

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2097

H.P. 1542 House of Representatives, January 20, 1988
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Human Resources suggested
and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative GWADOSKY of Fairfield.
Cosponsored by Senator KANY of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

AN ACT Pertaining to Hospital Blood
Donorship Policies.

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4 Be it enacted by the People of the State of Maine as
5 follows:

6 5 MRSA §19208 is enacted to read:

7 §19208. Designated blood donor programs

8 1. Right to designate donors. When any person is

1 admitted to a medical facility for surgical or medical
2 treatment which has been scheduled in advance, neither
3 the medical facility nor any health care provider may
4 prohibit that person from designating a specified
5 blood donor or donors, including the person admitted,
6 to furnish blood which may be needed during the
7 surgical or medical treatment, provided that:

8 A. The blood donation is not detrimental to:

9 (1) The donor; or

10 (2) The recipient of the blood or any of the
11 blood's components; and

12 B. The donation is made no earlier than 10
13 business days before the date of the anticipated
14 transfusion and not later than the evening of the
15 4th full business day before the date of the
16 anticipated transfusion.

17 2. Exceptions. This section does not apply to:

18 A. Any surgical or medical treatment that is an
19 emergency in the sole discretion of the attending
20 health care provider; or

21 B. Any medical facility which:

22 (1) Does not maintain a system for the
23 collection, processing and storage of blood
24 and its component parts; or

25 (2) Through a community blood bank, allows a
26 person to provide a blood donor or donors to
27 furnish blood which may be needed during that
28 person's surgical or medical treatment.

29 3. Standard of care. A medical facility or
30 health care provider providing surgical or medical
31 treatment to a person who designates a blood donor or
32 donors under this section is not liable for injury or
33 death occurring as a result of that treatment if the

1 injury or death results from use of the blood supplied
2 by the donor or donors designated by the patient,
3 unless the facility or provider is grossly negligent
4 with regard to use of the blood.

5 4. The Commissioner of Human Services may adopt
6 rules under the Maine Administrative Procedure Act,
7 Title 5, chapter 375, to carry out the purposes of
8 this section.

9 STATEMENT OF FACT

10 This bill permits a person to designate a blood
11 donor, including himself, to provide blood prior to
12 scheduled surgical or medical treatment for use during
13 that treatment.

14 The blood donation must not be harmful to the
15 patient or the designated donor and must be made
16 within 10 business days, but not later than the 4th
17 business day before the scheduled date for treatment.
18 The bill does not affect emergency situations when
19 blood transfusions may be urgently needed, nor does it
20 affect those health care facilities that do not have
21 adequate facilities to collect, process and store the
22 blood donation or that permit the use of designated
23 donors through a community blood bank. The bill
24 relieves the treating health care facility or provider
25 from liability arising out of the death or injury of
26 the patient due to the donated blood unless the
27 facility or provider was grossly negligent in its
28 administration of the transfusion. Finally, the bill
29 authorizes the Department of Human Services to adopt
30 rules implementing designated donor programs in the
31 State.

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