

CHAPTER 36

(HB 238)

AN ACT relating to anatomical gift discrimination.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
 - (a) *"Disability" has the same meaning as in KRS 12.450; and*
 - (b) *"Health care provider" has the same meaning as in KRS 304.17A-005.*
- (2) *A health care provider in this state shall not discriminate against an individual who has a disability based solely on the individual's disability when providing health care and other services related to an anatomical gift donation as the individual's insurance coverage allows. Discriminating against an individual's disability includes but is not limited to:*
 - (a) *Refusing to transplant an anatomical gift in the individual based solely on the individual's disability;*
 - (b) *Subject to subsection (3) of this section, refusing to transplant an anatomical gift in the individual based on an assessment that the individual will be unable, without personal care support, to comply with posttransplantation medical requirements because of the disability; or*
 - (c) *Refusing to place the individual's priority on an anatomical gift transplant waiting list to receive an anatomical gift.*
- (3) *A health care provider shall:*
 - (a) *Consider the personal care support of an individual described under subsection (2) of this section in determining the individual's ability to comply with posttransplantation medical requirements; and*
 - (b) *Use professional medical judgment as determined by evidence-based medical standards of care for transplantation of an anatomical gift donation.*
- (4) *An individual with a disability who reasonably believes that a health care provider has violated this section may bring an action for injunctive relief in any court of competent jurisdiction. The action for injunction shall be heard in an expedited manner.*
- (5) *This section shall not be construed to limit an individual's rights or remedies otherwise provided by law.*

Signed by Governor March 20, 2023.