

## **BILL ANALYSIS**

Senate Research Center  
82R28376 YDB-D

C.S.H.B. 2904  
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Health & Human Services  
5/12/2011  
Committee Report (Substituted)

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

There are thousands of Texans waiting to receive a lifesaving organ transplant. Although recent legislation streamlined the process to make it easier for Texans to become registered donors, and the registry has grown since its inception, the growth has not been enough to significantly impact donation rates in Texas.

Many organ registries across the country are now being run by federally certified organ procurement organizations, rather than by state governments. Many states that have contracted with these organizations have experienced significant growth in their registries. By adopting a similar system, the number of registered donors in Texas could increase as well.

C.S.H.B. 2904 seeks to bring attention to the growing need for organ and tissue donors in Texas and attempts to make the Glenda Dawson Donate Life-Texas Registry (registry) a more effective tool in registering citizens of Texas to become organ, tissue, and eye donors, while also reducing the cost to state government of operating the registry.

C.S.H.B. 2904 amends the Health and Safety Code to abolish the Texas Organ, Tissue, and Eye Donor Council and the registry, and to require DSHS to contract with a nonprofit organization, which is federally certified, to administer the registry.

C.S.H.B. 2904 amends current law relating to the administration of the Glenda Dawson Donate Life-Texas Registry.

### **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 Section 692A.020, Health and Safety Code, as follows:

Sec. 692A.020. GLENDA DAWSON DONATE LIFE-TEXAS REGISTRY; EDUCATION PROGRAM. (a) Requires the Department of State Health Services (DSHS) to contract with a nonprofit organization to maintain a statewide donor registry, to be known as the Glenda Dawson Donate Life-Texas Registry (registry). Deletes existing text defining, in this section, "registry program." Deletes existing text requiring that any program or component of a program that DSHS develops under this chapter be known as the registry.

(b) Requires the nonprofit organization administering the registry to include representatives from each organ procurement organization in this state. Deletes existing Subsection (c) requiring DSHS to affiliate with an entity, such as a national or state association concerned with organ donation, to promote the registry program in accordance with this section. Deletes existing text requiring DSHS, in consultation with the Department of Public Safety of the State of Texas (DPS) and organ procurement organizations, to establish the registry.

(c) Redesignates existing Subsection (e) as Subsection (c). Requires DSHS to require the nonprofit organization with which DSHS has contracted to administer the statewide donor registry to establish and maintain a statewide Internet-based registry of organ, tissue, and eye donors. Deletes existing text requiring DSHS to enter into an agreement with an organization selected by the commissioner of state health services (commissioner) under a competitive proposal process for the establishment and maintenance of a statewide Internet-based registry of organ, tissue, and eye donors. Deletes existing text providing that, contingent on the continued availability of appropriations under Subsection (k), 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 DSHS or organization not later than the 180th day before the last day of a term.

(d) Redesignates existing Subsection (f) as Subsection (d). Requires DPS at least monthly to electronically transfer to the nonprofit organization under contract with DSHS, rather than to the organization selected by the commissioner as provided by Subsection (e), the name, date of birth, driver's license number, most recent address, and any other relevant information in the possession of DPS for any person who indicates on the person's driver's license application under Section 521.401 (Statement of Gift), Transportation Code, that the person would like to make an anatomical gift, rather than that the person would like to make an anatomical gift and consents in writing to the release of the information by DPS to the organization for inclusion in the Internet-based registry.

(e) Redesignates existing Subsection (g) as Subsection (e). Requires that the contract between DSHS and the nonprofit organization administering the registry, rather than the organization selected by the commissioner as provided by Subsection (e), must require the organization to perform certain actions. Makes a conforming change.

(f) Redesignates existing Subsection (h) as Subsection (f). Prohibits DPS, the nonprofit organization under contract to administer the registry, or a procurement organization, rather than prohibits DPS, the organization selected by the commissioner under Subsection (e), or a procurement organization, except as otherwise provided by Subsection (e)(3) or this subsection, from selling, renting, or otherwise sharing any information provided to the Internet-based registry. Makes a conforming change.

(g) Redesignates existing Subsection (i) as Subsection (g). Prohibits DPS, the nonprofit organization under contract with DSHS to administer the registry, or the procurement organizations, rather than prohibits DPS, the organization selected by the commissioner under Subsection (e) or the procurement organizations, from using any demographic or specific data provided to the Internet-based registry for any fund-raising activities.

(h) Redesignates existing Subsection (j) as Subsection (h). Requires DPS, in each office authorized to issue driver's licenses or personal identification certificates, to make available educational materials developed by the nonprofit organization administering the registry, rather than developed by Texas Organ, Tissue, and Eye Donor Council established under Chapter 113 (Texas Organ, Tissue, and Eye Donor Council), as added by Chapter 1186, Acts of the 79th Legislature, Regular Session, 2005.

(i) Redesignates existing Subsection (k) as Subsection (i). Requires DPS to remit to the comptroller of public accounts (comptroller) the money collected under Sections 521.421(g) and 521.422(c), Transportation Code, as provided by those subsections. Requires that money remitted to the comptroller in accordance with those sections that is appropriated to DSHS be disbursed to the nonprofit organization administering the registry under this section under the terms of the contract between DSHS and the organization, rather than be spent in accordance

with the priorities established by DSHS in consultation with the council, to pay certain costs, including costs of providing education under this chapter.

Deletes existing Subsection (l) authorizing any additional money over the amount necessary to accomplish the purposes of Subsections (k)(1) (relating to maintaining, operating, and updating the Internet-based registry and establishing procedures for an individual to be added to the registry) and (2) (relating to designing and distributing educational materials for prospective donors as required under this section) to be used by DSHS to provide education under this chapter or be awarded using a competitive grant process to organizations to conduct organ, eye, and tissue donation education activities in this state. Deletes existing text prohibiting a member of the council from receiving a grant under this subsection.

(j) Redesignates existing Subsection (m) as Subsection (j). Requires DSHS to require the nonprofit organization selected to administer the registry, rather than selected under Subsection (e), to submit an annual written report to DSHS that includes an accounting of the use of the money disbursed under Subsection (i) for the administration of the registry.

(k) Redesignates existing Subsection (n) as Subsection (k). Authorizes DSHS, to the extent funds are available and as part of the donor registry program, to allocate funds to the nonprofit organization administering the registry pursuant to the contract to educate residents about anatomical gifts, rather than requiring DSHS, to the extent funds are available and as part of the donor registry program, to educate residents about anatomical gifts. Requires that the education provided under this section, rather than requires that the program, include certain information.

(l) Redesignates existing Subsection (o) as Subsection (l). Requires DSHS, in contracting for the registry program, rather than in developing the registry program in consultation with the council, to solicit broad-based input reflecting recommendations of all interested groups, including representatives of patients, providers, ethnic groups, and geographic regions.

(m) Redesignates existing Subsection (p) as Subsection (m). Authorizes DSHS to require the nonprofit organization administering the registry to:

(1) 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 Internet-based registry, rather than authorizing DSHS, in consultation with the council, to implement a training program for all appropriate DPS and TxDOT employees on the benefits of organ, tissue, and eye donation and the procedures for individuals to be added to the Internet-based registry; and

(2) conduct the training described by Subdivision (1) on an ongoing basis for new employees.

Deletes existing text requiring DSHS to implement the training program before the date that the registry is operational and conduct the training on an ongoing basis for new employees.

(n) Redesignates existing Subsection (q) as Subsection (n). Authorizes DSHS to require the nonprofit organization administering the registry to develop a program to educate health care providers and attorneys in this state about anatomical gifts, rather than requiring DSHS to develop a program to educate health care providers and attorneys in this state about anatomical gifts.

(o) Redesignates existing Subsections (r), (s), and (t) as Subsection (o). Requires DSHS to require the nonprofit organization administering the registry to encourage, rather requiring DSHS through the program to encourage:

(1) attorneys to provide organ donation information to clients seeking advice for end-of-life decisions;

(2) medical and nursing schools in this state to include mandatory organ donation education in the schools' curricula; and

(3) medical schools in this state to require a physician in a neurology or neurosurgery residency program to complete an advanced course in organ donation education.

(p) Prohibits the nonprofit organization administering the registry from:

(1) charging any fee for costs related to the operation and maintenance of the registry, except as agreed in the contract with DSHS; or

(2) using the registry to solicit voluntary donations of money from a registrant.

(q) Authorizes the nonprofit organization administering the registry, except as provided by Subsection (p), to accept voluntary donations of money and perform fund-raising on behalf of the registry for the purpose of supporting registering donors.

SECTION 2. Amends Section 502.1745(b), Transportation Code, to require 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 registry established under Chapter 692A (Revised Uniform Anatomical Gift Act), Health and Safety Code, rather than to pay the costs of the Donor Education, Awareness, and Registry Program of Texas, established under Chapter 49 (Donor Education, Awareness, and Registry Program of Texas), Health and Safety Code, and of the 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.

SECTION 3. Amends Section 502.189(a), Transportation Code, as follows:

(a) Requires the Texas Department of Motor Vehicles (TxDMV), with expert input and support from the nonprofit organization administering the registry under Chapter 692A, Health and Safety Code, rather from the council, to:

(1) add a link from TxDMV's Internet website to the registry operated under Chapter 692A, Health and Safety Code, rather than the Donor Education, Awareness, and Registry Program of Texas established under Chapter 49, Health and Safety Code; and

(2) provide a method to distribute donor registry information to interested individuals in each office authorized to issue motor vehicle registrations.

SECTION 4. Amends Section 521.148(c), Transportation Code, to require DPS, when DPS issues a license to which this section applies, to provide the person to whom the license is issued with written information about the registry operated under Chapter 692A, Health and Safety Code, rather than about the registry program established under Chapter 49, Health and Safety Code.

SECTION 5. Amends Section 521.401, Transportation Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Requires that donor registry information be provided to DPS and TxDOT by organ procurement organizations, tissue banks, or eye banks, as those terms are defined in Section 692A.002, Health and Safety Code, or by the registry operated, rather than established, under Chapter 692A, Health and Safety Code. Requires DPS, with expert input and support from the nonprofit organization administering the registry, rather than the council, to:

(1) 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:

(A) Makes no changes to this paragraph; and

(B) an opportunity for the person to consent to inclusion in the statewide Internet-based registry of organ, tissue, and eye donors and release to procurement organizations in the manner provided by Subsection (c-1), rather an opportunity for the person to consent in writing to DPS's provision of the person's name, date of birth, driver's license number, most recent address, and other information needed for identification purposes at the time of donation to the organization selected by the commissioner under Section 692A.020, Health and Safety Code, for inclusion in the statewide Internet-based registry of organ, tissue, and eye donors and for release to procurement organizations by specifically asking each applicant only the question, "Would you like to register as an organ donor?"; and

(2) Makes no changes to this subdivision.

(c-1) Requires DPS to:

(1) specifically ask each applicant only the question, "Would you like to register as an organ donor?"; and

(2) if the applicant responds affirmatively to the question asked under Subdivision (1), provide the person's name, date of birth, driver's license number, most recent address, and other information needed for identification purposes at the time of donation to the nonprofit organization contracted to maintain the statewide donor registry under Section 692A.020, Health and Safety Code, for inclusion in the registry.

SECTION 6. Amends Section 521.402(c), Transportation Code, to require 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 692A, Health and Safety Code, rather than Chapter 49, Health and Safety Code, to provide written notice to the nonprofit organization selected, rather than to the organization selected by the commissioner, under that chapter to maintain the registry directing the deletion of the person's name from the registry.

SECTION 7. Amends Section 521.421(g), Transportation Code, as follows:

(g) Requires 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 registry operated under Chapter 692A, Health and Safety Code, if the person applying for, renewing, or changing a license opts to pay the additional fee, rather than the costs of the Donor Education, Awareness, and Registry Program of Texas, established under Chapter 49, Health and Safety Code, and, subject to Section 113.104 (Costs in Administering Program), Health and Safety Code, of the 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.

SECTION 8. Amends Section 521.422(c), Transportation Code, to require DPS to collect an additional fee of \$1 for the issuance or renewal of a personal identification card, including a duplicate personal identification card or a personal identification card issued or renewed over the Internet or by other electronic means, to pay the costs of the registry established under Chapter 692A, Health and Safety Code, if the person applying for or renewing a personal identification card opts to pay the additional fee, rather than the costs of the Donor Education, Awareness, and Registry Program of Texas, established under Chapter 49, Health and Safety Code, and, subject to Section 113.104, Health and Safety Code, of the council, established under Chapter 113, Health and Safety Code, if the person applying for or renewing a personal identification card opts to pay the additional fee.

SECTION 9. Amends Section 522.034(c), Transportation Code, to require DPS, when DPS issues a license or permit to which this section applies, to provide the person to whom the license is issued with written information about the registry program established under Chapter 692A, Health and Safety Code, rather than Chapter 49, Health and Safety Code.

SECTION 10. (a) Repealer: Chapter 113 (Texas Organ, Tissue, and Eye Donor Council), Health and Safety Code.

(b) Repealer: Section 49.002(m) (relating to requiring DSHS to implement a training program for all appropriate DPS and TxDOT employees on the benefits of organ, tissue, and eye donation and the procedures for individuals to be added to the statewide Internet-based registry of organ, tissue, and eye donors), Health and Safety Code, as amended by Chapter 831 (S.B. 1803), Acts of the 81st Legislature, Regular Session, 2009.

SECTION 11. (a) Requires DSHS, not later than January 1, 2012, to enter into a contract with a nonprofit organization to administer the registry under Section 692A.020, Health and Safety Code, as amended by this Act.

(b) Provides that on January 1, 2012:

(1) the council established under Chapter 113, Health and Safety Code, is abolished;

(2) all property in the custody of the council is transferred to DSHS;

(3) the unexpended and unobligated balance of any money appropriated by the legislature for the council is transferred to DSHS;

(4) all money, contracts, leases, rights, and obligations of the council are transferred to DSHS;

(5) the registry, as established by Section 692A.020, Health and Safety Code, as it existed immediately before January 1, 2012, is abolished;

(6) all property in the custody of any organization selected under Section 692A.020(e), Health and Safety Code, as that section existed immediately before January 1, 2012, in relation to the operation of the registry is transferred to DSHS;

(7) the unexpended and unobligated balance of any money attributable to voluntary fees collected under Section 502.1745, 521.421(g), or 521.422(c), Transportation Code, for the registry as it existed immediately before January 1, 2012, may be used by DSHS for contracts relating to the registry under Section 692A.020, Health and Safety Code, as amended by this Act; and

(8) DSHS shall transfer all information formerly maintained by the registry, as it existed immediately before January 1, 2012, to the nonprofit organization administering the registry under Section 692A.020, Health and Safety Code, as amended by this Act, for use in the registry created by Section 692A.020, Health and Safety Code, as amended by this Act.

SECTION 12. (a) Effective date, except as provided by Subsection (b): September 1, 2011.

(b) Effective date, Section 692A.020, Health and Safety Code, as amended by this Act, and Sections 502.1745, 502.189, 521.148, 521.401, 521.402, 521.421, 521.422, and 522.034, Transportation Code, as amended by this Act: January 1, 2012.