



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 301 (as enrolled)
House Bill 4082 (as enrolled)
House Bill 4469 (as enrolled)
House Bill 4470 (as enrolled)
Sponsor: Senator Jud Gilbert, II (S.B. 301)
Representative John Gleason (H.B. 4082 & 4469)
Representative Philip LaJoy (H.B. 4470)
Senate Committee: Transportation (S.B. 301 & H.B. 4469 & 4470)
Appropriations (H.B. 4082)
House Committee: Transportation

PUBLIC ACT 143 of 2005
PUBLIC ACT 141 of 2005
PUBLIC ACT 140 of 2005
PUBLIC ACT 142 of 2005

Date Completed: 4-26-06

RATIONALE

Under Michigan law, there are several ways in which an individual may document his or her wishes regarding organ and tissue donation upon his or her death. An individual may do so in a will, advance directive, durable power of attorney, or living will. Individuals also may sign the Michigan Organ and Tissue Donor Registry, which is maintained by Gift of Life Michigan, the organization designated by the Federal government as the State's organ procurement agency. Individuals may register with Gift of Life on the organization's website, or by fax or mail. In addition, a driver license or official State personal identification card containing a statement that the licensee or cardholder is an organ and tissue donor, along with the signature of the person and at least one witness, constitutes a document of gift.

Legislation was enacted in 1998 to require the Secretary of State (SOS), in conjunction with the issuance of an official State identification card or driver license, to provide written information about the Registry and an individual's right to make an anatomical gift under the Public Health Code, and give individuals an opportunity to register as organ donors. To meet this requirement, the SOS includes an Organ and Tissue Donor Registry card with all license and ID card renewal mailings. The SOS must forward to Gift of Life the information for a person indicating a desire to register.

Some people believe that a clearly identifiable symbol on the front of an individual's driver license or ID card, rather than the current statement, will make it easier for medical workers to recognize that the licensee desires to be an organ donor. It also was suggested that requiring the SOS to provide Gift of Life with electronic access to records of people who wish to participate in the Registry will lead to a more efficient and effective organ donation process.

CONTENT

Senate Bill 301 amended Public Act 222 of 1972, which provides for an official State personal ID card, and House Bills 4082 and 4470 amended the Michigan Vehicle Code, to do the following:

- **Provide that the ID card or driver license of a person who wishes to participate in the Organ, Tissue, and Eye Donor Registry must contain a heart insignia on the front, beginning January 1, 2007, instead of a statement that the person is an organ and tissue donor.**
- **Require the Secretary of State, in conjunction with the application for a State ID card or driver license (instead of with the issuance of a card or a license, beginning January 1, 2007), to give the applicant**

information explaining the right to make an anatomical gift and describing the Registry, and an opportunity to have his or her name placed on the Registry.

- Require the SOS, beginning January 1, 2007, to ask each applicant for or holder of an official State ID card or driver license, in person or by mail, whether he or she agrees to participate in the Registry.
- Require the SOS, beginning January 1, 2007, to maintain a record of an individual who indicates a willingness to have his or her name placed on the Registry.
- Require the SOS to establish and maintain the Registry in a manner that provides electronic access, including the transfer of data to the State's Federally designated organ procurement agency (Gift of Life Michigan).
- Provide that enrollment in the Registry constitutes a legal agreement that remains binding after the donor's death, regardless of the desires of next of kin who might oppose the donation.
- Require the SOS to waive the original or renewal ID card fee for an individual wishing to add or remove a heart insignia.
- Prohibit the SOS from charging a duplicate driver license fee to add a heart insignia indicating that a person is an organ donor.
- Include violations that occurred in another country in a provision preventing the issuance of a driver license for previous moving violations.
- Allow the SOS to disclose an applicant's Social Security number to the Department of Community Health (DCH) under certain circumstances.
- Enact and repeal Section 252c, which contained procedures for the removal and release of a vehicle abandoned on private property.
- Require revenue from expedited title services fees collected in fiscal year (FY) 2004-05 to be deposited in the Transportation Administration Collection Fund (TACF), instead of the Michigan Transportation Fund (MTF).
- Require revenue from vehicle transfer registration fees collected in

FY 2004-05 and 2005-06 to be deposited in the TACF.

House Bill 4469 amended the Public Health Code to provide that a driver license or State ID card with a heart insignia on the front constitutes a document of anatomical gift; and specify that an anatomical gift made according to a will or document of gift is irrevocable regardless of the desires of the deceased's next of kin.

The bills took effect on September 29, 2005, and were tie-barred to each other. They are described below in further detail.

Senate Bill 301

State ID Card Application Requirements

Public Act 222 of 1972 requires an applicant for a State ID card to supply a birth certificate attesting to his or her age, or other sufficient documents or identification as the SOS may require. The bill also requires an application to be made in a manner prescribed by the SOS and to contain the applicant's full name, date of birth, residence address, height, sex, eye color, signature, and, beginning January 1, 2007, intent to be an organ donor, as well as other information required or permitted on the official State personal ID card. Under the bill, the applicant may provide a mailing address if he or she receives mail at an address other than his or her residence address.

Registry & Gift Information; Inquiry

Previously, in conjunction with the issuance of a State ID card, the SOS had to provide written information explaining the applicant's right to make an anatomical gift in the event of death under Part 101 of the Public Health Code, as well as information describing the Organ Donation Registry program maintained by Gift of Life and giving the applicant the opportunity to be placed on the Registry. The bill deleted the requirement that the information be written, and requires the SOS to provide this information in conjunction with the application for, or, until January 1, 2007, the issuance of a State ID card. The bill also refers to the Organ, Tissue, and Eye Donor Registry rather than the Organ Donation Registry. In addition, in conjunction with

the application for, or, until January 1, 2007, the issuance of a State ID card, the SOS must give an applicant the opportunity to specify on his or her card that he or she is willing to make an anatomical gift in the event of death. Previously, the SOS was required to do so when issuing a card.

The bill requires the SOS, beginning January 1, 2007, to ask each person who applies for or holds an official State ID card whether he or she agrees to participate in the Registry. The SOS must make this inquiry in person or by mail.

Registry Participation

The bill specifies that a person who agrees to participate in the Registry will not be considered to have revoked that agreement solely because his or her ID card expires.

The bill also states that enrollment in the Registry constitutes a legal agreement that remains binding and in effect after the donor's death, regardless of the expressed desires of the deceased donor's next of kin who might oppose the donation.

Organ & Tissue Donation Record

Previously, the SOS had to inform an applicant for a State ID card that, if he or she indicated a willingness to have his or her name placed on the Registry, the SOS would forward his or her name and address to the Registry. Under the bill, the SOS must inform the applicant, instead, that the SOS will mark his or her record for the Registry.

Under the Act, if an applicant indicates a willingness to have his or her name placed on the Registry, the SOS must forward the applicant's name and address to the Registry within 10 days. Under the bill, the SOS also must forward the applicant's date of birth, and the forwarding requirement will apply until January 1, 2007. Beginning on that date, the SOS must maintain a record of the individual. As currently provided, this information will be exempt from disclosure under the Freedom of Information Act. The bill also requires the SOS to establish and maintain the Registry in a manner that provides electronic access, including the transfer of data to Gift of Life, its successor organizations, and tissue and eye banks with limitations on the use and access to the Registry as determined by the SOS.

State ID Card Requirements

The Act requires a State ID card to contain a statement that the cardholder is an organ and tissue donor under Part 101 of the Public Health Code, the person's signature, and the signature of at least one witness. Under the bill, this requirement will apply until January 1, 2007. Beginning on that date, if a cardholder indicates his or her wish to participate in the Registry, the ID card must contain a heart insignia on the front.

The bill requires a State ID card to contain a sticker or decal as specified by the SOS to indicate that the cardholder has designated one or more patient advocates under the Estates and Protected Individuals Code, or a statement that he or she carries an emergency medical information card.

(Under the Act, the SOS must designate on the ID card a space where the applicant may place a sticker or decal to indicate that he or she carries a separate emergency medical information card or has designated a patient advocate. The sticker or decal may be provided by any person, hospital, school, medical group, or association interested in helping to implement the emergency medical information card, which may contain information indicating that the person is an organ donor, information concerning the patient advocate designation, other emergency medical information, or an indication as to where the cardholder has stored or registered such information.)

The Act allows a person to indicate on a State ID card in a place designated by the SOS a statement that he or she has made an anatomical gift under Part 101 of the Public Health Code. Under the bill, this provision will apply until January 1, 2007.

Fee Waiver

Under the Act, an applicant must pay a \$10 fee for each original or renewal ID card issued. The SOS is required to waive the fee, however, if the applicant is at least 65 years old; has had his or her driver license suspended, revoked, or denied due to a mental or physical infirmity or disability; presents evidence of statutory blindness; or presents other good cause for a fee waiver. Under the bill, beginning January 1, 2007, the SOS also must waive the fee for a

person who wishes to add or remove a heart insignia.

House Bill 4082

Driver License Requirements

The Vehicle Code requires a driver license to contain a statement that the licensee is an organ and tissue donor under Part 101 of the Public Health Code, the person's signature following the indication of donor intent, and the signature of at least one witness. Under the bill, this requirement will apply until January 1, 2007. Beginning on that date, if a licensee indicates his or her wish to participate in the Registry, the license must contain a heart insignia on the front.

The Code also requires a driver license to contain a place for the licensee to indicate his or her blood type, immunization and medication data, a statement that he or she is deaf, emergency contact information, and a sticker or decal as specified by the SOS to indicate that the licensee has designated one or more patient advocates under the Estates and Protected Individuals Code, or a statement that he or she carries an emergency medical information card. Under the bill, this requirement will apply until January 1, 2007.

(Under the Code, the sticker or decal may be provided by any person, hospital, school, medical group, or association interested in helping to implement the emergency medical information card, which may contain information indicating that the person is an organ donor, information concerning the patient advocate designation, other emergency medical information, or an indication as to where the cardholder has stored or registered such information.)

The Code allows a person to indicate on a driver license in a place designated by the SOS a statement that he or she is an organ donor and has made an anatomical gift under Part 101 of the Public Health Code. Under the bill, this provision will apply until January 1, 2007.

Registry Inquiry

The bill requires the SOS, beginning January 1, 2007, to ask each licensee whether he or she agrees to participate in the Registry.

The SOS will have to make this inquiry in person or by mail.

Registry Participation

The bill specifies that a person who agrees to participate in the Registry will not be considered to have revoked that agreement solely because his or her license is revoked or suspended, or expires.

The bill also states that enrollment in the Registry constitutes a legal agreement that remains binding and in effect after the donor's death, regardless of the expressed desires of the deceased donor's next of kin who might oppose the donation.

Transportation Administration Collection Fund

Under the Code, until October 1, 2009, each application for a certificate of title required by the Code or for a duplicate certificate must be accompanied by a \$10 fee, as well as a service fee of \$3. An additional fee of \$5 is required of an applicant who requests that the application be given special expeditious treatment.

The bill required all \$5 expeditious treatment fees collected from October 1, 2004, through September 30, 2005, to be deposited into the TACF. All expeditious treatment fees collected on and after October 1, 2005, must be deposited into the MTF.

The Code also prescribes a fee of \$8 for a transfer of registration. Under the bill, all of the registration transfer fees collected from October 1, 2004, through September 30, 2006, must be deposited into the TACF. Transfer of registration fees collected on or after October 1, 2006, must be deposited into the MTF.

Under the Code, upon appropriation, the Department of State must spend TACF money to pay the necessary expenses it incurs in the administration and enforcement of Sections 801 to 810 of the Code. (Those sections pertain to vehicle registration and registration taxes and fees.) Additionally, upon appropriation, the Department of Treasury must spend Fund money to defray the costs of collecting motor fuel taxes. The bill specifies that the Department of State must spend money credited to the Fund

from revenue collected under Sections 801 to 810 only to pay the necessary *collection* expenses it incurs in administration and enforcement; and that the Department of Treasury must spend the Fund money *only* to defray the costs of collecting motor fuel taxes.

House Bill 4469

Under Part 101 of the Public Health Code, a State ID card or driver license containing a statement that the card holder or licensee is an organ and tissue donor, along with the signature of the holder or licensee and at least one witness, constitutes a document of gift. Under the bill, beginning January 1, 2007, a State ID card or driver license containing a heart insignia will constitute a document of gift.

Part 101 specifies that an anatomical gift made by will or by a document of gift other than a will is not revocable after the donor's death. The bill added, "regardless of the expressed desires of the deceased donor's next of kin who may oppose the donor's organ, tissue, or eye donation".

House Bill 4470

Driver License Application Requirements

The Vehicle Code requires an applicant for an operator's or chauffeur's license to supply a birth certificate attesting to his or her age, or other sufficient documents or identification as the SOS may require. The application must be made in a manner prescribed by the SOS and contain the applicant's full name, date of birth, residence address, height, sex, eye color, signature, other information required or permitted on the license under the Code, and, to the extent required to comply with Federal law, the applicant's Social Security number. Under the bill, beginning January 1, 2007, the application also will have to include the applicant's intent to be an organ donor.

Previously, an applicant for a driver license with a vehicle group designation and a hazardous material indorsement had to provide his or her fingerprints that were taken by a law enforcement official or a designated representative for investigation as required by the Uniting and Strengthening America by Providing

Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act. Instead, under the bill, the applicant must provide his or her fingerprints as prescribed by State and Federal law.

Registry & Gift Information

Previously, in conjunction with the issuance of a driver license, the SOS had to provide written information explaining the applicant's right to make an anatomical gift in the event of death under Part 101 of the Public Health Code, as well as information describing the Organ Donation Registry program maintained by Gift of Life and giving the applicant the opportunity to be placed on the Registry. The bill deleted the requirement that the information be written, and requires the SOS to provide this information in conjunction with the application for, or, until January 1, 2007, the issuance of a driver license. The bill also refers to the Organ, Tissue, and Eye Donor Registry rather than the Organ Donation Registry. In addition, in conjunction with the application for, or, until January 1, 2007, the issuance of a license, the SOS must give an applicant the opportunity to specify on his or her card that he or she is willing to make an anatomical gift in the event of death. Previously, the SOS had to do so when issuing a license.

Organ & Tissue Donation Record

Under the bill, the SOS must inform an applicant for a driver license that, if he or she indicates a willingness to have his or her name placed on the Registry, the SOS will mark his or her record for the Registry. Previously, the SOS had to inform the applicant that the SOS would forward his or her name and address to the Registry.

Under the Code, if an applicant indicates a willingness to have his or her name placed on the Registry, the SOS must forward the applicant's name and address to the Registry within 10 days. Under the bill, the SOS also must forward the applicant's date of birth. The forwarding requirement will apply until January 1, 2007. Beginning on that date, the SOS will have to maintain a record of the individual. As currently provided, this information will be exempt from disclosure under the Freedom of Information Act. The bill also requires the SOS, beginning January 1, 2007, to

maintain the Registry in a manner that provides electronic access, including the transfer of data to Gift of Life, its successor organizations, and tissue and eye banks with limitations on the use of and access to the Registry as determined by the SOS.

Renewal Fee

Under the Code, if a driver license is lost, destroyed, or mutilated, or becomes illegible, the licensee may apply for renewal of the license and pay an \$18 fee for a duplicate chauffeur's license or a \$9 fee for a duplicate operator's license. Additionally, for each correction of a license, the licensee must apply for renewal and pay the applicable fee. The SOS may not charge a fee, however, for a change of address or a correction of a Department of State error. Under the bill, beginning January 1, 2007, the SOS will be prohibited from charging a fee to add or remove a heart insignia.

Social Security Number

Under the Code, an application for an operator's or chauffeur's license must contain the applicant's Social Security number, to the extent required to comply with Federal law. The Code prohibits the SOS from disclosing an applicant's Social Security number to another person except for specified purposes. The bill allows the SOS to disclose a Social Security number to the DCH for comparison with vital records the Department maintains under the Public Health Code. ("Vital record" means a certificate or registration of birth, death, marriage, or divorce; an acknowledgment of parentage; or related data.)

License Denial

Under the Code, the SOS may not issue a driver license to a person who has been convicted of, has received a juvenile disposition for, or has been determined responsible for at least two moving violations under a Michigan law, a substantially corresponding local ordinance, or a substantially corresponding law of another state, within the preceding three years, if the violations occurred before the person was issued an original license in Michigan or another state. Under the bill, the SOS also may not issue a license if the violations occurred before the person was issued an original license in another country.

Towing

The bill added Section 252c to the Code and repealed Section 252c on October 1, 2005. Under that section, when a vehicle was removed from private property at the direction of a person other than the vehicle's registered owner or a police agency, the custodian of the vehicle immediately had to notify the police agency from whose jurisdiction the vehicle was towed. The custodian had to supply the information necessary for the police agency to enter the vehicle into the Law Enforcement Information Network (LEIN). Upon receiving notification from the custodian, the police agency immediately had to determine if the vehicle had been reported stolen, and enter the vehicle into LEIN.

The vehicle's owner could obtain release of the vehicle by paying the accrued towing and storage fees to the custodian. Upon the vehicle's release, the custodian had to notify the police agency of its disposition. If the owner did not claim the vehicle within seven days after the custodian notified the police agency that it had been taken into custody, the vehicle was deemed abandoned and certain procedures described in Section 252a applied.

(That section prescribes procedures a police agency that has taken any vehicle into custody must follow and by which a registered owner may contest the fact that the vehicle is considered abandoned or the reasonableness of the towing and storage fees. Public Act 495 of 2004 amended Section 252a to prescribe specific procedures for vehicles abandoned on private property, effective October 1, 2005.)

MCL 28.291 & 28.292 (S.B. 301)
257.310 et al. (H.B. 4082)
333.10104 (H.B. 4469)
257.252c et al. (H.B. 4470)

BACKGROUND

According to Gift of Life Michigan's website, the organization is a full-service organ recovery organization, certified by Medicare and designated by the Centers for Medicare and Medicaid Services, that acts as the intermediary between donors, physicians, and hospital staff, and provides all services necessary for organ, tissue, and eye donation and transplantation. The Registry

is a confidential database that is available to authorized procurement-group personnel and hospital staff 24 hours per day, seven days per week. Federal regulations require hospital staff to contact Gift of Life upon every death that occurs in a hospital to determine whether the deceased is a registered organ donor.

Under Part 101 of the Public Health Code, an individual who is at least 18 years old and of sound mind may make a gift of all or a physical part of his or her body, effective upon his or her death, to any of the following:

- Any hospital, surgeon, or physician for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation.
- Any accredited medical or dental school, college, or university for education, research, advancement of medical or dental science, or therapy.
- Any bank or storage facility for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation.
- Any specified individual for therapy or transplantation.
- Any approved or accredited school of optometry, nursing, or veterinary medicine.

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 Gift of Life, as of April 1, 2006, there were 2,960 people waiting for life-saving organ transplants in Michigan. Since the beginning of the year, 12 people have died waiting for transplants. Due to the shortage of organs, it is critical that people document their wishes to donate in the event of death. The bills will help save lives by making organ donors more readily identifiable, and improving the efficiency of the registration process.

Currently, a person may sign the back of his or her driver license or State ID card, and have it signed by a witness, to indicate that he or she wishes to be an organ donor. Over time, however, the ink can wear off or become smudged, rendering the information

illegible. Additionally, in the event of an emergency, medical staff might not check the back of a person's license or ID card as they focus on trying to save his or her life. By requiring a heart insignia to be placed on the front of the driver license or State ID card, Senate Bill 301 and House Bill 4082 will make it easier for medical personnel to identify an organ donor and will increase the likelihood that the person's wishes will be carried out.

Senate Bill 301 and House Bill 4770 further will improve the efficiency of the system by requiring the SOS to maintain organ donor information in a manner that allows Gift of Life to gain access to it electronically. It is not guaranteed that a person's driver license, will, or other document of gift will be available to hospital staff at the time of death, and family members might override an individual's stated intent if the document is not present. Thus, it is essential that a person who wishes to make an anatomical gift document that wish on the Registry. The Registry is accessible to hospitals around the clock, making it the most timely and convenient means for a person to document his or her wishes and ensure that they are followed. By requiring the SOS to provide an electronic data transfer mechanism, the bills will help save money and reduce the occurrence of errors.

Finally, the requirement under House Bill 4082 and Senate Bill 301 that the SOS ask every licensee or State ID cardholder whether he or she would like to participate in Michigan's Organ and Tissue Donor Registry should increase public awareness. Apparently, even though the SOS mails registration cards with every driver license and State ID card renewal notice, many people do not fill them out or even read them. According to a representative of Gift of Life Michigan, the bills' requirements may increase registration from the current level of 8% of the State's population to about 25% within four years. Reportedly, the 41 states that have enacted a similar donor designation have an average registration rate of 40%.

Legislative Analyst: Julie Koval

FISCAL IMPACT

Senate Bill 301

Programming costs will be absorbed through the Department of State's Business Application Modernization Project. Minimal costs will result from inquiry requirements regarding whether applicants or current personal identification cardholders wished to participate in the Registry.

House Bill 4082

Programming costs related to changes to the organ donor process will be absorbed through the Department of State's Business Application Modernization Project. Minimal costs will result from inquiry requirements regarding whether applicants or current licensees wish to participate in the Registry.

Executive Order 2005-7 reduced the FY 2004-05 General Fund/General Purpose (GF/GP) appropriation to the Department of State by \$10.6 million. After the Executive Order was approved, Public Act 11 of 2005 provided a \$10.0 million appropriation from the Transportation Administration Collection Fund to cover a portion of the GF/GP reduction. The new TACF revenue appropriated in the Public Act 11 will come from changes to the Michigan Vehicle Code as described below.

Currently, the revenue from the expedited title fee (\$5 per transaction) authorized under Section 806 of the Code is deposited in the Michigan Transportation Fund (MTF). Based on transaction data supplied by the Department of State for FY 2003-04, the expedited title fee generates about \$900,000 annually. Currently, the revenue from the registration transfer fee (\$8 per transaction) authorized under Section 809 of the Code is deposited in the MTF. Based on transaction data supplied by the Department of State for FY 2003-04, the transfer fee generates about \$9.6 million annually.

Under the bill, the revenue from these two fees, which generate about \$10.4 million annually, had to be deposited in the Transportation Administration Collection Fund, for FY 2004-05 and FY 2005-06 only. Beginning October 1, 2006, the fee revenue again must be deposited in the MTF. The redirection of \$10.4 million from the MTF to the TACF will have an impact on recipients

of MTF revenue in the following amounts in FY 2004-05 and FY 2005-06:

- Comprehensive Transportation Fund: (\$1.0 million)
- State Trunkline Fund: (\$3.7 million)
- County road commissions: (\$3.7 million)
- Cities and villages: (\$2.0 million)

The bill limits the activities that may be funded with TACF revenue. Previously, the TACF could be used to support all Department of State expenses associated with the administration and enforcement of Sections 801 to 810 of the Code. Under the bill, use of TACF revenue generated from Sections 801 to 810 is limited to "collection expenses" associated with the administration and enforcement of those sections.

House Bill 4469

The bill will have no fiscal impact on State or local government.

House Bill 4470

The bill will result in programming costs, which will be absorbed through the Department of State's Business Application Modernization Project.

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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.