

FINAL BILL REPORT

SSB 5405

C 315 L 19

Synopsis as Enacted

Brief Description: Concerning nondiscrimination in access to organ transplants.

Sponsors: Senate Committee on Health & Long Term Care (originally sponsored by Senators Padden, Randall, Zeiger, Fortunato, Billig, Wilson, C., Nguyen and Kuderer).

Senate Committee on Health & Long Term Care
House Committee on Health Care & Wellness

Background: An organ transplant is a surgical operation to give a functioning human organ to someone with organ failure. The organ the person receives may be known as an anatomical gift and comes from someone who is living or has passed away. Health care providers refer individuals at risk or experiencing organ failure to an organ transplant center. The organ transplant center conducts extensive evaluations of the individual to determine if they meet the eligibility criteria to receive an organ transplant. The evaluations conducted on the individual include:

- medical testing to determine the level of organ failure, potential donor matches, and the individual's ability to tolerate surgery;
- psychological testing to determine the individual's ability to follow pre- and post-transplant regimens, and manage addictive or harmful behaviors which may include drug testing; and
- financial testing to determine how the individual will pay for the transplant, and the medications, care, and procedures that may be required after the surgery.

The Americans with Disabilities Act (ADA) is a federal law that prohibits public accommodations, such as doctor's offices and hospitals, and state-run programs from discriminating against people with disabilities. The Rehabilitation Act is a federal law that prohibits federally-funded programs, such as Medicare and Medicaid providers, from discriminating against people with disabilities.

Summary: Health care providers are prohibited from using an individual's mental or physical disability as the sole reason for denying them access to organ transplant services. This includes using the individual's mental or physical disability as the sole purpose for:

- deeming the individual ineligible to receive an organ transplant or anatomical gift;
- denying the individual evaluation, surgery, counseling, and post-operative treatment and care;

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- refusing to refer the individual to a transplant center or other related organ transplant specialty;
- refusing to place an individual on an organ transplant list, or placing the individual at a lower priority position; and
- declining insurance coverage for the organ transplant, including post-transplant care.

A health care provider is permitted to take an individual's disability into account after a physician has conducted an individualized evaluation of the potential recipient, and has made a decision the disability would be medically significant to the individual receiving an organ transplant. An individual's inability to comply with post-transplant medical requirements can not be deemed as medically significant if the individual's support system provides reasonable assurance that they will comply with post-transplant medical requirements.

Health care providers must make reasonable modifications to their policies, practices, or procedures to make organ transplant services such as counseling, information, coverage, or treatment available to a qualified individual with a disability. A health care provider must ensure that no qualified individual with a disability is denied transplant-related counseling, information, coverage or treatment because of the absence of auxiliary aids and services. Auxiliary aids include effective methods of making aurally- or visually-delivered information available to individuals with hearing or visual impairments, or individuals with intellectual disabilities.

An individual who has been denied access to organ transplant services solely on the basis of their physical or mental disability may take civil action.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	42	0	(Senate concurred)

Effective: July 28, 2019