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SFA



BILL ANALYSIS

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House Bills 4029 and 4030 (as passed by the House)
House Bill 4031 (Substitute H-2 as passed by the House)
House Bill 4620 (Substitute H-3 as passed by the House)
Sponsor: Representative Lynne Martinez (H.B. 4029 & H.B. 4620)
Representative Lingg Brewer (H.B. 4030 & H.B. 4031)
House Committee: Transportation
Senate Committee: Health Policy and Senior Citizens

Date Completed: 11-4-97

CONTENT

The bills would amend various acts to specify procedures whereby persons could make an anatomical gift upon death; require the Secretary of State to give an applicant for a motor vehicle license or a State personal identification card certain information regarding the applicant's right to make an anatomical gift; and provide for the forwarding of anatomical gift information to a central registry. House Bill 4029 would amend the Public Health Code; House Bills 4030 and 4620 (H-3) would amend the Michigan Vehicle Code; and House Bill 4031 (H-2) would amend Public Act 222 of 1972, which provides for the issuance of State personal identification cards. Each of the bills is tie-barred to every other bill.

House Bill 4029

The bill would revise the Public Health Code's current procedures that allow a person to make an anatomical gift upon death. Currently, a person of sound mind and 18 years old or older may make an anatomical gift by a will, or other donor document that conforms to requirements in the Code and is signed by two witnesses. The bill would retain these provisions, and further provide that an anatomical gift could be made by a person pursuant to a State personal identification card issued to the donor by the Secretary of State, or a motor vehicle operator's or chauffeur's license issued to the donor by the Secretary of State. The State I.D. or driver's license would have to have on its face a designation that the person intended to donate organs or tissue in the event of death, and the donor's signature; the reverse side would have to contain additional terms, conditions, or limitations, if any.

A term or statement signed by a person (and one person who was a witness to that signature) and attached to the reverse side of his or her State I.D. card or motor vehicle operator's or chauffeur's license would supersede an inconsistent term or statement appearing on the face of the card or license. If a person did not specify a gift of his or her entire body on the reverse side of the card or license, the gift would be limited to physical parts of the body and would not include the person's entire body.

Currently, the Code contains a list of persons who, in the absence of actual contrary notice by the decedent or actual notice of opposition by a person on the list, may give all or part of the decedent's body for various purposes stated in the Code. The list is as follows: 1) spouse; 2) adult son or daughter; 3) either parent; 4) adult brother or sister; 5) decedent's guardian at the time of death; 6)

any other person authorized or under obligation to dispose of the body. A person of the same or a higher class on the list may oppose the wishes of those in the same class or lower to make an organ donation from the decedent, and prevent the donation. The bill would place behind spouse, in second place on the list, a patient advocate designated under the Revised Probate Code. (Section 496 of the Revised Probate Code allows a person of sound mind and 18 years old or older to designate a patient advocate to exercise powers concerning care, custody, and medical treatment decisions, under certain circumstances.)

House Bill 4030

The bill would delete a current requirement in the Vehicle Code that an operator's or chauffeur's license contain a statement that the licensee has made an anatomical gift, and would require instead that an operator's or chauffeur's license indicate on its face that the licensee was an organ and tissue donor, if the licensee had expressed on his or her license application an intent to donate organs and tissue in the event of death; and the signature of the licensee following indication of his or her organ and tissue donor status.

Further, at the time a license was issued, the Secretary of State would have to provide the licensee with a sticker that he or she could attach to the reverse side of the issued license, and upon which the licensee could designate a donation or gift of specific organs and tissue, or the donation of his or her entire body. The Secretary of State would have to include a preprinted organ donor information form for an electronically encoded driver's license that included the same information.

A term on a sticker that was inconsistent with a term on the face of a license would supersede the inconsistent term appearing on the face of the license.

House Bill 4031 (H-2)

The bill would eliminate a requirement that a State personal identification card (State I.D.) include a statement that a cardholder has made an anatomical gift, and provide instead that if a person expressed on his or her official State I.D. application an intent to donate organs and tissue in the event of death, an indication would have to be made on the face of the card that the person was an organ and tissue donor. Before or at the time a person applied for an official State I.D., the Secretary of State would have to do all of the following:

- Provide the applicant with a written explanation of his or her right to make an anatomical gift in the event of death, pursuant to the Public Health Code and in accordance with the bill, and a description of the organ donation registry program maintained by the Gift of Life Transplantation Society of Michigan.
- Provide the applicant with the opportunity to specify on his or her application that he or she was willing to make an anatomical gift in the event of death, and to indicate that choice on his or her official State I.D.
- Inform the applicant that, if he or she indicated on the application a willingness to make an anatomical gift in the event of death, the Secretary of State would have to forward the applicant's name and address to the organ donation registry maintained by the Gift of Life Transplantation Society, unless the applicant objected in writing to the information being forwarded.

The Secretary of State could fulfill these requirements by providing printed material to an applicant who personally appeared at a Secretary of State branch office, or through electronic information transmittals for applications processed by electronic means.

If an applicant indicated on his or her application a willingness to make an anatomical gift in the

event of death, the Secretary of State, within 10 days, would have to forward by mail or by electronic means the applicant's name and address to the organ donor registry, unless the applicant objected in writing to the forwarding of the information. The Secretary of State could not maintain a record of the name or address of an individual who indicated a willingness to make an anatomical gift on his or her application after forwarding that information to the organ donor registry; information about an applicant's indication of a willingness to make an anatomical gift would be exempt from disclosure under the Freedom of Information Act.

At the time an official State I.D. was issued to a person, the Secretary of State would have to provide the person with a sticker that he or she could attach to the reverse side of the issued card, and upon which the person could designate a donation or gift of specific organs and tissue, or the donation of his or her entire body. A term on a sticker that was inconsistent with a term on the face of the card would supersede the inconsistent term appearing on the face of the card.

House Bill 4620 (H-3)

The bill would require the Secretary of State, before or at the time a person applied for an operator's or chauffeur's license, to do the following:

- Provide the applicant with a written statement explaining his or her right to make an anatomical gift in the event of death, and describing the organ donation registry program maintained by the Gift of Life Transplantation Society of Michigan. The statement describing the organ donor registry program would have to include, in a type size and format that was conspicuous in relation to the surrounding material, the address and telephone number of the Gift of Life Transplantation Society, along with an advisory to call the society with questions about the organ donor registry program.
- Provide the applicant with the opportunity to specify on his or her license application that he or she was willing to make an anatomical gift in the event of death, and to indicate that choice on his or her license.
- Inform the applicant that, if he or she indicated on the application a willingness to make an anatomical gift, the Secretary of State would have to forward the applicant's name and address to the organ donation registry, unless the applicant objected in writing to the information being forwarded.

The Secretary of State could fulfill the requirements by providing printed material enclosed with a mailed application for license renewal; by providing printed material to an applicant who personally appeared at a Secretary of State branch office; or through electronic information transmittals for license applications processed by electronic means.

If an applicant indicated on his or her license application a willingness to make an anatomical gift the Secretary of State, within 10 days, would have to forward the applicant's name and address to the organ donor registry, unless the applicant objected in writing. The Secretary of State could forward information by mail or by electronic means. The Secretary of State could not maintain a record of the name or address of an individual who indicated a willingness to make an anatomical gift after forwarding that information to the organ donor registry. Information about an applicant's indication of a willingness to make an anatomical gift obtained by the Secretary of State and forwarded would be exempt from disclosure under the Freedom of Information Act.

MCL 333.10102 & 333.10104 (H.B. 4029)
257.310 (H.B. 4030)
28.292 (H.B. 4031)
257.307 (H.B. 4620)

Legislative Analyst: G. Towne

FISCAL IMPACT

Sections 818(1) and (2) of Public Act 111 of 1997 (General Government Appropriations Act for fiscal year 1997-98) state that \$40,000 shall be used for producing a pamphlet to be distributed with driver's licenses and personal identification cards regarding organ donations. The funds must be used to update and print a pamphlet that will explain the organ donation program and encourage people to become donors by marking a checkoff on driver's license and personal identification card applications. Further, \$64,000 is earmarked for return postage costs for reply forms addressed to the Gift of Life Organization. In total \$104,000 is appropriated to implement these provisions.

Fiscal Analyst: E. Limbs

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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.