABLE ATTORNEY FEES AND COSTS.

16 (c) NOTHING IN THIS SECTION PRECLUDES AN EMPLOYEE FROM
17 ASSERTING ANY OTHER AVAILABLE STATUTORY OR COMMON-LAW CLAIMS.

18 **SECTION 4.** In Colorado Revised Statutes, 10-16-104, **amend**
19 (24)(a)(II) and (24)(b) as follows:

20 **10-16-104. Mandatory coverage provisions - definitions - rules**
21 **- applicability. (24) Living organ donation.** (a) (II) The health benefit
22 plan shall not impose any deductibles, copayments, coinsurance, benefit
23 maximums, waiting periods, or other limitations on coverage for ~~the~~
24 HEALTH-CARE SERVICES RELATED TO living organ donation.

25 (b) As used in this subsection (24):

26 (I) ~~"Health-care services"~~ "HEALTH-CARE SERVICES RELATED TO
27 LIVING ORGAN DONATION" means ~~a procedure to harvest an organ of a~~

1 ~~living organ donor~~ AN ORGAN DONATION RECOVERY OPERATION and all
2 services required before and after the ~~procedure~~ OPERATION.

3 (II) "Living organ donor" means a living ~~person~~ INDIVIDUAL who
4 has donated all or part of an organ.

5 (III) "ORGAN DONATION RECOVERY OPERATION" MEANS A
6 PROCEDURE TO RECOVER AN ORGAN FROM A LIVING ORGAN DONOR.

7 **SECTION 5.** In Colorado Revised Statutes, **add** 24-11-117 as
8 follows:

9 **24-11-117. Living Organ Donor Recognition Day.** THE
10 ELEVENTH DAY OF APRIL EACH YEAR IS KNOWN AS "LIVING ORGAN
11 DONOR RECOGNITION DAY". APPROPRIATE OBSERVANCE MAY BE HELD
12 BY THE PUBLIC AND IN ALL PUBLIC SCHOOLS OF THE STATE.



14 **SECTION 6. Safety clause.** The general assembly finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, or safety or for appropriations
17 for the support and maintenance of the departments of the state and state
18 institutions.