

## **BILL ANALYSIS**

Senate Research Center  
79R1081 YDB-F

S.B. 24  
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Transportation and Homeland Security  
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### **DIGEST AND PURPOSE**

As of July 2004, there were more than 86,000 patients in the United States awaiting transplantation -- 5,600 of whom are Texans. Every thirteen minutes, a new name is added to the national transplant waiting list, and an average of seventeen people die each day while awaiting a life-saving transplant.

Currently, Texas does not have a statewide organ and tissue donor registry. However, the Living Bank International, a 501(c)(3) non-profit organization based in Houston, has developed the infrastructure to allow an organ procurement specialist to call up that registration form in less than one minute. Now in its 36th year, the Living Bank International is the nation's oldest organ donor registry and advocacy organization.

As proposed, S.B. 24 establishes the Donor Education, Awareness, and Registry (DEAR) and designates the Living Bank International or another organization selected by the Department of Public Safety director as the database provider. This bill also implements a new registration fee and establishes the Texas Organ, Tissue, and Eye Donor Council to develop educational and awareness activities to improve understanding and acceptance of organ and tissue donation and transplantation in Texas. The opportunity to make a voluntary donation to the anatomical gift education program is added to vehicle registration.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Organ, Tissue, and Eye Donor Council in SECTION 8 (Section 113.057, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 521.401(b), (c), and (d), Transportation Code, as follows:

(b) Authorizes the statement of (anatomical) gift to be shown on a donor's driver's license or personal identification certificate or by a card designed to be carried by the donor to evidence the donor's intentions with respect to organ, tissue, and eye donation.

(c) Requires the Department of Public Safety (DPS) to provide to each applicant for the issuance of an original, renewal, corrected, or duplicate driver's license or personal identification certificate who applies in person, by mail, over the internet, or by other electronic means: an opportunity to indicate on the person's driver's license or personal identification certificate that the person is willing to make an anatomical gift, in the event of death, in accordance with Section 692.003, Health and Safety Code; and an opportunity for the person to consent in writing to the department's provision of the person's name, date of birth, driver's license number, and most recent address to the Living Bank International (LBI) or other organization selected by the public safety director under Section 521.406 for inclusion in the statewide Internet-based registry of organ, tissue, and eye donors and for release to qualified organ, tissue, and eye bank organizations. Deletes existing text requiring DPS and other appropriate state agencies to pursue the development of a combined statewide database of donors.

(d) Requires an affirmative statement of gift on a person's driver's license or personal identification certificate executed after August 31, 2005, rather than prior to September 1, 1997, to be conclusive evidence of a decedent's status as a donor and serve as consent for

organ, tissue, and eye removal. Deletes existing text relating to a statement of gift on a driver's license or personal identification certificate having no force and effect as of September 1, 1997.

SECTION 2. Amends Section 521.402, Transportation Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Makes a conforming change.

(c) Provides that, to have a person's name deleted from the statewide Internet-based registry of organ, tissue, and eye donors maintained as provided by Section 521.406, a person must provide written notice directing the deletion of the person's name from the registry. Requires the prompt removal of the person's name and information from the registry upon receipt of a written notice under this subsection.

SECTION 3. Amends Section 521.403, Transportation Code, to make a conforming change.

SECTION 4. Amends Subchapter Q Chapter 521, Transportation Code, by adding Section 521.406, as follows:

Sec. 521.406. DONOR EDUCATION, AWARENESS, AND REGISTRY PROGRAM OF TEXAS. (a) Requires DPS to establish the Donor Education, Awareness, and Registry Program of Texas.

(b) Requires DPS to enter into an agreement with LBI or other organization selected under a competitive proposal process for the establishment and maintenance of a statewide Internet-based registry of organ, tissue, and eye donors (registry). Provides that contingent on the continued availability of appropriations under Subsection (f), the term of the initial agreement is six years and is automatically renewed for four-year terms thereafter unless terminated in a written notice to the other party by DPS or the organization not later than the 180th day before the last day of a term.

(c) Requires DPS to electronically transfer to LBI, or other organization, the name, date of birth, driver's license number, and most recent address of any person who indicates on the person's driver's license application under Section 521.401 that the person would like to make an anatomical gift and consents in writing to the DPS release of the information to LBI or other organization for inclusion in the registry.

(d) Requires LBI or other organization to make information obtained from DPS available to qualified organ, tissue, and eye bank organizations, and maintain the registry in a manner that allows qualified organ, tissue, and eye bank organizations to immediately access organ, tissue, and eye donation information 24 hours a day, seven days a week through electronic and telephonic methods.

(e) Requires DPS to make available in each office authorized to issue driver's licenses or personal identification certificates educational materials developed by LBI or other organization for purposes of the program established under this section.

(f) Requires DPS to remit to LBI or other organization the money collected under Sections 521.421(g), 521.422(c), and 502.1745 and appropriated to DPS, less any money DPS determines is necessary to pay costs incurred by the Texas Organ, Tissue, and Eye Donor Council (council) under Chapter 113, Health and Safety Code. Requires that money remitted to LBI or other organization be spent in accordance with the priorities established by DPS as recommended by the council to pay the costs of maintaining, operating, and updating the registry, and designing and distributing educational material for prospective donors as required under this section.

(g) Requires LBI or other organization to submit an annual written report to the public safety director that includes certain information.

SECTION 5. Amends Section 521.421(g), Transportation Code, to require DPS to collect an additional fee of \$1 for the issuance or renewal of a license to pay the costs of the Donor Education, Awareness, and Registry Program of Texas (program), established under Section 521.406, and of the council, if the person applying for or renewing a license opts to pay the additional fee. Deletes existing text requiring DPS to fund the anatomical gift educational program established under Chapter 49.

SECTION 6. Amends Section 521.422(c), Transportation Code, to require DPS to collect an additional fee of \$1 for the issuance or renewal of a personal identification card to pay the costs of the program and of the council, if the person applying for or renewing a personal identification card opts to pay the additional fee. Deletes existing text requiring DPS to fund the anatomical gift educational program established under Chapter 49.

SECTION 7. Amends Subchapter D, Chapter 502, Transportation Code, by adding Section 502.1745, as follows:

Sec. 502.1745. VOLUNTARY FEE. (a) Requires DPS to provide to each county assessor-collector the educational materials for prospective donors provided as required by the program. Requires the county assessor-collector to make the educational materials available in each office authorized to accept applications for registration of motor vehicles.

(b) Requires the county assessor-collector to collect an additional fee of \$1 for the registration or renewal of registration of a motor vehicle to pay for the cost of the program and the council, if the person registering or renewing the registration of a motor vehicle opts to pay the additional fee. Requires the county assessor-collector, notwithstanding any other provision of this chapter, to remit all fees collected under this subsection to the comptroller, who is required to maintain the identity of the source of the fees.

SECTION 8. Amends Subtitle E, Title 2, Health and Safety Code, by adding Chapter 113, as follows:

#### CHAPTER 113. TEXAS ORGAN, TISSUE, AND EYE DONOR COUNCIL SUBCHAPTER A. GENERAL PROVISIONS

Sec. 113.001. DEFINITIONS. Defines "council," "department," and "public safety director."

Sec. 113.002. SUNSET PROVISION. Provides that the council is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that unless continued in existence as provided by this chapter, the council is abolished and this chapter expires September 1, 2017.

[Reserves Sections 113.003-113.050 for expansion.]

#### SUBCHAPTER B. COUNCIL

Sec. 113.051 through 113.060. Sets forth standard Sunset Commission language regarding the terms, compensation duties, and responsibilities of members of the council.

[Reserves Sections 113.061-113.100 for expansion.]

#### SUBCHAPTER C. COUNCIL POWERS AND DUTIES

Sec. 113.101. GENERAL DUTIES. Requires the council to perform certain functions such as advising the public safety director, establishing and prioritizing the program, and encouraging research to evaluate the results of the program.

Sec. 113.102. DIVISION OF ADVISORY AND MANAGEMENT RESPONSIBILITIES. Requires the council to develop and implement policies that clearly separate the advisory responsibilities of the council and the management responsibilities of the public safety director and the staff of DPS.

Sec. 113.103. ADVISORY COMMITTEES. Authorizes the council to establish advisory committees the council considers necessary and to determine the appropriate membership for each committee. Requires the council to specify the purpose and duties of each advisory committee and to specify any product the committee is required to develop. Provides that members of the committee serve at the will of the council. Authorizes the council to dissolve an advisory committee when necessary.

Sec. 113.104. GIFTS AND GRANTS. Authorizes the council to receive gifts and grants from any public or private source to perform its duties under this chapter. Requires DPS to accept the gifts on behalf of the council and to deposit any funds accepted under this section to the credit of a special account in the general revenue fund. Authorizes DPS to retain five percent of a monetary gift accepted on behalf of the council to cover its costs in administering this section.

Sec. 113.105. REPORT. Requires the council to submit a report of the council's activities and recommendations to the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature before September 1 of each even-numbered year.

Sec. 113.106. AUDIT. Provides that the financial transactions pertaining to the council are subject to audit by the state auditor in accordance with Chapter 321 (State Auditor), Government Code.

SECTION 9. Repealer: Chapter 49, Health and Safety Code (Anatomical Gift Education Program).

SECTION 10. Sets forth the guidelines, timelines, and manner in which the appointments to the council must be made after this Act takes effect.

SECTION 11. Effective date: upon passage or September 1, 2005.