

BILL ANALYSIS

Senate Research Center
79R11209 YDB-F

H.B. 120
By: Dawson et al.(Zaffirini)
Transportation & Homeland Security
5/19/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As of July 2004, there were more than 86,000 patients in the United States awaiting transplantation, of those 5,600 are Texans. Every 13 minutes, a new name is added to the national transplant waiting list, and every day, 17 people will die while awaiting a life saving organ transplant. Currently, Texas does not have a statewide organ and tissue donor registry.

H.B. 120 establishes the Donor Education, Awareness and Registry (DEAR) Program of Texas which will develop educational, awareness activities, and a registry program to improve understanding and acceptance of organ and tissue donation and transplantation in Texas.

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 of certain opportunity to indicate and consent to certain agreements. Deletes existing text relating to certain entities in cooperation with certain donation organizations that are required to develop a combined statewide database for 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 certain statement of gift on certain identification documents.

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

(a) Deletes existing text relating to a certain identification document that is made prior to September 1, 1997.

(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 Section 521.406, to provide written notice to the organization selected by the public safety director (organization) under that section to maintain the registry, directing the deletion of the person's name from the registry. Requires the organization, on receipt of a written notice under this subsection, to promptly remove the person's name and information from the registry.

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

SECTION 4. Amends Subchapter Q, Chapter 521, Transportation Code, as follows:

Sec. 521.406. DONOR EDUCATION, AWARENESS, AND REGISTRY PROGRAM OF TEXAS. (a) Requires DPS, in consultation with the Department of State Health Services and organ procurement organizations, to establish the Donor Education, Awareness, and Registry Program of Texas.

(b) Requires DPS to enter into an agreement with an organization selected by the public safety director under a competitive proposal process for the establishment and maintenance of a statewide Internet-based registry of organ, tissue, and eye donors. Requires the organization to be an independent nonprofit organization that is currently and has been solely engaged in organ donation and registration programs for at least seven years and that is not engaged directly or indirectly in any aspect of organ, tissue, or eye procurement or placement. Provides that contingent on the continued availability of appropriations under Subsection (f), the term of the initial agreement is two years and is automatically 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 to electronically transfer to the organization selected by the public safety director as provided by Subsection (b) 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 DPS's release of the information to the organization for inclusion in the statewide Internet-based registry of organ, tissue, and eye donors.

(d) Requires the organization selected by the public safety director as provided by Subsection (b), to make information obtained from DPS under Subsection (c) available to qualified organ, tissue, and eye bank organizations and maintain a certain statewide Internet-based registry of organ, tissue, and eye donors in a certain manner.

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

(f) Requires DPS to remit to the organization selected by the public safety director as provided by Subsection (b) the money collected under Sections 521.421(g) (License Fees; Examination Fees), 521.422(c) (Personal Identification Certificate Fee), and 502.1745 and appropriated to the department, less any money the department determines is necessary to pay costs incurred by the Texas Organ, Tissue, and Eye Donor Council under Chapter 113, Health and Safety Code. Requires money remitted to the organization to be spent in accordance with the priorities established by DPS as recommended by the council to pay the costs of certain functions.

(g) Requires the organization selected by the public safety director as provided by Subsection (b) 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, including a duplicate or corrected 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 Donor Education, Awareness, and Registry Program of Texas, established under Section 521.406, and of the Texas Organ, Tissue, and Eye Donor Council, established under Chapter

113, Health and Safety Code, if the person applying for, renewing, correcting, or changing a license opts to pay the additional fee. Requires DPS to remit fees collected under this subsection to the comptroller of public accounts (comptroller), who is required to maintain the identity of the source of the fees.

SECTION 6. Amends Section 521.422(c), Transportation Code to make conforming changes.

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 Donor Education, Awareness, and Registry Program of Texas under Section 521.406. Requires a county assessor-collector to make the educational materials available in each office authorized to accept applications for registration of motor vehicles.

(b) Requires a county assessor-collector to collect an additional fee of \$1 for the registration or renewal of registration of a motor vehicle to pay the costs of the Donor Education, Awareness, and Registry Program of Texas, established under Section 521.406, and of the Texas Organ, Tissue, and Eye Donor Council, established under Chapter 113, Health and Safety Code, if the person registering or renewing the registration of a motor vehicle opts to pay the additional fee. Requires the county assessor-collector shall remit all fees collected under this subsection to the comptroller, who shall maintain the identity of the source of the fees notwithstanding any other provision of this chapter.

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," "public safety director."

Sec. 113.002. SUNSET PROVISION. Provides that the Texas Organ, Tissue, and Eye Donor Council (council) is subject to Chapter 325 (Texas Sunset Act), Government Code. Provides that unless continued in existence as provided by that 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. COMPOSITION OF COUNCIL. (a) Sets forth the composition of the council.

(b) Requires a public member of the council to meet certain requirements.

(c) Provides that a member of the council who is a representative of an agency of this state is a nonvoting member of the council.

(d) Requires appointments to the council to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 113.052. PUBLIC MEMBERSHIP ELIGIBILITY. Provides that a person is not eligible for appointment as a public member of the council if the person or the person's spouse falls under certain criteria.

Sec. 113.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) Defines the "Texas trade association."

(b) Prohibits an officer, employee, or paid consultant of a Texas trade association in the field of health care from being a member or employee of the council.

(c) Prohibits a person who is the spouse of an officer, employee, or paid consultant of a Texas trade association in the field of health care from being a member of the council and from being an employee of the council who is exempt from the state's position classification plan or is compensated at or above the minimum amount prescribed by the General Appropriations Act for salary group A17 of the position classification salary schedule.

(d) Prohibits a person from serving as a member of the council or acting as the general counsel to the council if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the council.

Sec. 113.054. TERMS; VACANCY. (a) Sets forth the terms and procedures for filling a vacancy of the council.

Sec. 113.055. PRESIDING OFFICER. Requires the governor to designate a public member of the council as the presiding officer of the council to serve in that capacity at the will of the governor.

Sec. 113.056. GROUNDS FOR REMOVAL. (a) Sets forth the reasons for removal of a member from the council.

(b) Provides that the validity of an action of the council is not affected by the fact that it is taken when a ground for removal of a council member exists.

(c) Requires the director of the council (director), if the public safety director has knowledge that a potential ground for removal exists, to notify the presiding officer of the council of the potential ground. Requires the presiding officer to then notify the governor and the attorney general that a potential ground for removal exists. Requires the director, if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer or most senior member of the council, who is required to then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 113.057. MEETINGS; QUORUM. (a) Requires the council to meet at least twice each calendar year and at the call of the presiding officer.

(b) Requires the council to adopt rules for the conduct of its meetings.

(c) Provides that any action taken by the council requires two-thirds of the members to be present and the action is required to be approved by a majority of the members present.

Sec. 113.058. COMPENSATION. (a) Prohibits a member of the council from receiving compensation for service on the council.

(b) Requires a member to be reimbursed for the member's actual and necessary expenses for meals, lodging, transportation, and incidental expenses incurred while performing council business, subject to any applicable limitation on reimbursement prescribed by the General Appropriations Act.

Sec. 113.059. TRAINING. (a) Prohibits a person who is appointed to and qualifies for office as a member of the council from voting, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) Requires the training program to provide the person certain information regarding council procedures.

(c) Provides that a person appointed to the council is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 113.060. INFORMATION ABOUT STANDARDS OF CONDUCT. Requires the public safety director or the director's designee to provide to members of the council, as often as necessary, information regarding the requirements for membership on the council under this chapter, including information regarding a person's responsibilities under laws relating to applicable standards of conduct.

[Reserves Sections 113.061-113.100 for expansion.]

SUBCHAPTER C. COUNCIL POWERS AND DUTIES

Sec. 113.101. GENERAL DUTIES. Requires the council, in consultation with the Department of State Health Services and organ procurement organizations, to take certain actions.

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 the department.

Sec. 113.103. ADVISORY COMMITTEES. (a) Authorizes the council to establish advisory committees the council considers necessary and may determine the appropriate membership for each committee.

(b) Requires the council to specify the purpose and duties of each advisory committee and to specify any product the committee is required to develop.

(c) Provides that members of an advisory committee serve at the will of the council. Authorizes the council to dissolve an advisory committee when necessary.

Sec. 113.104. GIFTS AND GRANTS. (a) Authorize 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.

(b) 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, before September 1 of each even-numbered year, to submit a report of the council's activities and recommendations certain state elected officials.

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 (Anatomical Gift Educational Program), Health and Safety Code, is repealed.

SECTION 10. (a) Requires certain state agencies, promptly after this Act takes effect, to appoint a representative of their agency to serve as a member of the Texas Organ, Tissue, and Eye Donor Council.

(b) Requires the governor, promptly after this Act takes effect, to appoint three professional and two public members to the Texas Organ, Tissue, and Eye Donor Council. Requires the governor, in appointing the professional members, to appoint one person to a term expiring February 1, 2007, one person to a term expiring February 1, 2009, and one person to a term expiring February 1, 2011. Requires the governor, in appointing the public members, to appoint one person to a term expiring February 1, 2007, and one person to a term expiring February 1, 2009.

SECTION 11. (a) Requires DPS to contract with an organization for the establishment and maintenance of a registry for organ, tissue, and eye donors in accordance with Section 521.406, Transportation Code, as added 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, corrected, 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) Provides that Section 7 of this Act takes effect September 1, 2007.