

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 1544  
By: Dawson (Ellis)  
Health & Human Services  
5/4/2005  
Committee Report (Substituted)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Prior to 1975, there was a shortage of viable corneas available for transplantation to patients needing to restore sight. The 64th Texas Legislature passed H.B. 307, the "Gift of Sight," which did not require that a medical examiner ask whether a relative or a descendent objected to the removal of corneal tissue. Removal was only permitted if the medical examiner was not aware of an objection. If the cause of death required an investigation by the medical examiner or justice of the peace, the removal could not interfere with an autopsy or alter the post-mortem facial appearance. Corneas remain viable for six hours after death and must be transplanted within six days of recovery. Each year, thousands of corneas are destroyed by routine autopsies when the fluid from the back of the eye is withdrawn for serological and toxicology testing. Because of these issues, the legislature enacted current law permitting medical examiners and justices of the peace to authorize that corneas be recovered prior to autopsy. There have been many instances documented where corneal tissue was recovered without the prior consent of the next of kin of the deceased.

C.S.H.B. 1544 requires express consent to donate the corneal tissue of a decedent. Under C.S.H.B. 1544, corneal tissue will be included under the Anatomical Gift Act and be subjected to the same provisions that exist for the removal of other organs.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 692, Health and Safety Code, by adding Section 692.017, as follows:

Sec. 692.017. CIVIL PENALTY. (a) Provides that a person who removes corneal tissue from a decedent knowing that a gift authorizing the removal has not been made in accordance with Sections 692.003 (Manner of Executing Gift of Own Body) or 692.004 (Persons Who May Execute Gift) is liable to the state for a civil penalty.

(b) Provides that a person authorized to accept a gift under Section 692.005 (Persons Who May Become Donees) or the agent or employee of a person authorized to accept a gift under Section 692.005 who accepts corneal tissue removed from a decedent knowing that a gift authorizing the removal has not been made in accordance with Sections 692.003 or 692.004 is liable to the state for a civil penalty.

(c) Prohibits a civil penalty under this section from exceeding \$500 for each violation. Requires the court, in assessing a penalty under this section, to consider the seriousness of the violation.

(d) Authorizes the attorney general to sue to collect the penalty.

SECTION 2. Amends Subchapter A, Chapter 693, Health and Safety Code, by adding Section 693.006, as follows:

Sec. 693.006. REMOVAL OF CORNEAL TISSUE. Authorizes, on a request from an eye bank, the medical examiner, justice of the peace, county judge, or physician designated by the justice of the peace or county judge to permit the removal of corneal tissue subject to the same provisions that apply to removal of a visceral organ on the request of an organ procurement organization under this subchapter. Provides that the provisions of this subchapter relating to immunity and consent apply to the removal of the corneal tissue.

SECTION 3. Repealer: Subchapter B (Removal of Corneal Tissue), Chapter 693, Health and Safety Code.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2005.