

## **BILL ANALYSIS**

C.S.H.B. 1092  
By: Oliverson  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties have expressed concerns regarding the donation of a decedent's body or organs by a hospital administrator and certain other persons in the absence of directives. C.S.H.B. 1092 seeks to address this concern by removing the authority of a hospital administrator and certain other persons to make such a donation.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1092 amends the Health and Safety Code to remove from the prioritized list of persons authorized to make an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education a hospital administrator and a person not otherwise specified in the prioritized list who has the authority to dispose of a decedent's body. The bill excludes a person associated with the hospital in possession of a decedent's body from the individuals who are authorized to make such an anatomical gift based on the individual's special care and concern for a decedent and prohibits a procurement organization from petitioning a court to become a decedent's guardian or to otherwise be authorized to make an anatomical gift of a decedent's body or part. The bill excludes a procurement organization from the definition of "guardian" for purposes of the Revised Uniform Anatomical Gift Act and provides for the exclusion from that definition of any person associated with the hospital in possession of the decedent's body other than a person described by a certain provision.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1092 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

85R 21623

17.95.843

Substitute Document Number: 85R 7949

No equivalent provision.

SECTION 1. Section 692A.009(a), Health and Safety Code, is amended to read as follows:

(a) Subject to Subsections (b) and (c) and unless barred by Section 692A.007 or Section 692A.008, an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

- (1) an agent of the decedent at the time of death who could have made an anatomical gift under Section 692A.004(2) immediately before the decedent's death;
- (2) the spouse of the decedent;
- (3) adult children of the decedent;
- (4) parents of the decedent;
- (5) adult siblings of the decedent;
- (6) adult grandchildren of the decedent;
- (7) grandparents of the decedent;
- (8) an adult who exhibited special care and concern for the decedent;

(9) the persons who were acting as the guardians of the person of the decedent at the time of death; and

(10) ~~the hospital administrator; and~~  
[(11)] any other person having the authority to dispose of the decedent's body.

SECTION 2. Section 692A.009(a), Health

SECTION 1. Section 692A.002(13), Health and Safety Code, is amended to read as follows:

(13) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include:

- (A) a guardian ad litem;
- (B) a procurement organization; or
- (C) any person associated with the hospital in possession of the decedent's body other than a person described by Section 692A.009(2), (3), (4), (5), (6), or (7).

SECTION 2. Section 692A.009, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Subject to Subsections (b) and (c) and unless barred by Section 692A.007 or Section 692A.008, an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

- (1) an agent of the decedent at the time of death who could have made an anatomical gift under Section 692A.004(2) immediately before the decedent's death;
- (2) the spouse of the decedent;
- (3) adult children of the decedent;
- (4) parents of the decedent;
- (5) adult siblings of the decedent;
- (6) adult grandchildren of the decedent;
- (7) grandparents of the decedent;
- (8) an adult who exhibited special care and concern for the decedent other than a person associated with the hospital in possession of the decedent's body; and

(9) the persons who were acting as the guardians of the person of the decedent at the time of death[;

~~[(10) the hospital administrator; and~~  
[(11)] ~~any other person having the authority to dispose of the decedent's body].~~

(d) A procurement organization may not petition a court to become the decedent's guardian or to otherwise be authorized to make an anatomical gift of the decedent's body or part.

SECTION 3. Substantially the same as

and Safety Code, as amended by this Act, applies only to an anatomical gift made on or after the effective date of this Act. An anatomical gift made before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2017.

introduced version.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.