



HOUSE BILL 162: Living Donor Protection Act.

2023-2024 General Assembly

Committee:	House Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 25, 2023
Introduced by:	Reps. Shepard, Morey, Fontenot, Wheatley	Prepared by:	Trina Griffin
Analysis of:	PCS to First Edition H162-CSSVf-16		Staff Attorney

OVERVIEW: *House Bill 162 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 adds a definition of "lost wages" and makes a technical conforming change.*

BILL ANALYSIS: House Bill 162 contains three components to support and protect live organ and bone marrow donors.

PART I. 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 portion, 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.

PART II. 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.

The PCS defines "lost wages" as all monetary payments from employment or services that are taxable as income under the Code and that are not reimbursed through another source, such as sick pay or short-term disability benefits. The term would not include capital gains, IRA distributions, pensions, annuities, unemployment compensation, state workers' compensation benefits, medical retirement benefits, or Social Security benefits.

This section is effective for taxable years beginning on or after January 1, 2023.

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PART III. 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 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, 2024, 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 40,000 transplants were performed in 2021, 17 people die each day waiting for an organ transplant, 105,800 men, women, and children are on the national transplant waiting list, and every donor can save 8 lives and enhance 75 more. Additional information on the living donation process can be found [here](#).

Bone Marrow Donation: According to the [Health Resources & Services Administration](#), 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](#) registry describes itself as managing "the largest and most diverse marrow registry in the world."

According to the [American Transplant Foundation](#), 19 states have enacted living donor protection laws.

Theresa Matula, Legislative Analyst for House Health, substantially contributed to this summary.