

SUBJECT: Establishing anatomical gift designation on driver's licenses and a registry

COMMITTEE: Public Health — committee substitute recommended

VOTE: 6 ayes — Delisi, Dawson, McReynolds, Solis, Truitt, Zedler

0 nays

3 absent — Laubenberg, Coleman, Jackson

WITNESSES: For — Syed Ahmed, Marianne Flournoy, Ralph Longoria, Lisa Whitaker, Living Bank; Bonnie Lundy, Transplants for Children; Barbara Franzheim; Robert Garrett; E.B. LaRue; Charlotte London; Amanda Owens; Summer Rohde; (*Registered, but did not testify*: Ed Berger, Seton Healthcare Network; Stephen Brown, American Heart Association; Glen Maxey, Davita, Inc.; Jack Ellett; Sylvia Longoria)

Against — None

On — James Cutler, Southwest Transplant Alliance; Ingemar Davidson, Texas Transplantation Society; Jerry Dike, Texas Department of Transportation; Jann Melton-Kissel, Department of State Health Services; Margaret Spinks, Texas Department of Public Safety

BACKGROUND: Before 1997, Texans who wished to become organ donors could indicate their preference on their driver's licenses. Many applicants were not given the option to indicate this when applying for a license or renewal and, in the absence of an affirmative response, their cards were marked as if they had declined. The 75th Legislature enacted SB 952 by Moncrief, which rescinded the driver's license option and instead permitted donors to indicate their preference on a donor card.

DIGEST: CSHB 120 would direct the Department of Public Safety (DPS) to permit a person who applied for or renewed a driver's license to indicate if that person was willing to make an anatomical gift and consent to inclusion in a statewide database of organ donors. The person's preference could be shown on the driver's license. An affirmative statement of an anatomical gift on a driver's license issued after August 31, 2005, would constitute conclusive evidence of a person's status as a donor.

A person who wished no longer to be a donor would apply to DPS for an amendment to the license and would send written notice to the organization selected by DPS to maintain the registry.

The bill would establish a donor education, awareness, and registry program. DPS would contract with an organization, through a competitive proposal process, to establish and maintain the statewide Internet database. The organization would have to be a nonprofit, solely engaged in organ donation and registration programs for at least seven years, but not engaged in organ procurement or placement. The contract would be for two-year terms, automatically renewed contingent on appropriations.

The registry would be in place by September 1, 2007. The organization would manage the registry and make it available to qualified organ, tissue, and eye bank organizations 24 hours a day, seven days a week via the Internet and telephone. The organization also would develop education materials for DPS driver's license and county assessor-collectors' offices to have available.

CSHB 120 would establish the Texas Organ, Tissue, and Eye Donor Council and abolish the Department of State Health Services' (DSHS) anatomical gift education program. It would meet at least twice a year, with a quorum of two-thirds required and majority votes to take action. The council would advise DSHS on matters relating to organ donation, including donor awareness, education, availability, needs, allocation of funds for the registry, and recommended initiatives. It would submit a report to the Legislature of its findings and activities by September 1 of every even-numbered year.

The council would include representatives from DSHS, DPS, and the Texas Department of Transportation (TxDOT), each appointed by that agency's head; three professional members appointed by the governor, including one transplant physician or nurse, one representative from an acute care hospital, and one representative from the organ donation education profession; and two public members who were organ recipients or family members of one and who were appointed by the governor with input from stakeholder groups. The representatives from agencies would be non-voting members, and the governor would designate a presiding officer. The council members would serve staggered, six-year terms and be subject to standard conflict of interest, standards of conduct, and removal provisions. They also would undergo a training program and

could establish advisory committees. Members could not be compensated, but could be reimbursed for expenses. The council could accept gifts or donations, although 5 percent of any funds would be retained by DSHS. The council would sunset September 1, 2017.

Funding for the registry and the Texas Organ, Tissue, and Eye Donor Council would be generated through an existing \$1 additional fee on the issuance or renewal of a license or personal identification. The fee also would be extended to duplicate, corrected, or amended licenses and personal identification cards. Motor vehicle registration applicants also could pay a \$1 voluntary fee.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005. Changes to driver's licenses and personal identification cards would be in place by June 1, 2006. The voluntary fee on motor vehicle registration would take effect September 1, 2007.

**SUPPORTERS
SAY:**

Organ transplants save lives, and the state should establish a process by which donors and recipients could be matched. Under current law, the pool of donors has shrunk because the state does not routinely ask if a person would like to be a donor. In the absence of an affirmative answer, many families are hesitant to permit donation after a loved one's death. Asking about organ donation when a person applies for or renews a driver's license would be the most effective way for people to express their desire to donate organs.

A statewide registry would better match donors and recipients by ensuring that all potential donors were included in the system. Private organizations now perform drives to ask people to donate, but their efforts are limited. Entering the information from driver's license applications would be the most systematic way to compile a database.

**OPPONENTS
SAY:**

The private sector already does what this bill would do. Private charitable organizations give donor cards to anyone who wants to make an anatomical gift, and nonprofit registries already match donors to recipients. Texas should not duplicate what the private sector already is doing quite well.

OTHER
OPPONENTS
SAY:

The Senate version of this bill would better improve the process and education about anatomic gifts. It would make DSHS the lead agency, which would be more appropriate because DSHS has significant experience in public education and registry management. The Senate committee substitute also would ensure that the problems experienced before 1997 with training in driver's license offices would not be repeated under the new legislation.

NOTES:

The committee substitute would permit DPS to contract with any organization, through a competitive proposal process, to establish and maintain the statewide Internet database as long as that organization were a non-profit engaged solely in organ donation and registration programs for at least seven years, but not engaged in organ procurement or placement.

The fiscal note estimates a cost of \$53,000 in the coming biennium to pay for one-time programming costs and that the bill would generate \$576,000 each year from fiscal 2008 on.

The companion bill, SB 24 by Zaffirini, passed the Senate on May 2.