

# Court: Some bone marrow donors can be paid

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(AP) -- A federal appeals court ruled Thursday that most bone marrow donors can be paid, overturning a decades-old law that made such compensation a crime.

In its ruling Thursday, the 9th U.S. Circuit [Court](#) of Appeals said a [technological breakthrough](#) makes donating [bone marrow](#) a nearly identical process as donating blood plasma. It's legal - and common - to pay plasma donors. Therefore, the court ruled, bone marrow donors undergoing the new procedure can be paid as well and are exempt from a law making it a felony to sell [human organs](#) for transplants.

The unanimous three-judge panel of the court did say it remains a felony to compensate donors for undergoing the older donation method, which extracts the marrow from the donors' bones.

The ruling overturns a lower court decision barring compensation for all bone marrow donations.

MoreMarrowDonors.org brought the case, seeking to offer donors \$3,000 in the form of a scholarship, housing allowance or gift to charity.

At the heart of the court's ruling, which is sure to ignite renewed debate over paying medical donors, are two processes for transplanting bone marrow into patients suffering from diseases of the blood.

The first and older one is known as "aspiration" and requires the donor

to endure painful and risky procedures that require hospitalization and anesthesia. Long, thick needles are inserted into the [cavities](#) of the donor's hip bones to suck out the bone marrow. The court said that process was still covered by the National Organ Transplant Act, which explicitly prohibits paying donors for their bone marrow.

The newer procedure, which the court ruled exempt from the act, was developed about 20 years ago and involves harvesting cells from the bloodstream rather than in bone. Called "apheresis," the procedure requires the donor to undergo five days of drug injections to stimulate production of specialized [blood cells](#). Then the donor sits in a recliner for several hours while the blood is filtered through a machine that extracts the specialized cells.

The court said the newer process isn't covered by the law because actual "bone marrow" isn't taken from the donor. The court said that the new process is basically a blood donation and noted that two-thirds of bone marrow transplants employ the newer process.

"It may be that 'bone marrow transplant' is an anachronism that will soon fade away, as peripheral blood stem cell apheresis replaces [aspiration](#) as the transplant technique, much as 'dial the phone' is fading away now that telephones do not have dials," Judge Andrew Kleinfeld wrote for the court.

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