

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: PCS/CS/SB 988 (311582)

INTRODUCER: Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Transportation Committee; and Senator Margolis

SUBJECT: Anatomical Gifts

DATE: April 6, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jones</u>	<u>Eichin</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Miller</u>	<u>Miller</u>	<u>ATD</u>	<u>Recommended: Fav/CS</u>
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 988 requires the Department of Highway Safety and Motor Vehicles (DHSMV) to designate employees in each office as points of contact and to require them to ask each person doing business with the DHSMV whether they would like to become an organ donor. The bill also requires the DHSMV to maintain a website link referring customers to the organ donor registry. Procedures must also be implemented requiring agency staff to confirm electronically that the question about becoming an organ donor is asked of all customers doing business at a DHSMV office or facility.

These new requirements only become applicable when the DHSMV's vehicle registration information technology modernization project is implemented.

The DHSMV will incur minimal costs to integrate the bill's requirements into its motorist modernization project.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Organ Donations in Florida

Over 3,500 people in Florida are registered and waiting for organ transplants, and thousands more wait for tissue donations.¹ The most common types of organ transplants include the kidneys, liver, heart, lungs and pancreas, but many other organs and tissues can be transplanted or used for various other medical procedures.² Nationwide, nearly 6,000 people die each year waiting for an organ donation.³

Four major organ and tissue procurement agencies operate in Florida to facilitate the process of organ donation. Each agency serves a different region of the state.⁴ These agencies are certified by the U.S. Centers for Medicare and Medicaid Services (CMS) and operate in Florida to increase the number of registered donors and coordinate the donation process when organs become available.⁵

The Joshua Abbott Organ and Tissue Donor Registry⁶ (Donor Registry)

In 2008,⁷ Florida's Legislature found that a shortage of organ and tissue donors existed in Florida, and there was a need for a statewide donor registry with online donor registration capability and enhanced donor education to increase the number of organ and tissue donors. This online registry would afford more persons who are awaiting organ or tissue transplants the opportunity for a full and productive life.⁸ As directed by the legislature, the Agency for Healthcare Administration (AHCA) and DHSMV jointly contracted for the operation of Florida's interactive web-based donor registry that, through electronic means, allows for online donor registration and the recording of organ and tissue donation records submitted through the driver license identification program or through other sources. The AHCA and the DHSMV selected Donate Life Florida, which is a coalition of Florida's organ, tissue, and eye donor programs, to run the donor registry and maintain donor records.

Floridians who are age 18 or older can join the donor registry either online,⁹ at the DHSMV (or their local driver license office), or by contacting Donate Life Florida for a paper application. Children ages 13 to 17 may join the registry, but the final decision on any organ donation of a minor rests with the parent or guardian. The registry collects personal information from each

¹ *FAQs About Donation*, Donate Life Florida, 2009, available at: http://www.donateliflorida.org/content/about/facts/faq/#faq_22, (Last visited Mar. 6, 2015).

² *Id.*

³ *Id.*

⁴ *Id.* LifeLink of Florida serves west Florida, LifeQuest Organ Recovery Services serves north Florida, TransLife/Florida Hospital serves east Florida, and LifeAlliance Organ Recovery Agency serves south Florida.

⁵ Organ Procurement Organizations, Organdonor.gov, <http://organdonor.gov/materialsresources/materialsopolist.html>, (last visited Mar. 9, 2015).

⁶ Section 765.5155(5), F.S., designates the donor registry as the Joshua Abbott Organ and Tissue Registry, however it is currently referred to as the Joshua Abbott Organ and Tissue Donor Registry.

⁷ Chapter 2008-223, Laws of Fla.

⁸ Section 765.5155(1), F.S.

⁹ At <https://www.donateliflorida.org/> (last visited on Mar. 9, 2015).

donor including, but not limited to, his or her name, address, date and place of birth, race, ethnicity, and driver's license number.

As of March 9, 2015, there were 8,204,313 people registered in the donor registry.¹⁰ Its large number of registered donors ranks the Joshua Abbott Organ and Tissue Donor Registry as the second largest donor registry in the United States in terms of enrollment.¹¹

Information held in the donor registry which identifies a donor is confidential and exempt from the state's public records laws.¹² Donor information may be disclosed to:

- Procurement organizations certified by the AHCA; and
- Persons engaged in bona fide research.¹³

The funding for the organ and tissue donor registry and education program is provided from the funds designated for maintaining the registry within the Health Care Trust Fund.

Organ Donor Registration at the DHSMV

Section 765.521, F.S., which predates the establishment of the donor registry, requires that the AHCA and the DHSMV implement a system to encourage potential donors to make anatomical gifts through the process of issuing and renewing driver licenses or identification cards. Approximately 95 percent of people who enroll in Florida's registry do so while obtaining or renewing a driver license.¹⁴

III. Effect of Proposed Changes:

The bill requires the DHSMV to designate employees in each office as points of contact and to require them to ask each person doing business with the DHSMV whether they would like to become an organ donor. The bill also requires the DHSMV to maintain a website link referring customers doing business on the agency's website to the organ donor registry established in s. 765.5155, F.S. Procedures must also be implemented by the DHSMV requiring its staff to confirm electronically that the question about becoming an organ donor is asked of all customers doing business in person at a DHSMV office or facility.

These new requirements only become applicable when the DHSMV's vehicle registration system modernization project is implemented. This is a multiyear project, referred to as "motorist modernization", being undertaken by the DHSMV to modernize the information technology programs used to issue driver licenses and identification cards and to register and title vehicles and vessels.

The bill takes effect July 1, 2015.

¹⁰ http://www.donateliflorida.org/content/about/facts/faq/#faq_22, (last visited Mar. 9, 2015).

¹¹ Donate Life Florida's annual report to AHCA for 2013.

¹² Section 119.07(1), F.S. and FLA. CONST. art. I, s. 24(a).

¹³ Section 765.51551, F.S. A person engaged in bona fide research must agree to submit a research plan to the AHCA detailing the exact nature of the information requested and intended use, and must maintain the confidentiality of the information made available to the researcher.

¹⁴ *Id.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

PCS/CS/SB 988 may increase the amount of organ donors in the state.

C. Government Sector Impact:

The DHSMV will incur minimal costs to integrate the bill's requirements into its ongoing information technology modernization project.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 765.521 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on April 2, 2015:

The committee substitute removes components of the bill requiring an applicant for issuance or renewal of a driver license or issuance of an identification card to choose in

writing, or by another means established by the DHSMV, one of three options (“yes,” “no,” or “defer to family wishes”) regarding being included in the organ and tissue donor registry. The PCS replaces this requirement with requirements for the DHSMV to:

- Designate employees in each office as points of contact who must ask each person doing business with the DHSMV whether they would like to become an organ donor;
- Maintain a website link referring customers doing business on the agency’s website to the organ donor registry; and
- Implement procedures requiring staff to confirm electronically that the question about becoming an organ donor is asked of all customers doing business in a DHSMV office or facility.

CS by Transportation on March 12, 2015:

The CS removes numerous components of the bill, including:

- Requiring the DHSMV to create and maintain the First Person Consent organ and tissue donor registry;
- Requiring the DHSMV to create a brochure explaining the First Person Consent organ and tissue donor registry to be handed out to each applicant for issuance or renewal of a driver license or issuance of an identification card;
- Authorizing a person to revise or withdraw his or her statement of agreement regarding being included in the First Person Consent organ and tissue donor registry;
- Allowing the DHSMV to establish additional methods by which a person may be included in the First Person Consent Registry;
- Allowing the DHSMV to provide a potential organ donor’s name to a representative of an organ procurement organization, a tissue bank, or a coroner’s or medical examiner’s office; and
- Reenacting statutes to capture these changes.

B. Amendments:

None.