

A BILL TO BE ENTITLED  
AN ACT PROHIBITING TRANSPLANT CENTERS FROM DISCRIMINATING  
AGAINST INDIVIDUALS SEEKING TO DONATE OR RECEIVE AN  
ANATOMICAL GIFT OR ORGAN TRANSPLANT SOLELY ON THE BASIS  
OF THEIR COVID-19 VACCINATION STATUS.

The Legislature of the State of \_\_\_\_\_ hereby enacts:

**SECTION 1. Legislative findings and declaration of policy.**

The Legislature of the State of \_\_\_\_\_ makes the following findings and declaration:

- (1) A mental or physical disability does not diminish an individual's right to health care.
- (2) The Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., as amended, prohibits discrimination against individuals with disabilities, yet many individuals with disabilities still experience discrimination in accessing critical health care services.
- (3) In other states nationwide, individuals with mental and physical disabilities have been denied lifesaving organ transplants based on assumptions that their lives are less worthy, that they are incapable of complying with post-transplant medical requirements, or that they lack adequate support systems to ensure compliance with post-transplant medical requirements.
  - (3a) A refusal to submit to a COVID-19 vaccination or series of vaccinations does not diminish an individual's right to health care.
  - (3b) Notwithstanding a medical opinion that transplant recipients who have not submitted to COVID-19 vaccination may be at higher risk for COVID-19 complications than those who have been vaccinated, the overall balance of individual benefits and harms still favors transplantation for individuals with reduced life expectancy or quality of life due to end-stage organ disease, regardless of COVID-19 vaccination status.
  - (3c) Mandating COVID-19 vaccination for all organ transplant candidates constrains autonomy by imposing a grave consequence for refusal.
- (4) Although organ transplant centers must consider medical and psychosocial criteria when determining if a patient is suitable to receive an organ transplant, transplant centers that participate in Medicare, Medicaid, and other federally funded programs are required to use patient selection criteria that result in a fair and nondiscriminatory distribution of organs.
- (5) Residents of this State in need of organ transplants are entitled to assurances that they will not encounter discrimination on the basis of a disability or solely on the basis of their COVID-19 vaccination status.

The Legislature hereby declares that (i) the life of an individual with a disability who needs an organ transplant is as worthy and valuable as the life of an individual without a disability who needs the same medical service; and (ii) the life of an individual who needs an organ transplant and refuses to submit to a COVID-19 vaccination or series of vaccinations is as worthy and valuable as the life of an individual who needs an organ transplant and willingly submits to a COVID-19 vaccination or series of vaccinations.

**SECTION 2. Organ transplant discrimination on the basis of COVID-19 vaccination status prohibited.**

(a) It is unlawful for a covered entity to do any of the following, solely on the basis of an individual's refusal to submit to a COVID-19 vaccination or series of vaccinations:

(1) Consider an individual ineligible to donate or receive an anatomical gift or organ transplant.

(2) Deny medical services or other services related to organ transplantation, including diagnostic services, evaluation, surgery, counseling, and post-operative treatment and services.

(3) Refuse to refer the individual to a transplant center or other related specialist for the purpose of being evaluated for, donating, or receiving an anatomical gift or organ transplant.

(4) Refuse to place a qualified recipient on an organ transplant waiting list.

(5) Place a qualified recipient on an organ transplant waiting list at a lower priority position than the position at which the individual would have been placed if the individual had received a COVID-19 vaccination or series of vaccinations.

(6) Refuse insurance coverage for any procedure associated with being evaluated for, donating, or receiving an anatomical gift or organ transplant, including post-transplantation and post-transfusion care.

(b) A covered entity shall make reasonable modifications to its policies, practices, or procedures to allow individuals who refuse to submit to a COVID-19 vaccination or series of vaccinations access to transplantation-related services, including diagnostic services, surgery, coverage, post-operative treatment, and counseling.

(c) The provisions of this section apply to all stages of the organ transplant process.

**SECTION 3. This act becomes effective \_\_\_\_\_.**