

117TH CONGRESS
1ST SESSION

S. 377

To promote and protect from discrimination living organ donors.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 23, 2021

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

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 2021”.

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, it shall be unlawful to—

7 (1) decline or limit coverage of a person under
 8 any life insurance policy, disability insurance policy,
 9 or long-term care insurance policy, solely due to the
 10 status of such person as a living organ donor;

11 (2) preclude an insured from donating all or
 12 part of an organ as a condition of continuing to re-
 13 ceive a life insurance policy, disability insurance pol-
 14 icy, or long-term care insurance policy; or

15 (3) otherwise discriminate in the offering,
 16 issuance, cancellation, amount of such coverage,
 17 price, or any other condition of a life insurance pol-
 18 icy, disability insurance policy, or long-term care in-
 19 surance policy for a person, based solely and without
 20 any additional actuarial risks upon the status of
 21 such person as a living organ donor.

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

25 (c) DEFINITIONS.—In this section:

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

6 (2) LIFE INSURANCE POLICY.—The term “life
 7 insurance policy” means a contract under which an
 8 entity promises to pay a designated beneficiary a
 9 sum of money upon the death of the insured.

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

13 (4) LONG-TERM CARE INSURANCE POLICY.—
 14 The term “long-term care insurance policy” means
 15 a contract for which the only insurance protection
 16 provided under the contract is coverage of qualified
 17 long-term care services (as defined in section
 18 7702B(c) of the Internal Revenue Code of 1986).

19 **SEC. 3. CLARIFICATION OF ORGAN DONATION SURGERY AS**
 20 **QUALIFYING AS A SERIOUS HEALTH CONDI-**
 21 **TION UNDER FMLA.**

22 (a) PRIVATE SECTOR EMPLOYEES.—Section 101(11)
 23 of the Family and Medical Leave Act of 1993 (29 U.S.C.
 24 2611(11)) is amended by inserting “(including recovery

1 from surgery related to organ donation)” after “physical
2 or mental condition”.

3 (b) FEDERAL CIVIL SERVICE EMPLOYEES.—

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

8 (2) RELATIONSHIP TO ORGAN DONOR LEAVE.—
9 Section 6382(d)(1) of title 5, United States Code is
10 amended by adding at the end the following: “An
11 employee who takes any part of the 12-week period
12 of leave under subsection (a)(1) to serve as an organ
13 donor (including recovery from surgery related to
14 organ donation) shall substitute, for as much of that
15 part as possible, any leave available to the employee
16 under section 6327.”.

17 **SEC. 4. UPDATING OF EDUCATIONAL MATERIALS ON THE**
18 **BENEFITS AND RISKS OF LIVING ORGAN DO-**
19 **NATION.**

20 (a) EDUCATIONAL MATERIALS.—

21 (1) REVIEW AND UPDATING.—Not later than 6
22 months after the date of enactment of this Act, the
23 Secretary of Health and Human Services (in this
24 section referred to as the “Secretary”) shall review

1 and update materials related to living organ dona-
 2 tion in order to educate the public on—

3 (A) the benefits and risks of living organ
 4 donation; and

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

7 (2) INFORMATION ON STATUTORY CHANGES.—
 8 Such updating shall include information on the
 9 changes made by sections 2 and 3 of this Act.

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

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

14 (2) publicly accessible websites (such as
 15 organdonor.gov, or a successor website) that are
 16 maintained by the Secretary and that contain infor-
 17 mation and resources regarding living organ dona-
 18 tion; and

19 (3) other media determined appropriate by the
 20 Secretary.

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