

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 1228 (Substitute S-1 as reported)
Sponsor: Senator Leon Stille
Committee: Health Policy and Senior Citizens

Date Completed: 10-12-98

RATIONALE

In October 1997, Jack Kevorkian, who reportedly has been in attendance at the suicide of over 100 people, held a news conference to announce his plan to harvest the organs of assisted-suicide patients for use in transplants. Last summer, it was reported that Kevorkian, on June 7, 1998, attended the death of a 45-year-old quadriplegic from Las Vegas. At the death the man's kidneys were removed and offered for transplant by Kevorkian. Evidently, though Kevorkian's lawyer's office and hospitals in the Detroit area received numerous inquiries about the kidneys from persons waiting for transplants, none of the hospitals was willing to accept the kidneys. Medical authorities were reported as saying that Federal transplant regulations provide that organs for transplant may be removed only in a hospital setting under controlled, sterile conditions. Also, the organs are supposed to be documented and entered into a national organ donation database.

Under the Public Health Code, it is a felony for a person knowingly to receive, acquire, or otherwise transfer a human organ or part of an organ for valuable consideration for any purpose, including but not limited to, transplantation, implantation, infusion, injection, or other medical or scientific purpose. (This prohibition does not apply to the removal and use of human corneas or pituitary glands as provided in the Code; to anatomical gifts made under the Uniform Anatomical Gift Act; or the acquisition or distribution of bodies or parts designated for scientific uses and allocated to hospitals and educational institutions for use in medical instruction or other health sciences.) Some people believe that in addition to this restriction, to ensure that organ transplant procedures are performed in a safe and ethical manner, the Code should specify that only certain licensed medical professionals are allowed to remove human organs for transplantation.

CONTENT

The bill would amend the Public Health Code to provide that the surgical removal of a human organ for transplantation, implantation, infusion, injection, or any other medical or scientific purpose could be performed only by the following persons:

- A physician.
- A licensed health professional, medical student, or student in an approved physician's assistance training program, acting under the delegatory authority and supervision of a physician.
- An individual employed by and acting under the direction of a Federally designated organ procurement organization, or a tissue bank or eye bank registered with the Federal Food and Drug Administration in the course of his or her employment.

Further, a person certified by a State medical school as qualified to perform eye removal, could surgically remove a human eye or physical part of an eye.

A health professional whose license had been suspended would be prohibited from surgically removing a human organ for transplantation, implantation, infusion, injection, or any other medical or scientific purpose.

A person who violated the bill's provisions would be guilty of a felony.

MCL 333.10204

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to newspaper articles, Jack Kevorkian's proposal to harvest organs was widely criticized by the medical community as being ethically unacceptable, as well as medically unfeasible because it would not meet the accepted standards for transplantation of human organs. Many people outside the medical community also believe that unregulated organ removal is intolerable. Every attempt should be made to eliminate the possibility, or the appearance of the possibility, that the organs of those who end their lives in an assisted-suicide setting may be harvested and offered for transplant by those who attend the suicide, or that organs will be harvested under other unconventional circumstances. Organ transplant procedures have saved, extended, and enhanced the quality of life of thousands of patients, and offer hope to thousands of others who live every day with pain and/or impending death. Such complex procedures, however, are highly unsafe unless conducted under strict medical protocols during both extraction and implantation. Organ harvesting and transplant must be performed only by trained professionals operating in an appropriate, legitimate setting. The bill, in conjunction with other regulations in the Code, would specify who and who could not remove organs for transplant. By prescribing these standards, and making a violation a felony, the bill would discourage the practice of illegitimate organ harvesting, as well as reduce the potential for profiteering in organ harvesting. At the same time, the bill would do nothing to reduce the incidence of legitimate organ removal for use in saving lives.

Legislative Analyst: G. Towne

FISCAL IMPACT

Senate Bill 1228 (S-1) would create a felony punishable by up to four years in prison and/or a fine of \$1,000. Although there are no data available to indicate how many people may be convicted of surgically removing human organs or eyes without proper credentials, for each person convicted of this crime, the State would incur additional costs for incarceration and/or additional fine revenue. As an example, assuming that an offender serves 2.6 years at an average annual cost of \$18,000, the State would incur \$47,520 to incarcerate an offender convicted of this crime.

Fiscal Analyst: K. Firestone

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.