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ANATOMICAL GIFTS

House Bill 4029 with committee amendments
House Bill 4620 (Substitute H-3)
Sponsor: Rep. Lynne Martinez

House Bill 4030 with committee amendments
House Bill 4031 (Substitute H-2)
Sponsor: Rep. Lingg Brewer

First Analysis (6-17-97)
Committee: Transportation

THE APPARENT PROBLEM:

Michigan's voluntary anatomical gift program does not meet the growing demand for organs and tissue. The number of Michigan organ donors stands at 16.9 per million population, a rate below the national average of 21.2 per million population. Further, Michigan's anatomical gift donor rate has been declining since 1994 when the rate was 20.2 per million. Currently 2,266 Michigan citizens await organ transplants (1,567 needing kidneys, 234 livers, 187 corneas, 122 lungs, 85 pancreases, 70 hearts, and 1 heart/lung). As of June 1, 1997, 181 Michigan citizens had received organ transplants and 54 had died awaiting a transplant. Nationwide, the number of waiting patients has increased from 16,026 in 1988 to 44,101 waiting patients in 1995.

Michigan's voluntary anatomical gift program is part of a national effort. The National Organ Transplant Act of 1984 created the Organ Procurement and Transplant Network. Administration of the network was assigned to the federal Department of Health and Human Services, which subsequently contracted with the United Network for Organ Sharing (UNOS). UNOS, a non-profit, independent corporation, establishes the rules for organ allocation and supervises the recovery and distribution of organs throughout the country. All organ procurement organizations, transplant center hospitals, and histocompatibility laboratories are required to be members of UNOS in order to participate in organ transplantation. Among UNOS's functions is the compilation of statistics, in order to ascertain and to coordinate both the availability and the location of donors and those who await transplant of organs and tissue.

In Michigan the anatomical gift program currently is coordinated by the Gift of Life Organ Procurement

Agency of Michigan, designated by the national Health Care Finance Administration to serve as Michigan's transplantation society. The organization maintains a central registry of those who wish to donate their organs or tissue after death, working cooperatively with the Michigan Tissue Bank and the Michigan Eye Bank.

Although a citizen may make known his or her willingness to donate an anatomical gift in a will, during the driver's license or personal identification card application and renewal processes administered by the Department of State, or by completing a uniform donor card as specified by section 10104 of the Michigan Public Health Code, few citizens are aware of the voluntary anatomical gift donor program. Additionally, citizens also are unaware that organs and tissue are urgently needed for transplantation, and that a central donor registry exists to record their participation in the anatomical gift program.

THE CONTENT OF THE BILL:

House Bills 4029-4031 and House Bill 4620 would amend the Public Health Code, the Michigan Vehicle Code, and the Personal Identification Card Act, to revise procedures governing the notification of citizens by the secretary of state's office about the anatomical gift program, and to provide for the office to forward the names of donors to the central registry maintained by the state procurement agency. The four bills are tied-barred to each other.

House Bill 4029 would amend provisions of the Public Health Code (MCL 333.10102 and 333.10104) regarding how a person may signify his or her intent to make an anatomical gift. Currently, a person may make

an anatomical gift by will or by another document, provided that the document is signed by or for the donor in the

presence of two or more witnesses who must also sign the document or by a uniform donor card or substantially similar document. The bill would specify that a personal identification card, or an operator's or chauffeur's license, that contained on its face a designation indicating the person's intent to donate organs or tissue and his or her signature would be sufficient proof of his or her intent to make the gifts. Any statement of intent to donate an anatomical gift contained on the back of a personal identification card or driver's license would supersede any contradictory statement on the face of the license. Unless the person specified on the back of her or her license or identification card that he or she intended to make a gift of his or her entire body, the gift would be limited to parts of the body and not the whole. If a would-be donor were unable to sign a gift document, he or she could direct it to be signed on his or her behalf, in his or her presence and the presence of two witnesses who would also have to sign the document. The bill would also amend these provisions to more clearly prioritize the list of relatives and others who might be decision-makers on behalf of the decedent donor (unless the donor has expressed an unwillingness to make a gift): first the spouse; followed by adult son or daughter; then either parent; and continuing with adult brother or sister; guardian of the decedent; or, one authorized to dispose of the body.

House Bill 4030 would amend the Michigan Vehicle Code (MCL 257.310). The bill would require that a driver's or chaffer's license issued by the secretary of state declare on its face the applicant's signature and intent to donate organs and tissue. The secretary of state would also be required to provide a sticker to the applicant that could be attached to the reverse side of the issued license, and if in any instance there was inconsistent information, the information on the back sticker would supersede that information on the license face.

House Bill 4031 would amend the act that provides for a personal identification card (MCL 28.292). The bill would require the secretary of state to provide those making application for a personal identification card with a written statement explaining the applicant's right to make an anatomical gift in the event of death, and also would provide the applicant an opportunity to designate an anatomical gift and to be included in the state's central anatomical gift registry, a service provided by Michigan's organ procurement agency (designated by the federal Health Care Finance Administration of the Department of Health and Human Services) called the Gift of Life Transplantation Society of Michigan. The bill would

require that the secretary of state forward the applicant's name to the society within 10 days, and would prohibit

the secretary of state from maintaining a record of the name or address of an individual who indicates a

willingness to make an anatomical gift. Information collected for this purpose by the secretary of state would be exempt from disclosure under the Freedom of Information Act (MCL 15.243), specifically as provided under section 13(1)(d) of the FOIA. Further, the bill would require the secretary of state to provide for a sticker that specifies the anatomical gift to be donated, which the applicant could attach to the back of the card; in the event there was any inconsistency between donor information on the card's face and the back sticker, the information on the card's sticker would supersede the information on the face of the card.

House Bill 4620 would amend the Michigan Vehicle Code (MCL 257.307) to require the secretary of state to provide a driver's license applicant with a written statement explaining the applicant's right to make an anatomical gift in the event of death. The statement would be a brochure that would include a description of the organ donation program and would include the address and name of the state's central anatomical gift registry. The bill would allow applicants the opportunity to designate an anatomical gift and to be included in the state's central registry, a service provided by Michigan's organ procurement agency (designated by the federal Health Care Finance Administration of the Department of Health and Human Services) called the Gift of Life Transplantation Society of Michigan. The bill specifies that the secretary of state would be required to forward the applicant's name to the society within 10 days, and would prohibit the secretary of state from maintaining a record of the name or address of an individual who indicates a willingness to make an anatomical gift. Further, the bill would specify that information about an applicant was exempt from disclosure under the Freedom of Information Act (MCL 15.243), specifically as provided by section 13(1)(d) of the FOIA.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that \$80,000 is included in the fiscal year 1997-98 general government budget bill [SB 170 (S-1) R-1], to pay for the costs that will be incurred by the Department of State in order to implement these bills. Of the total, \$40,000 is designated to cover the costs of re-design of the Department of State's brochure describing the anatomical gift donor program, and \$40,000 is designated to cover return postage on a response card that could be used by driver licensing applicants who wish to enroll in the program. (6-13-97)

ARGUMENT

For:

This legislation is intended to improve rates of organ donation; to reduce the time those awaiting organs and tissue must wait for transplants; and, to increase public awareness of the voluntary organ donation program. By identifying potential organ donors via the driver's license application and renewal process, many new donors' names may be added to the central donor registry.

For:

Demand for anatomical gifts far exceeds the supply, nationwide and in Michigan. According to data compiled by the United Network for Organ Sharing, the number of people awaiting donated organs at the end of 1988 was 16,026; in 1995 that number had grown to 44,101. The number of donors in 1988 totaled 4,083 and had risen little by 1995, only to 5,346. The increase in the number of waiting patients has grown as the number of transplantable organs has increased. During the 1970s, kidneys chiefly were transplanted; during the 1980s, liver and heart transplantation became possible; now during the 1990s, lungs, pancreas, and intestines are transplantable. The existing voluntary anatomical gift program is in need of increased visibility and improved accessibility to potential donors, in order to increase the number of donors and donated organs and tissue. These bills will make enrollment in the voluntary program possible at the time of any driver's license renewal and application.

Against:

It is important that voluntary donors have an opportunity to withdraw from the donor registry should they change their mind about making an anatomical gift of organs or tissue. None of these bills describes a procedure that would enable a donor to withdraw from the registry.

For:

According to the department of surgery at Henry Ford Hospital, analysis of hospital death statistics shows that one-third of all potential organ donors actually become donors. Obstacles include the lack of awareness that organs are urgently needed, and the low consent rate by the next of kin. That consent rate of 30-50 percent is in clear contrast to public opinion polls that indicate that 85 percent of the population supports organ donation. House Bill 4029 would clarify and prioritize the list of a decedent's relatives who could donate an anatomical gift after a donor's death (unless the individual had indicated an unwillingness to make such a donation). Taken together, this legislation allows potential organ and tissue donors time to familiarize themselves with the program, to carefully consider making an anatomical gift after

death, and to enroll in the registry before death is imminent.

Response:

In order to substantially increase the number of anatomical gifts, it is likely an ongoing public education effort will be necessary in order continually to inform citizens about the urgent need for life-giving organs and tissue. A fund of voluntary contributions to undertake such public education is proposed in Senate Bill 458; that bill is pending before the Senate Committee on Transportation and Tourism.

POSITIONS:

The Department of State supports House Bill 4031 (H-2) and House Bill 4620 (H-3), two bills in this package that amend statutes within the department's jurisdiction. (6-12-97)

The Michigan State Medical Society supports the bills. (6-13-97)

The Michigan Health and Hospital Association supports the bills. (6-16-97)

The Michigan Association of Osteopathic Physicians and Surgeons supports the bills. (6-12-97)

The Gift of Life Organ Procurement Agency of Michigan supports the bills. (6-12-97)

The National Kidney Foundation of Michigan supports the bills. (6-12-97)

The Michigan College of Emergency Physicians supports the bills. (6-13-97)

Michigan Eye-Bank and Transplantation Center supports the bills. (6-13-97)

Bi-County Community Hospital (Osteopathic) supports the bills. (6-13-97)

Saint Mary's Health Services Kidney Transplant Center supports House Bill 4029, House Bill 4030, and House Bill 4620. (6-13-97)

The Michigan Trauma Coalition, Inc. supports the bills. (6-13-97)

The Novartis Pharmaceuticals Corporation supports the bills. (6-13-97)

The Henry Ford Health System supports House Bill 4029, House Bill 4030, and House Bill 4031. (3-21-97)

The Michigan Coalition on Organ Donation strongly supports the bills. (6-13-97)

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.