

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1186  
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Health & Human Services  
4/3/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Medical Examiners conduct autopsies to determine the cause and manner of death of certain individuals. Autopsy specimens are a valuable source for the study of brain, neurodegenerative diseases like Alzheimer's and Parkinson's, and many infectious diseases including pulmonary tuberculosis. New and emerging infectious diseases can be impossible to diagnose accurately without adequate specimens.

Texas laws do not expressly authorize medical examiners to use medical waste from autopsies for education, research, and quality control. Medical examiners are currently allowed to retain autopsy tissues to determine the cause and manner of death. Some of these tissues are then classified as medical waste and are later disposed of.

C.S.S.B. 1186 would authorize the use of medical waste, as defined by the Department of State Health Services (DSHS), with the exclusion of waste produced on a farm or ranch or artificial and nonhuman materials removed from a patient. Tissue that is used must not have any identifying features of the decedent. Tissue removed during an autopsy that would have been disposed of as medical waste may be used to perform educational, diagnostic, or research activities. These activities may occur in collaboration with a nationally recognized research or educational institution under review by an institutional review board for compliance with applicable state and federal law. An opt-out is included that would prohibit use of tissue taken during an autopsy if a person authorized to make an anatomical gift on behalf of the decedent objects to the use of tissue based on a religious belief of the decedent.

C.S.S.B. 1186 amends current law relating to the use by a medical examiner of certain medical waste and autopsy records.

### **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 Article 49.25, Code of Criminal Procedure, by adding Section 13B, as follows:

Sec. 13B. EDUCATION AND RESEARCH. (a) Defines "medical waste," for the purposes of this section, except that the term does not include waste produced on a farm or ranch as defined by Section 151.316 (Agricultural Items), Tax Code, or artificial, nonhuman materials removed from a patient and requested by the patient, including orthopedic devices and breast implants.

(b) Authorizes a medical examiner, except as provided by Subsection (d), to use tissue that is removed from a body during an autopsy to perform educational, diagnostic, or research activities after the autopsy is completed if the tissue is medical waste. Authorizes these activities to be conducted in collaboration with a nationally recognized research or educational institution. Requires that tissue that is used be anonymized in accordance with applicable federal research standards.

(c) Requires that research activities conducted in collaboration with a nationally recognized research or educational institution be reviewed, in each case, by an institutional review board for compliance with applicable state and federal law, including laws requiring informed consent and anonymization of tissue and prohibiting the sale of body parts.

(d) Prohibits a medical examiner from using tissue under Subsection (b) to perform educational, diagnostic, or research activities after the autopsy is completed unless informed consent has been obtained from the decedent or a guardian, next of kin, or person authorized to make an anatomical gift of the decedent's body under Section 692A.009 (Who May Make Anatomical Gift of Decedent's Body or Part), Health and Safety Code. Provides that informed consent for use of the tissue is not required if at the completion of the autopsy and release of the body the decedent does not have a known guardian, next of kin, or person authorized to make an anatomical gift of the decedent's body. Provides that in the event the overseeing medical examiner or medical examiner's office is unable to contact the decedent's guardian, next of kin, or a person who is authorized to make an anatomical gift of the decedent's body within 90 days of the decedent's death, informed consent for use of the tissue is not required.

SECTION 2. Effective date: September 1, 2013.