



Senate Fiscal Agency
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Senate Bill 384 (as enacted)
Sponsor: Senator Kevin Hertel
Senate Committee: Health Policy
House Committee: Health Policy

PUBLIC ACT 192 of 2023

Date Completed: 11-28-23

RATIONALE

According to testimony before the Senate Committee on Health Policy, before an individual becomes a living donor, doctors often discuss the financial consequences of insurance discrimination. For example, a study by Johns Hopkins University found that 25% of living kidney donors who tried to change their insurance experienced life insurance discrimination.¹ This discrimination can deter individuals from becoming living donors and is more common in Michigan where protections for living donors are apparently weak.² Some people believe that prohibiting insurance discrimination against living donors will incentivize people to become living donors.

CONTENT

The bill added Sections 3406z, 3901a, and 4002 to the Insurance Code to prohibit an insurer from discriminating against an individual based solely on the individual's status as a living donor.

The bill took effect November 7, 2023.

Specifically, the bill applies to disability insurance, life insurance, and all long-term care insurance policies or certificates delivered or issued for delivery after December 31, 2023. Unless there was an additional actuarial risk, as determined in accordance with sound actuarial principles and the individual's actual and reasonably anticipated experience, the bill prohibits an insurer from doing any of the following based solely on the individual's status as a living donor:

- Deny coverage.
- Cancel coverage.
- Refuse to issue the policy or certificate.
- Determine the price or premium for the policy or certificate.
- Otherwise vary a term or condition of the policy or certificate.

"Living donor" means an individual who is not deceased and has donated any of the following:
1) all or part of an organ; 2) a tissue.

"Organ" means a human kidney, liver, heart, lung, pancreas, esophagus, stomach, or small or large intestine, a portion of the human gastrointestinal tract, or another part of the human body designated by the Department of Insurance and Financial Services by rule.

¹ Boyarsky, Brian et al., National Library of Medicine, *Experiences obtaining insurance after live kidney donation*, July 16, 2014.

² American Kidney Fund, *STATE of the STATES: 2023 Living Donor Protection Report Card*, 2023.

"Tissue" means a portion of the human body other than an organ, including, but not limited to, an eye, skin, bone, bone marrow, a heart valve, a spermatozoon, an ova, an artery, a vein, a tendon, a ligament, blood, blood derivatives, a pituitary gland, or fluid.

MCL 500.3406z et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to the American Kidney Fund, Michigan ranks poorly in statewide protections for living donors, achieving none of the major seven legislative agenda items designed to protect this group. The bill will implement one such protection – protection from life, disability, and long-term care insurance discrimination. In addition, every state in the Midwest already has at least one major protection in statute except Michigan. The bill will protect living donors, incentivize further legal protections, and encourage living donorship in the State.

Supporting Argument

The Johns Hopkins study points out that insurance discrimination doesn't make financial sense for insurance companies. Patients who have undergone organ donation have been subject to extensive testing and have lower death rates than the general population, thereby qualifying as excellent candidates for life insurance. The bill will help undo a policy of insurance discrimination that, at least in theory, does not aid insurance companies in making a profit.

Legislative Analyst: Alex Krabill

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.