

BILL ANALYSIS

Senate Research Center
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S.B. 1562
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Health & Human Services
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current law, a medical examiner or a justice of the peace is authorized to permit the removal of tissues and other body parts from individuals who have died under circumstances requiring an inquest. The statute also allows an eye bank official to remove corneal tissue of a decedent if no objection from a qualified person is known, the removal does not interfere with an investigation or autopsy, and the removal does not alter the decedent's postmortem facial appearance. In such a case, current law does not require the family of the decedent to grant permission, but rather consent is presumed if no objection is made known. Problems have arisen due to practices by some medical examiners authorizing the removal of corneas and other body parts without consent, without attempting to gain consent, and in some egregious cases, allowing the removal in direct opposition to families' wishes.

S.B. 1562 addresses the unauthorized removal of corneal tissue to better protect the rights of decedents and the wishes of families. As proposed, S.B. 1562 requires the medical examiner or justice of the peace to obtain consent prior to authorizing the removal of the corneal tissue. It also provides a civil penalty for individuals who knowingly violate the provisions of this Act.

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 Sections 692.017 and 692.018, as follows:

Sec. 692.017. CRIMINAL PENALTY. (a) Provides that a person commits an offense if the person removes corneal tissue from a decedent knowing that a gift authorizing the removal has not been made in accordance with Section 692.003 (Manner of Executing Gift of Own Body) or 692.004 (Persons Who May Execute Gift).

(b) Provides that a person commits an offense if the person is authorized to accept a gift under Section 692.005 (Persons Who May Become Donees) or the person is an agent or employee of a person authorized to accept a gift under Section 692.005 and the person accepts corneal tissue removed from a decedent knowing that a gift authorizing the removal has not been made in accordance with Section 692.003 or 692.004.

(c) Provides that an offense under this section is a Class A misdemeanor.

Sec. 692.018. 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 Section 692.003 or 692.004 is liable to the state for a civil penalty.

(b) Provides that a person authorized to accept a gift under Section 692.005 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 Section 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 certain officials and public employees, on a request from an eye bank, as defined in Section 692.002 (Definitions), 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.