

107TH CONGRESS  
2D SESSION

# S. 2913

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide health insurance protections for individuals who are living organ donors.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 9, 2002

Mr. DEWINE (for himself and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to provide health insurance protections for individuals who are 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 Organ Donor  
5       Protections Act”.

1 **SEC. 2. AMENDMENTS TO THE EMPLOYEE RETIREMENT IN-**  
 2 **COME SECURITY ACT OF 1974.**

3 (a) LIVING ORGAN DONATION PROTECTED BY LIM-  
 4 ITS ON PREEXISTING CONDITION.—Section 701(b)(1)(A)  
 5 of the Employee Retirement Income Security Act of 1974  
 6 (29 U.S.C. 1181(b)(1)(A)) is amended by inserting “(in-  
 7 cluding the living donation of an organ or a condition re-  
 8 sulting from the donation of an organ by a living organ  
 9 donor)” after “relating to a condition”.

10 (b) PROHIBITION ON DISCRIMINATION BASED ON  
 11 HEALTH STATUS.—

12 (1) ENROLLMENT.—Section 702(a)(1) of the  
 13 Employee Retirement Income Security Act of 1974  
 14 (29 U.S.C. 1182(a)(1)) is amended by adding at the  
 15 end the following:

16 “(I) Living organ donor status.”.

17 (2) PREMIUMS.—Section 702(b) of the Em-  
 18 ployee Retirement Income Security Act of 1974 (29  
 19 U.S.C. 1182(b)) is amended by adding at the end  
 20 the following:

21 “(3) NO DISCRIMINATION IN GROUP PREMIUMS  
 22 BASED ON ORGAN DONATION.—For purposes of this  
 23 section, a group health plan, or a health insurance  
 24 issuer offering group health insurance coverage in  
 25 connection with a group health plan, shall not adjust  
 26 premium or contribution amounts for a group on the

1 basis of the living organ donor status of an indi-  
 2 vidual in the group or a family member of the indi-  
 3 vidual.”.

4 (c) DEFINITION.—Section 733(d) of the Employee  
 5 Retirement Income Security Act of 1974 (29 U.S.C.  
 6 1191b(d)) is amended—

7 (1) by redesignating paragraphs (3) and (4) as  
 8 paragraphs (4) and (5), respectively; and

9 (2) by inserting after paragraph (2), the fol-  
 10 lowing:

11 “(3) LIVING ORGAN DONOR.—The term ‘living  
 12 organ donor’ means, with respect to coverage, any  
 13 individual who donates all or part of an organ, as  
 14 defined by section 374(d)(2) of the Public Health  
 15 Service Act.”.

16 **SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**  
 17 **ACT.**

18 (a) LIVING ORGAN DONATION PROTECTED BY LIM-  
 19 ITS ON PREEXISTING CONDITION.—Section  
 20 2701(b)(1)(A) of the Public Health Service Act (42  
 21 U.S.C. 300gg(b)(1)(A)) is amended by inserting “(includ-  
 22 ing the living donation of an organ or a condition resulting  
 23 from the donation of an organ by a living organ donor)”  
 24 after “relating to a condition”.

1 (b) PROHIBITION ON DISCRIMINATION BASED ON  
2 HEALTH STATUS.—

3 (1) ENROLLMENT.—Section 2702(a)(1) of the  
4 Public Health Service Act (42 U.S.C. 300gg–  
5 1(a)(1)) is amended by adding at the end the fol-  
6 lowing:

7 “(I) Living organ donor status.”.

8 (2) PREMIUMS.—Section 2702(b) of the Public  
9 Health Service Act (42 U.S.C. 300gg–1(b)) is  
10 amended by adding at the end the following:

11 “(3) NO DISCRIMINATION IN GROUP PREMIUMS  
12 BASED ON ORGAN DONATION.—For purposes of this  
13 section, a group health plan, or a health insurance  
14 issuer offering group health insurance coverage in  
15 connection with a group health plan, shall not adjust  
16 premium or contribution amounts for a group on the  
17 basis of the living organ donor status of an indi-  
18 vidual in the group or a family member of the indi-  
19 vidual.”.

20 (c) DEFINITION.—Section 2791(d) of the Public  
21 Health Service Act (42 U.S.C. 300gg–91(d)) is  
22 amended—

23 (1) by redesignating paragraphs (10) through  
24 (14) as paragraphs (11) through (15), respectively;  
25 and

1           (2) by inserting after paragraph (9), the fol-  
 2       lowing:

3           “(10) LIVING ORGAN DONOR.—The term ‘living  
 4       organ donor’ means, with respect to coverage, any  
 5       individual who donates all or part of an organ, as  
 6       defined by section 374(d)(2).”.

7       **SEC. 4. AMENDMENTS TO THE INTERNAL REVENUE CODE**  
 8                               **OF 1986.**

9       (a) LIVING ORGAN DONATION PROTECTED BY LIM-  
 10      ITS       ON       PREEXISTING       CONDITION.—Section  
 11      9801(b)(1)(A) of the Internal Revenue Code of 1986 is  
 12      amended by inserting “(including the living donation of  
 13      an organ or a condition resulting from the donation of  
 14      an organ by a living organ donor)” after “relating to a  
 15      condition”.

16      (b) PROHIBITION ON DISCRIMINATION BASED ON  
 17      HEALTH STATUS.—

18           (1) ENROLLMENT.—Section 9802(a)(1) of the  
 19      Internal Revenue Code of 1986 is amended by add-  
 20      ing at the end the following:

21                   “(I) Living organ donor status.”.

22           (2) PREMIUMS.—Section 9802(b) of the Inter-  
 23      nal Revenue Code of 1986 is amended by adding at  
 24      the end the following:

1           “(3) NO DISCRIMINATION IN GROUP PREMIUMS  
 2       BASED ON ORGAN DONATION.—For purposes of this  
 3       section, a group health plan shall not adjust pre-  
 4       mium or contribution amounts for a group on the  
 5       basis of the living organ donor status of an indi-  
 6       vidual in the group or a family member of the indi-  
 7       vidual.”.

8       (c) DEFINITION.—Section 9832(d) of the Internal  
 9       Revenue Code of 1986 is amended—

10           (1) by redesignating paragraphs (3), (4), and  
 11           (5) as paragraphs (4), (5), and (6), respectively; and

12           (2) by inserting after paragraph (2), the fol-  
 13       lowing:

14           “(3) LIVING ORGAN DONOR.—The term ‘living  
 15       organ donor’ means, with respect to coverage, any  
 16       individual who donates all or part of an organ, as  
 17       defined by section 374(d)(2) of the Public Health  
 18       Service Act.”.

19       **SEC. 5. REGULATIONS AND EFFECTIVE DATE.**

20       (a) REGULATIONS.—The Secretary of Labor, the  
 21       Secretary of Health and Human Services, and the Sec-  
 22       retary of the Treasury shall promulgate regulations nec-  
 23       essary to carry out the amendments made by this Act as  
 24       such amendments apply t