

CHAPTER 331

HEALTH AND ENVIRONMENT

HOUSE BILL 24-1132

BY REPRESENTATIVE(S) Rutinel and Bradfield, Bird, Brown, Clifford, Daugherty, deGruy Kennedy, Duran, English, Herod, Jodeh, Kipp, Lieder, Lindsay, Lukens, McLachlan, Parenti, Ricks, Sirota, Snyder, Titone, Valdez, Willford, Young; also SENATOR(S) Buckner, Bridges, Cutter, Exum, Fields, Ginal, Jaquez Lewis, Marchman, Michaelson Jenet, Mullica, Priola, Roberts, Sullivan, Winter F., Zenzinger, Fenberg.

AN ACT**CONCERNING COMPREHENSIVE SUPPORT FOR ORGAN DONATION BY LIVING ORGAN DONORS.**

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

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

ARTICLE 59
Living Organ Donation

25-59-101. Short title. THE SHORT TITLE OF THIS ARTICLE 59 IS THE "COMPREHENSIVE ASSISTANCE, RECOGNITION, AND EMPOWERMENT (CARE) FOR LIVING ORGAN DONORS ACT" OR "CARE FOR LIVING ORGAN DONORS ACT".

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

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

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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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

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

(e) NOTWITHSTANDING THE WILLINGNESS OF DONORS TO CONTRIBUTE TO THE PUBLIC GOOD, THE POTENTIAL FOR EMPLOYMENT DISCRIMINATION AND RETALIATION POST-DONATION, INCLUDING JOB INSECURITY, DEMOTIONS, OR UNWARRANTED DISCIPLINARY ACTIONS, CAN BE A SIGNIFICANT DETERRENT TO PROSPECTIVE LIVING ORGAN DONORS;

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

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

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

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

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE ENACTMENT OF THE "CARE FOR LIVING ORGAN DONORS ACT" WILL ADDRESS THE CRITICAL NEEDS OF LIVING ORGAN DONORS, PROVIDE NECESSARY PROTECTIONS FOR LIVING ORGAN DONORS, REMOVE BARRIERS TO LIVING ORGAN DONATION, AND HONOR THOSE INDIVIDUALS WHO UNDERTAKE THIS GENEROUS ACT OF LIVING ORGAN DONATION THAT ULTIMATELY BENEFITS SOCIETY BY INCREASING THE AVAILABILITY OF ORGANS FOR TRANSPLANTATION AND AFFIRMING COLORADO'S COMMITMENT TO THE HEALTH AND DIGNITY OF ITS RESIDENTS.

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

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

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

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

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

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

(6) "MAJOR SURGERY" MEANS A:

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

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

(c) PROCEDURE ASSOCIATED WITH ORTHOPEDICS OR EXTENSIVE TISSUE DISSECTION OR TRANSECTION.

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

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

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

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

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

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

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

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

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

(d) PURSUANT TO SECTION 24-11-118, THE ESTABLISHMENT OF THE ELEVENTH DAY OF APRIL EACH YEAR AS "LIVING ORGAN DONOR RECOGNITION DAY";

(e) PURSUANT TO SECTION 25-59-105, A PROHIBITION AGAINST A HEALTH-CARE PROVIDER BILLING OR CHARGING A LIVING ORGAN DONOR FOR ANY COSTS ASSOCIATED WITH PROVIDING HEALTH-CARE SERVICES RELATED TO LIVING ORGAN DONATION; AND

(f) PURSUANT TO SECTION 25-59-106, A REQUIREMENT THAT A TRANSPLANT CENTER ADVISE A POTENTIAL NONDIRECTED LIVING ORGAN DONOR, PRIOR TO PERFORMING AN ORGAN DONATION RECOVERY OPERATION, THAT AN ORGAN VOUCHER PROGRAM, AS DEFINED BY EACH ORGANIZATION OFFERING A PROGRAM, MAY BE AVAILABLE FOR THE SPECIFIC ORGAN.

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

25-59-105. [Formerly 25-1.5-116 (1)] Costs associated with living organ donation. On and after January 1, 2022, a ~~hospital or other health facility licensed or certified pursuant to section 25-1.5-103 (1)~~ HEALTH-CARE PROVIDER shall not bill or charge a living organ donor for any costs associated with providing the health-care services related to living organ donation.

25-59-106. Organ transplantation - transplant center - required notice to nondirected living organ donors. (1) PRIOR TO CONDUCTING AN ORGAN DONATION RECOVERY OPERATION ON A NONDIRECTED LIVING ORGAN DONOR, A TRANSPLANT CENTER SHALL ADVISE THE POTENTIAL DONOR OF THE FOLLOWING INFORMATION:

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

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

(2) A TRANSPLANT CENTER SHALL ALSO PROVIDE TO ALL ORGAN DONORS AND ORGAN RECIPIENTS INFORMATION ABOUT BENEFITS THAT MAY BE AVAILABLE TO ORGAN DONORS AND ORGAN RECIPIENTS AT EACH TRANSPLANT CENTER IN COLORADO, INCLUDING THROUGH PARTNERING ORGANIZATIONS AND OTHERS. THE INFORMATION PROVIDED MUST INCLUDE, AT A MINIMUM, INFORMATION ABOUT AVAILABLE RESOURCES, SUPPORTIVE CARE AND SERVICES, LEGAL OR OTHER PROTECTIONS, AND REIMBURSEMENT FOR LOST WAGES, TRAVEL, LODGING, OR DEPENDENT CARE. TRANSPLANT CENTERS SHALL UPDATE THE INFORMATION PROVIDED AT LEAST ANNUALLY.

(3) AT LEAST TWO TIMES PRIOR TO AN ORGAN DONATION, THE FIRST OF WHICH MUST BE WITHIN TWENTY-FOUR HOURS AFTER A POTENTIAL ORGAN DONOR'S INITIAL SCREENING, A TRANSPLANT CENTER SHALL PROVIDE TO THE POTENTIAL ORGAN DONOR THE INFORMATION REQUIRED PURSUANT TO SUBSECTIONS (1) AND (2) OF THIS SECTION.

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

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

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

(a) "ADVERSE ACTION" MEANS:

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

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

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

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

(I) TRANSACTS BUSINESS IN COLORADO;

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

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

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

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

(f) "PROHIBITED PERIOD" MEANS:

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

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

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

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

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

(5) (a) AN EMPLOYEE WHO ALLEGES A VIOLATION OF THIS SECTION MAY FILE A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION AGAINST THE EMPLOYER ALLEGED TO HAVE VIOLATED THIS SECTION TO SEEK LEGAL AND EQUITABLE RELIEF AS APPROPRIATE TO REMEDY THE VIOLATION, INCLUDING:

(I) BACK PAY;

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

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

(IV) MONETARY PENALTIES;

(V) FINES;

(VI) INJUNCTIVE RELIEF; AND

(VII) ANY OTHER APPROPRIATE REMEDY.

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

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

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

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

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

(I) ~~"Health-care services"~~ "HEALTH-CARE SERVICES RELATED TO LIVING ORGAN DONATION" means ~~a procedure to harvest an organ of a living organ donor~~ AN ORGAN DONATION RECOVERY OPERATION and all services required before and after ~~the procedure~~ OPERATION.

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

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

SECTION 5. In Colorado Revised Statutes, **add** 24-11-118 as follows:

24-11-118. Living Organ Donor Recognition Day. THE ELEVENTH DAY OF APRIL EACH YEAR IS KNOWN AS "LIVING ORGAN DONOR RECOGNITION DAY". APPROPRIATE OBSERVANCE MAY BE HELD BY THE PUBLIC AND IN ALL PUBLIC SCHOOLS OF THE STATE.

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

Approved: June 3, 2024