

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 24
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Transportation and Homeland Security
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Committee Report (Substituted)

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.

C.S.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

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

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 donor cards to be provided to the Department of Public Safety (DPS) by qualified organ or tissue procurement organizations or eye banks, as those terms are defined in Section 692.003 (Manner of Executing Gift of Own Body), Health and Safety Code, or by the donor education and awareness registry program established under Chapter 49 (Anatomical Gift Educational Program), Health and Safety Code. Requires DPS to provide certain documentation and opportunities relating to the issuance and distribution of donor cards.

(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) Requires a person, to have a person's name deleted from the statewide Internet-based registry of organ, tissue, and eye donors maintained as provided by Chapter 49, Health and Safety Code, to provide written notice to the organization selected by the commissioner of state health services (commissioner) under that chapter to maintain the registry directing the deletion of the person's name from the registry. Requires the organization to promptly remove 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 Chapter 49, Health and Safety Code, as follows:

CHAPTER 49. New heading: DONOR EDUCATION, AWARENESS, AND REGISTRY
PROGRAM OF TEXAS

Sec. 49.001. New heading: DEFINITIONS. Defines "commissioner," "department," and "registry program."

Sec. 49.002. ESTABLISHMENT OF PROGRAM. (a) Requires the Department of State Health Services (DSHS), in consultation with DPS and organ procurement organizations, to establish the Donor Education, Awareness, and Registry Program of Texas (program).

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

(c) Requires DPS at least monthly to electronically transfer to the selected organization the name, date of birth, driver's license number, most recent address, and any other relevant information in the possession of DPS for 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 release of the information by DPS to the organization for inclusion in the statewide Internet-based registry of organ, tissue, and eye donors.

(d) Requires the contract between DSHS and the selected organization to require the organization to take certain actions regarding organ donation.

(e) Prohibits, except as otherwise provided by Subsection (d)(3) or this subsection, DPS, the selected organization or a qualified organ, tissue, and eye bank organization from selling, renting, or otherwise sharing any information provided to the registry. Authorizes a qualified organ, tissue, and eye bank organization to share any information provided to the registry with an organ procurement organization or a health care provider or facility providing medical care to a potential donor as necessary to properly identify an individual at the time of donation.

(f) Prohibits DPS, the selected organization selected or the qualified organ, tissue, and eye bank organization from using any demographic or specific data provided to the registry for any fundraising activities. Authorizes data to be transmitted only from the selected organization to the qualified organ, tissue, and eye bank organizations through electronic and telephonic methods using secure,

encrypted technology to preserve the integrity of the data and the privacy of the individuals providing information.

(g) Requires DPS, in each office authorized to issue driver's licenses or personal identification certificates, to make available educational materials developed by the Texas Organ, Tissue, and Eye Donor Council (council) established under Chapter 113.

(h) Requires DPS to remit to the comptroller the money collected under Sections 521.421(g) and 521.422(c), Transportation Code, as provided by those subsections. Requires a county assessor-collector to remit to the comptroller any money collected under Section 502.1745, Transportation Code, as provided by that section. Requires money remitted to the comptroller in accordance with this subsection that is appropriated to the department to be spent in accordance with the priorities established by DSHS in consultation with the council to pay certain costs.

(i) Authorizes any additional money over the amount necessary to accomplish the purposes of Subsections (h)(1) and (2) to be used by DSHS to provide education under this chapter or to be awarded using a competitive grant process to organizations to conduct organ, eye, and tissue donation education activities in this state. Prohibits a member of the council from receiving a grant under this subsection.

(j) Requires DSHS to require the selected organization selected to submit an annual written report to the department that includes certain information.

(k) Requires DSHS, to the extent funds are available and as part of the registry program, to educate residents about anatomical gifts.

(l) Requires DSHS in consultation with the council, in developing the program, to solicit broad-based input reflecting recommendations of all interested groups, including representatives of patients, providers, ethnic groups, and geographic regions.

(m) Authorizes DSHS, in consultation with the council, to implement a training program for all appropriate DPS and Department of Transportation employees on the benefits of organ, tissue, and eye donation and the procedures for individuals to be added to the statewide Internet-based registry of organ, tissue, and eye donors. Requires DSHS to implement the training program before the date that the statewide Internet-based registry is operation and to conduct the training on an ongoing basis for new employees.

Sec. 49.003. EDUCATION FOR HEALTH CARE PROVIDERS AND ATTORNEYS. Redesignated from existing Section 49.004. Deletes existing Section 49.001(c) requiring DSHS to implement the program in a certain manner. Deletes existing Section 49.002(e) requiring DSHS to implement the program in a certain manner.

SECTION 5. 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," "commissioner," "department," and "public safety director."

Sec. 113.002. SUNSET PROVISION; ABOLISHMENT. Provides that the Texas Organ, Tissue, and Eye Donor Council (council) is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that unless continued in existence as provided by that

chapter, the council is abolished and this chapter expires September 1, 2017, unless the DSHS and the council mutually determine that the public interest is best served by abolition of the council and agree to abolish the council on an earlier date.

[Reserves Sections 113.003-113.050 for expansion.]

SUBCHAPTER B. COUNCIL

Sec. 113.051 through 113.058. Sets forth standard Sunset Commission language regarding the terms, compensation, duties, and responsibilities of members of the council.

[Reserves Sections 113.059-113.100 for expansion.]

SUBCHAPTER C. COUNCIL POWERS AND DUTIES

Sec. 113.101. GENERAL DUTIES. Requires the council, as the required by the department, to advise certain governmental entities on matters relating to the program.

Sec. 113.102. 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 December 1 of each even-numbered year.

Sec. 113.103. 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.

Sec. 113.104. COSTS IN ADMINISTERING PROGRAM. Authorizes ten percent of all money collected under Sections 521.421(g), 521.422(c), and 502.1745, Transportation Code, to be appropriated only to DSHS to administer this chapter.

SECTION 6. 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, including a duplicate license, a license issued to reflect an additional authorization or a change in classification, or a license issued or renewed over the Internet or by other electronic means, to pay the costs of the program, established under Chapter 49, Health and Safety Code, subject to Section 133.104, Health and Safety Code, of the council, established under Chapter 113, Health and Safety Code, if the person applying for, renewing, or changing a license opts to pay the additional fee. Authorizes DPS, subject to appropriation, to retain three percent of the money collected under this subsection to cover the costs in administering this subsection. Deletes existing text requiring DPS to fund the anatomical gift educational program established under Chapter 49. Makes conforming changes.

SECTION 7. 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, including a duplicate personal identification card or a personal identification card issued or renewed over the Internet or by other electronic means, 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. Authorizes DPS, subject to appropriation, to retain three percent of the money collected under this subsection to cover the costs in administering this subsection. Deletes existing text requiring DPS to fund the anatomical gift educational program

SECTION 8 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. Makes a conforming change.

(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. Makes a conforming change.

(c) Authorizes three percent of all money collected under this section to be appropriated only to the Department of Transportation to administer this section.

SECTION 9. Authorizes, notwithstanding any other provision of law, not more than 24 percent of the money collected under Sections 521.421(g) and 521.422(c), Transportation Code, as amended by this Act, and Section 502.1745, Transportation Code, as added by this Act, to be appropriated to the Department of Transportation for the initial costs estimated to be incurred by that department in the state fiscal biennium beginning September 1, 2005, to implement the changes in law made by this Act.

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. (a) Requires DSHS to contract with an organization for the establishment and maintenance of a registry for organ, tissue, and eye donors in accordance with Chapter 49, Health and Safety Code, as amended by this Act, and ensure the organization establishes the registry not later than September 1, 2006.

(b) Requires DPS to be in compliance with the changes in law made by this Act to Sections 521.421(g) and 521.422(c), Transportation Code, related to duplicate or changed licenses or personal identification cards and related to transactions conducted over the Internet or by other electronic means not later than June 1, 2006.

SECTION 12. (a) Effective date: upon passage or September 1, 2005 except as provided by Subsection (b).

(b) Effective date for Section 8 of this Act: June 1, 2006.