

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 120
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Transportation & Homeland Security
5/21/2005
Committee Report (Substituted)

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.

C.S.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

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 by qualified organ or tissue procurement organizations or eye banks, as those terms are defined by the Donor Education, Awareness, and Registry Program of Texas established under Chapter 49 (Anatomical Gift Educational Program), Health and Safety Code. 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 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, 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 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 (department), in consultation with the Department of Public Safety (DPS) and organ procurement organizations, to establish the Donor Education, Awareness, and Registry Program of Texas (registry program).

(b) Requires department to enter into an agreement with an organization selected by the commissioner 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 may 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 to at least monthly electronically transfer to the organization selected by the commissioner as provided by Subsection (b) the name, date of birth, driver's license number, and most recent address, and any other relevant information in the possession of the DPS of any person who indicates on the person's driver's license application under Section 521.401, Transportation Code, that the person would like to make an anatomical gift and consents in writing to release of the information by DPS to the organization for inclusion in the statewide Internet-based registry of organ, tissue, and eye donors (registry).

(d) Requires the contract between the department and the organization selected by the commissioner 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, and protect the confidentiality and privacy of the individuals providing information to the registry.

(e) Prohibits the DPS, the organization selected by the commissioner under Subsection (b), or a qualified organ, tissue, and eye bank organization, except as otherwise provided by Subsection (d)(3) or this subsection, 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 organization selected by the commissioner under Subsection (b), or the qualified organ, tissue, and eye bank organizations from using any demographic or specific data provided to the registry for any fund-raising activities. Authorizes data to only be transmitted from the selected 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) (License Fees; Examination Fees) and 521.422(c) (Personal Identification Certificate Fee), 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 department, in consultation with the council to pay the costs of certain functions.

(i) Authorizes any additional money over the amount necessary to accomplish the purposes of Subsections (h)(1) and (2) to be used by the department 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 the department to require the organization selected under Subsection (b) to submit an annual written report to the department that includes certain information.

(k) Redesignated from existing Section 49.001(a). Requires the department, to the extent funds are available and as part of the registry program (program), to educate resident about anatomical gifts. Requires the program to include certain information in consultation with the council.

(l) Redesignated from existing Section 49.001(b). Requires the department, in consultation, to solicit broad-based input reflecting recommendations of all interested groups, including representatives of patients, providers, ethnic groups, and geographic regions.

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

Sec. 49.003. Redesignated from existing Section 49.002. Deletes existing text relating to the implementation of the anatomical gift education program.

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 (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, unless the

department 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. 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. 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. TERMS; VACANCY. Sets forth the terms and procedures for filling a vacancy of the council. Provides that a council member appointed as a representative of an agency serves at the will of the appointing agency.

Sec. 113.054. PRESIDING OFFICER. Requires the commissioner 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 commissioner.

Sec. 113.055. 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 commissioner, if the commissioner 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 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 attorney general that a potential ground for removal exists.

Sec. 113.056. 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 bylaws 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. 113.057. 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. 113.058. 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 113.059-113.100 for expansion.]

SUBCHAPTER C. COUNCIL POWERS AND DUTIES

Sec. 113.101. GENERAL DUTIES. Requires the council, as required by the department, to take certain actions.

Sec. 113.102. REPORT. Requires the council, before December 1 of each even-numbered year, to submit a report of the council's activities and recommendations to certain state elected officials.

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 the department 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 Donor Education, Awareness, and Registry Program of Texas, established under Chapter 49, Health and Safety Code, and of the Texas Organ, Tissue, and Eye Donor 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 TxDOT, subject to appropriation, to retain three percent of the money collected under this subsection to cover the costs in administering this subsection.

SECTION 7. Amends Section 521.422(c), Transportation Code, to make conforming changes.

SECTION 8. Amends Subchapter D, Chapter 502, Transportation Code, by adding Section 502.1745, as follows:

Sec. 502.1745. VOLUNTARY FEE. (a) Requires TxDOT 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 Chapter 49, Health and Safety Code. 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 Chapter 49, Health and Safety Code, 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.

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

SECTION 9. Requires 25 percent of the money collected under Section 502.1745, Transportation Code, as added by this Act, to be deposited in the state highway fund for the initial costs estimated to be incurred by TxDOT in the state fiscal biennium beginning September 1, 2005, to implement the changes in law made by this Act, notwithstanding any other provision of law.

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 commissioner of state health services (commissioner), promptly after this Act takes effect, to appoint five professional and two public members to the Texas Organ, Tissue, and Eye Donor Council. Requires the commissioner, in appointing the professional members, to appoint two persons to a term expiring February 1, 2007, two persons to a term expiring February 1, 2009, and two persons to a term expiring February 1, 2011. Requires the commissioner, 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 the department 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) Provides that Section 8 of this Act takes effect September 1, 2005.