

ANNA Supports the *Living Donor Protection Act* (H.R. 2923 and S. 1384)

The American Nephrology Nurses Association (ANNA) is a nonprofit organization with a membership of approximately 7,000 registered nurses and other health care professionals at all levels of practice. ANNA members work in settings such as chronic kidney disease management, peritoneal dialysis, hemodialysis, continuous renal replacement therapy, transplantation, industry, and government/regulatory agencies.

Background on the Issue

Living donation is an essential element of organ transplantation, representing the chance for a patient to bypass the deceased donor waitlist, which in many states is five years or more. A transplant from a living donor is a patient's best chance for long-term success.

In 2022, more than 6,400 transplants involved a living donor. Unfortunately, almost a quarter of living donors report discrimination in the rates and provision of life insurance, disability insurance, and long-term care insurance. Despite completing a detailed health screening ensuring they are healthy enough to donate and live healthy lives post-donation, living donors still face difficulty obtaining or maintaining insurance. This barrier is enough to keep many people from considering living donation.

Overview of the Legislation

The *Living Donor Protection Act* (H.R. 2923 and S. 1384) was introduced by Senators Kirsten Gillibrand (D-NY) and Tom Cotton (R-AR) and Representatives Jerry Nadler (D-NY), Troy Balderson (R-OH), Jim Costa (D-CA), John Curtis (R-UT), Diana DeGette (D-CO), Mariannette Miller-Meeke (R-IA), Lisa Blunt-Rochester (D-DE) and Greg Murphy, M.D. (R-NC). This bipartisan legislation would protect living organ donors and promote organ donation by doing the following:

- Removing barriers to living organ donation by prohibiting certain discrimination in insurance and codifying protection for living donors under the Family and Medical Leave Act (FMLA).
- Prohibiting discrimination in the issuance, price, or benefit levels for life, disability, and long-term care insurance due solely to the individual's status as a living donor.
- Codifying an existing opinion letter issued by the U.S. Department of Labor that includes living donation as a serious medical condition under the FMLA, allowing donors to take time off work for organ donation without fear of reprisal.

Recommendation: ANNA joins with a broad group of national stakeholders in urging Members of Congress to cosponsor the *Living Donor Protection Act* (H.R. 2923 and S. 1384).

118TH CONGRESS
1ST SESSION

H. R. 2923

To promote and protect from discrimination living organ donors.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2023

Mr. NADLER (for himself, Mr. BALDERSON, Ms. BLUNT ROCHESTER, Mr. COSTA, Mr. CURTIS, Ms. DEGETTE, Mrs. MILLER-MEEKS, Mr. MURPHY, and Mr. BACON) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Oversight and Accountability, House Administration, Education and the Workforce, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To promote and protect from discrimination living organ donors.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Living Donor Protec-
5 tion Act of 2023”.

1 **SEC. 2. PROHIBITION ON DENIAL OF COVERAGE OR IN-**
2 **CREASE IN PREMIUMS OF LIFE OR DIS-**
3 **ABILITY INSURANCE FOR LIVING ORGAN DO-**
4 **NORS.**

5 (a) **PROHIBITION.**—Notwithstanding any other provi-
6 sion of law, an insurer shall not deny coverage, cancel cov-
7 erage, refuse to issue, determine the price or premium for,
8 or otherwise vary any term or condition of a life insurance
9 policy, disability insurance policy, or long-term care insur-
10 ance policy for a person based solely, and without any ac-
11 tual, unique, and material actuarial risks, on the status
12 of such person as a living organ donor.

13 (b) **ENFORCEMENT.**—A State insurance regulator
14 may take such actions to enforce subsection (a) as are spe-
15 cifically authorized under the laws of such State.

16 (c) **DEFINITIONS.**—In this section:

17 (1) **DISABILITY INSURANCE POLICY.**—The term
18 “disability insurance policy” means a contract under
19 which an entity promises to pay a person a sum of
20 money in the event that an illness or injury resulting
21 in a disability prevents such person from working.

22 (2) **LIFE INSURANCE POLICY.**—The term “life
23 insurance policy” means a contract under which an
24 entity promises to pay a designated beneficiary a
25 sum of money upon the death of the insured.

1 (3) LIVING ORGAN DONOR.—The term “living
2 organ donor” means an individual who has donated
3 all or part of an organ and is not deceased.

4 (4) LONG-TERM CARE INSURANCE POLICY.—
5 The term “long-term care insurance policy” means
6 a contract for which the only insurance protection
7 provided under the contract is coverage of qualified
8 long-term care services (as defined in section
9 7702B(c) of the Internal Revenue Code of 1986).

10 **SEC. 3. CLARIFICATION OF ORGAN DONATION SURGERY AS**
11 **QUALIFYING AS A SERIOUS HEALTH CONDI-**
12 **TION UNDER FMLA.**

13 (a) PRIVATE SECTOR EMPLOYEES.—Section 101(11)
14 of the Family and Medical Leave Act of 1993 (29 U.S.C.
15 2611(11)) is amended by inserting “(including recovery
16 from surgery related to organ donation)” after “physical
17 or mental condition”.

18 (b) FEDERAL CIVIL SERVICE EMPLOYEES.—

19 (1) DEFINITION.—Section 6381(5) of title 5,
20 United States Code, is amended by inserting “(in-
21 cluding recovery from surgery related to organ dona-
22 tion)” after “physical or mental condition”.

23 (2) RELATIONSHIP TO ORGAN DONOR LEAVE.—
24 Section 6382(d)(1) of title 5, United States Code is
25 amended by adding at the end the following: “An

1 employee who takes any part of the 12-week period
2 of leave under subsection (a)(1) to serve as an organ
3 donor (including recovery from surgery related to
4 organ donation) shall substitute, for as much of that
5 part as possible, any leave available to the employee
6 under section 6327.”.

7 **SEC. 4. UPDATING OF EDUCATIONAL MATERIALS ON THE**
8 **BENEFITS AND RISKS OF LIVING ORGAN DO-**
9 **NATION.**

10 (a) EDUCATIONAL MATERIALS.—

11 (1) REVIEW AND UPDATING.—Not later than 6
12 months after the date of enactment of this Act, the
13 Secretary of Health and Human Services (in this
14 section referred to as the “Secretary”) shall review
15 and update materials related to living organ dona-
16 tion in order to educate the public on—

17 (A) the benefits and risks of living organ
18 donation; and

19 (B) the impact of living organ donation on
20 the access of a living organ donor to insurance.

21 (2) INFORMATION ON STATUTORY CHANGES.—

22 Such updating shall include information on the
23 changes made by sections 2 and 3 of this Act.

24 (b) METHODS OF UPDATING.—In carrying out sub-
25 section (a), the Secretary shall update, as appropriate—

1 (1) Public Service Announcements previously
2 provided by the Secretary;

3 (2) publicly accessible websites (such as
4 organdonor.gov, or a successor website) that are
5 maintained by the Secretary and that contain infor-
6 mation and resources regarding living organ dona-
7 tion; and

8 (3) other media determined appropriate by the
9 Secretary.

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118TH CONGRESS
1ST SESSION

S. 1384

To promote and protect from discrimination living organ donors.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2023

Mrs. GILLIBRAND (for herself and Mr. COTTON) introduced the following bill;
which was read twice and referred to the Committee on Health, Edu-
cation, Labor, and Pensions

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