SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 2902

SPONSOR: Health, Aging, and Long-Term Care Committee and Senator Jones

SUBJECT: Health Care Advance Directive and Blood-type Registry

DATE: April 21, 2004 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Wilson	HC	Fav/CS
2.			AHS	
3.			AP	
4.				
5.				
6.				

I. Summary:

This bill creates a voluntary, statewide registry of individuals' health care advance directives and blood-types, effective September 1, 2005. The registry information may be displayed on an individual's driver's license or on a Florida identification card. The bill establishes a fee for persons participating in the health care advance directive and blood-type registry and establishes purposes for use of funds generated by the fee. The bill requires the Agency for Health Care Administration (AHCA or agency) and the Department of Highway Safety and Motor Vehicles (DHSMV or department) to develop and implement the registry and requires confirmation of a principal's blood type by certain health care practitioners or employees. The Division of Driver Licenses offices must make forms available to the public and must make forms accessible electronically on the Internet.

The bill requires AHCA to provide funds for certain supplies and DHSMV to provide funds for a recordkeeping system. The bill requires DHSMV to collect data and provide collected data to AHCA for the registry. The bill provides access to the registry by certain persons and establishes guidelines for the processing of forms, and criteria for revocation or amendment of registry information. It will be the responsibility of the principal to update forms.

The bill provides immunity from civil liability and criminal prosecution for certain health care employees for acts performed in conjunction with certain information provided by DHSMV and provides immunity for AHCA, DHSMV, and their employees from criminal prosecution and civil liability for certain acts or forms. AHCA must develop, subject to the concurrence of DHSMV, a continuing education program relating to health care advance directives and the health care advance directive and blood-type registry. The bill requires the appointment of an education panel to create an end-of-life public education campaign.

The bill requires AHCA to conduct a study on how to implement the advance directive and blood-type registry and to report to the Legislature by January 1, 2005. Topics to be addressed in the study include the nonrecurring capital outlay and recurring operational funding necessary to establish and maintain the registry; the efficiency and cost-effectiveness of databases and procedures; timeframes; types of disclosures and disclaimers necessary; the projected number of persons who may participate in the registry; and the sufficiency of the fees assessed to fund the registry and health care advance directive education efforts.

The bill requires a licensed hospital, ambulatory surgical center or mobile surgical facility to honor a patient's advance directive or order not to resuscitate or to transfer the patient to a facility where the advance directive or order not to resuscitate will be carried out. The time period for transfer of a patient from a health care provider that refuses to carry out an advance directive based on moral or ethical beliefs to a facility that will carry out the directive is shortened from 7 days to 48 hours.

The bill encourages primary physicians to discuss advance directives and end of life care with patients on a nonemergency basis. If a patient executes an advance directive and giver a copy to his or her physician, the physician must make it a part of the patient's medical record.

This bill amends ss. 322.051, 322.08, 395.1041, 765.1105, and 765.304, F.S.

This bill creates ss. 322.0812, 395.10411, 765.1021, 765.3061, 765.3062, 765.3063, 765.3064, 765.3065, and 765.3066, F.S., and one unnumbered section of law.

II. Present Situation:

Florida Drivers' Licenses and Identification Cards

Chapter 320, F.S., establishes the requirements for motor vehicle licenses in the state. Section 320.08047, F.S., provides that, as a part of the collection process for license taxes, individuals must be permitted to make a voluntary contribution of $1, for organ and tissues donor education and for maintaining the organ and tissue donor registry under ss. 765.521 and 765.5215, F.S.

Chapter 322, F.S., establishes the requirements for Florida drivers' licenses. Section 322.08, F.S., specifies the requirements for application for a Florida driver's license. The application form for a driver's license must include language permitting a voluntary $1 per applicant contribution to be used for organ and tissue donor education and for maintaining the organ and tissue donor registry. Section 322.051, F.S., authorizes DHSMV to issue an identification card to any person who is 12 years of age or older, or any person who has a disability, regardless of age. This section requires any person who accepts a Florida driver's license as proof of identification to accept a Florida identification card as proof of identification when the bearer of the identification card does not also have a driver's license.

Florida's Health Care Advance Directive Statutes

Chapter 765, F.S., governs health care advance directives, including living wills, life-prolonging procedures, organ donation, designation of a health care surrogate, pain management, and procedures to be followed in the absence of an advance directive. In 2002, Last Acts, an initiative supported by the Robert Wood Johnson Foundation to promote improvements in care at the end of life, rated Florida's advance directive statute as one of the best in the nation.[1] Seven states—Delaware, Florida, Hawaii, Maine, Maryland, Michigan, and New Mexico—were ranked at 4.5-5 on a scale that ranged from 0.5 to 5.0. States' policies, as established in law, were rated according to six criteria--five key elements of the Uniform Health Care Decisions Act[2], as well as the existence of a state policy for Do Not Resuscitate (DNR) orders. Policies were rated according to whether they:

- Recommend a single, comprehensive advance directive, which reduces confusion.
- Avoid mandatory forms or language for medical powers of attorney or combined living wills/medical powers of attorney, giving residents the freedom to express their wishes in their own way.
- Give precedence to the agent's authority or most recent directive over the living will, recognizing that an agent has the advantage of being able to weigh all the facts and medical opinions in light of the patient's wishes at the time a decision needs to be made.
- Authorize default surrogates (typically next of kin) to make health care decisions, including decisions about life support if the patient has not named someone.
- Include "close friend" in the list of permissible default surrogates, recognizing that "family" in today's world often extends beyond the nuclear family.
- Have a statewide (non-hospital) DNR order protocol for emergency medical services personnel, to ensure that the wishes of terminally ill patients in the community can be followed by EMS personnel.

Under chapter 765, F.S., a person may express his or her wishes regarding medical treatment in the event that he or she experiences physical or mental incapacity through an *advance directive*, which is defined in s. 765.101, F.S., as "a witnessed written document or oral statement in which instructions are given by a principal or in which the principal's desires are expressed concerning any aspect of the principal's health care, and includes, but is not limited to, the designation of a health care surrogate, a living will, or an anatomical gift…"

The Organ Donor Program

Section 765.514, F.S., provides that an anatomical gift may be made by will or by another document signed by the donor in the presence of two witnesses. Under s. 765.521, F.S., AHCA and DHSMV are required to establish a program encouraging and allowing a person to make an anatomical gift as part of the process of issuing identification cards and issuing or renewing a driver's license. Currently, DHSMV participates in the Organ Donor Program with AHCA. The department allows persons to make anatomical gifts as a part of the process of issuing identification cards and issuing and renewing driver licenses. The department provides an Organ Donor Will to customers to complete and the driver record is updated to reflect that the customer

[1] *Means to a Better End: A Report on Dying in America Today*, Last Acts National Program Office, November 2002.
[2] The Uniform Law Commissioners approved the Uniform Health Care Decisions Act in 1993. www.nccusl.org.

has made this designation. An identification card or driver's license is issued with the notation on the front of the card or license. If the customer requests that the Organ Donor Will be withdrawn at a later time, the department will update their file and issue them a duplicate identification card or driver license, at no fee, that does not reflect the Organ Donor designation. Organ donor wills are mailed to AHCA for the agency to maintain the completed forms. The Organ Donor Will form is available in all driver license offices and via the department's website.

According to AHCA, the present system is handicapped by out-of-date computer technology that, for example, cannot compensate for problems reading human handwriting on the donor wills. This results in as many as 30 percent of the hand signed donor wills in the system remaining unmatched by automated records at DHSMV. The organ donor registry requires additional resources not only to be an effective tool in the future but also to address problems in the current system.

Blood Type Designation

According to AHCA, currently accepted practice standards in blood banking do not condone the use of blood type documentation, such as would be found on a driver's license, in lieu of testing at the time of the need for transfusion. Laboratories performing such testing can only perform testing at the request of an authorized person, such as an allopathic or osteopathic physician.

National Registries for Advance Directives

National databases for health care advance directives include the North American Registry of Living Wills[3] and the U.S. Living Will Registry which may be contacted through toll-free telephone numbers or their websites. The U.S. Living Will Registry[4], based in Westfield, NJ, represents on its website that individuals may register their advance directives and organ donation information with the Registry free of charge through a member health care provider or community partner, giving the registry permission to fax their document to any health care provider. Health care providers must join the Registry in order to use the automated retrieval system. The document will be transmitted only after the information is confirmed, which may take a day. The Registry says it is funded by health care providers who pay a fee to be able to access the registry's automated system. The Registry advertises that it provides a custom, state-specific system that would obviate the need for a state to create and operate its own system.

Requirements for a Health Care Provider to Carry out an Advance Directive

Various statutes authorize a health care provider to carry out the provisions of a living will, but compliance by a provider is not required. Over a number of years, consumers have complained to members of the Legislature about situations in which a heath care provider refused to carry out an advance directive or order not to resuscitate.

III. Effect of Proposed Changes:

Section 1. Creates s. 322.0812, F.S., to require that a person submitting an initial application form for participation in the health care advance directive and blood-type registry created under s. 765.3062, F.S., must be assessed a fee of $10. The fee must be used by AHCA to establish and

[3] http://www.livingwill.com
[4] http://www.uslivingwillregistry.com

maintain the health care advance directive and blood-type registry. The bill specifies that funds received by AHCA from such fees must be used to:

- Obtain equipment and software to expand or improve the database for the registry and the organ donor program established under part V of chapter 765, F.S.;
- Employ persons necessary to ensure the proper operation of the equipment used to maintain the registry; and
- Fund health care advance directive education efforts as authorized in ss. 765.3065 and 765.3066, F.S.

Section 2. Amends s. 322.051, F.S., relating to identification cards issued by DHSMV, to require a fee of $10 to be assessed for any person choosing to submit an initial application for an identification card indicating that he or she is participating in the health care advance directive and blood-type registry pursuant to s. 320.08049, F.S.

Section 3. Amends s. 322.08, F.S., relating to application for a driver's license, to require an assessment of a fee of $10 for any person choosing to submit an initial application for an indication on his or her driver's license that he or she is participating in the health care advance directive and blood-type registry pursuant to s. 320.08049, F.S.

Section 4. Creates s. 765.3061, F.S., to require AHCA and DHSMV to develop and implement a program encouraging and allowing a person, at the person's request, to voluntarily make a health care advance directive, as well as to voluntarily provide his or her blood type, both of which may be noted on the person's driver's license or identification card, upon issuance or renewal of these documents.

The health care advance directive form and the blood-type confirmation form, both of which are to be distributed by the department, must be developed by the agency in consultation with the department. The health care advance directive form must include the living will specified in s. 765.303, F.S., which must be executed in accordance with s. 765.302, F.S. The blood-type confirmation form must be signed by a person's physician or an agent of a blood bank or laboratory that has documentation of the person's blood type. The health care advance directive and blood-type confirmation forms may require additional information and may include additional material as deemed necessary by the agency and the department.

An individual completing a health care advance directive form or a blood-type confirmation form shall have included on his or her driver's license or identification card a notation on the front of the card clearly indicating the individual's intent concerning life-prolonging procedures and the individual's blood type. A notation on an individual's driver's license or identification card that the individual has a health care advance directive or that provides the individual's blood type is sufficient to satisfy all requirements concerning life-prolonging procedures and necessary blood-type information for health care providers.

All forms relating to the execution, amendment, or revocation of a health care advance directive or blood-type confirmation for the purpose of participating in the registry must be made available to the public at all offices of the Division of Driver Licenses, as well as electronically on the

Internet. The forms relating to the execution of a health care advance directive or confirmation of blood type, for purposes of participating in the registry, must:

- Require an express declaration that the principal has read the form and understands its contents.
- Require an express waiver of any privacy rights granted under state or federal law.
- Require an express waiver of liability for health care providers who rely upon the information contained on the principal's driver's license, identification card, or the registry.
- Require an acknowledgment from the principal that it is the responsibility of the principal to submit an amendment form or revocation form to the Division of Driver Licenses if it is the principal's desire to change or remove any document recorded in the registry.
- Require acknowledgment from the principal that a reasonable delay will occur in the recording of a newly executed form in the registry by the agency and department, regardless of whether it is a health care advance directive or blood-type confirmation form, or any amendment or revocation thereof, and that health care providers will rely on the information in the registry available at the time such information is obtained by a health care provider.

AHCA must provide the necessary supplies and forms through funds appropriated from general revenue, any authorized fees, or contributions from interested, voluntary, nonprofit organizations. DHSMV must provide the necessary recordkeeping system through funds appropriated from general revenue.

Section 5. Creates s. 765.3062, F.S., to establish a health care advance directive and blood-type registry. This registry must be an expansion of the organ and tissue donor registry that is created, administered, and maintained in accordance with part V of chapter 765, F.S. The forms to be recorded in the registry must be collected by DHSMV and provided to AHCA in a manner similar to the forms and information collected for anatomical gifts as provided in part V of chapter 765, F.S. The registry must record, through electronic means, health care advance directive and blood-type documents submitted through the driver's license identification program or obtained from other sources. The registry must be maintained in a manner that will allow, through electronic and telephonic methods, immediate access to health care advance directive and blood-type documents 24 hours a day, 7 days a week. Hospitals and other parties identified by rule of the agency must be allowed access, through coded means, to the information stored in the registry.

If a health care advance directive is made through the program established in this bill, the completed health care advance directive must be delivered to DHSMV and noted on an individual’s driver’s license. The bill specifies that delivery of the health care advance directive is not necessary for the validity of the health care advance directive. If a person amends or revokes a health care advance directive in accordance with s. 765.3063, F.S., the records of DHSMV must be updated to reflect such status of the health care advance directive.

If a health care advance directive is made by an individual, other than through the program established by AHCA and DHSMV, the document may be recorded in the registry administered by the agency and noted on an individual's driver's license, if the individual follows the procedure and the health care advance directive meets the criteria set forth in this chapter and in any rules of the department and the agency. AHCA and DHSMV must develop and implement a

living will registry as an expansion and improvement of the organ donor database maintained by the agency.

Section 6. Creates s. 765.3063, F.S., to make the amendment to or revocation of a health care advance directive or removal of blood type from the registry the responsibility of the participant. A person may amend or revoke a health care advance directive by the execution and delivery of the appropriate form, signed and properly executed, to DHSMV to be transmitted to AHCA for recording in or removal from the registry.

If a person participates in the health care advance directive and blood-type registry, it is the responsibility of that person to complete and submit the appropriate forms needed to amend or revoke the health care advance directive or blood-type information. If a person chooses to participate in the registry, the most recently submitted forms recorded in the registry will be considered the controlling documents of the participant in any dispute or decision by a health care provider.

A person may remove the record of his or her blood type from the registry by signing a form provided by DHSMV, as developed in conjunction with AHCA, that is signed in the presence of an employee of the department.

The bill states that nothing in this section shall affect a principal's right to amend or revoke a health care advance directive or designation of a surrogate as authorized under s. 765.104, F.S., if the principal is not participating in the agency's health care advance directive and blood-type registry.

Section 7. Creates s. 765.3064, F.S., to provide that notwithstanding the express waiver of liability signed by the person who chooses to participate in the health care advance directive and blood-type registry, a health care facility or a health care provider, or any other person acting under the direction of a health care facility or health care provider, carrying out a health care decision made in accordance with a properly recorded health care advance directive or blood-type confirmation transmitted by DHSMV, is not subject to criminal prosecution or civil liability and will not be deemed to have engaged in unprofessional conduct. AHCA and DHSMV and any employees acting within the scope of their employment are immune from criminal prosecution and civil liability for any acts or forms recorded in compliance with the provisions of chapter 765, F.S.

Section 8. Creates s. 765.3065, F.S., to require AHCA, subject to the concurrence of DHSMV, to develop a continuing education program to educate and inform health care professionals, including emergency medical personnel, law enforcement agencies and officers, state and local government employees, and the public regarding state laws relating to the health care advance directives and the health care advance directive and blood-type registry.

Section 9. Creates s. 765.3066, F.S., to create a health care advance directives education panel. The bill states the legislative finding that every competent adult has the fundamental right of self-determination regarding decisions pertaining to his or her health, including the right to choose or refuse medical treatment. The bill creates a panel of three members appointed by the Secretary of the Department of Elderly Affairs, the Secretary of Health Care Administration, and

the Secretary of Health to create a campaign on end-of-life care for purposes of educating the public. This campaign must include culturally sensitive programs to improve understanding of end-of-life issues. Existing community resources, when available, must be used to support the program, and volunteers and health care professionals may assist in the program to the maximum extent possible. The program aimed at educating health care professionals may be implemented by contract with one or more medical schools located in the state.

Section 10. Requires AHCA to conduct a study on how to implement the health care advance directive and blood-type registry and report its findings and recommendations to the Speaker of the House of Representatives and the President of the Senate by January 1, 2005. The study must, at a minimum, examine and make recommendations concerning the following:

- The nonrecurring capital outlay and recurring operational funding necessary to establish and maintain the health care advance directive and blood-type registry.
- The efficiency and cost-effectiveness of databases and procedures used to maintain the data in the registry and to transfer forms between DHSMV and AHCA.
- The reasonable timeframes necessary to record forms and other information in the registry and make such information available to health care facilities and appropriate professionals.
- The types of disclosures and disclaimers necessary to be included in the forms used for the health care advance directive and blood-type registry.
- The projected number of persons who may participate in the health care advance directive and blood-type registry and the sufficiency of the fees assessed to fund the registry and health care advance directive education efforts.
- The most effective and cost-efficient means to implement the educational requirements in ss. 765.3065 and 765.3066, F.S.

Section 11. Amends s. 396.1041, F.S., to require a licensed hospital, ambulatory surgical center or mobile surgical facility to withhold or withdraw cardiopulmonary resuscitation when presented with an order not to resuscitate executed pursuant to s. 401.45, F.S.

Section 12. Creates s. 395.10411, F.S., to establish the duty of a licensed hospital, ambulatory surgical center or mobile surgical facility to carry out the advance directive of a patient. The bill requires that when a patient in a licensed hospital, ambulatory surgical center, or mobile surgical facility has a terminal condition or an end-stage condition or is in a persistent vegetative state and has an advance directive, the facility providing health care services to the patient must carry out the advance directive or must transfer the patient within 48 hours to a facility that will carry out the advance directive. The cost of transferring a patient for the purpose of carrying out an advance directive must be paid by the facility that transfers the patient and no part of the cost will be paid by the patient or the receiving healthcare facility. A facility that does not carry out a patient's advance directive will not receive payment of any state funds for life-prolonging treatment provided to the patient.

The bill requires that when a patient in a licensed hospital, ambulatory surgical center, or mobile surgical facility has a terminal condition or an end-stage condition or is in a persistent vegetative state and has an order not to resuscitate, the licensed facility must carry out the order not to resuscitate. A facility that does not carry out a patient's order not to resuscitate will not receive payment of any state funds for life-prolonging treatment provided to the patient.

The bill requires a licensed hospital, ambulatory surgical center, or mobile surgical facility to notify the federally designated organ procurement organization when there is a plan to discuss termination of life support for a patient who has a living will and is an organ donor. The bill specifies that this section will not supercede s. 382.009, F.S., which establishes conditions for determination of brain death.

Section 13. Amends s. 765.1105, F.S., to require a health care provider that refuses to comply with a patient's advance directive or the treatment decision of his or her surrogate to transfer the patient. A health care provider or facility that is unwilling to carry out the wishes of a patient or the treatment decision of his or her surrogate because of moral or ethical beliefs must transfer the patient within 48 hours after a determination by the attending physician that the patient's condition is such that the advance directive applies.

Section 14. Creates s. 765.1021, F.S., to encourage primary physicians and patients to discuss advance directives and end-of-life care in a physician's office setting on a non-emergency basis. The bill requires that if a patient completes an advance directive and gives it to a physician, the patient's advance directive must become part of the patient's medical record.

Section 15. Amends s. 765.304, F.S., to require that when a person has made a living will but has not designated a surrogate, the attending physician must carry out the living will or must transfer the patient to a physician who will comply with the living will.

Section 16. Provides that except as otherwise provided in the bill, and except for the effective date which will take effect upon becoming a law, the provisions of the bill will take effect September 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Individuals wishing to participate in the registry would pay a $10 fee to have their living will and or blood type included in the registry and noted on their driver's license or identification card.

B. Private Sector Impact:

Individuals wishing to participate in the registry would have to pay a $10 fee to have their living will and or blood type included in the registry and noted on their driver's license or identification card.

C. Government Sector Impact:

Cost to AHCA

The creation of an advance directive and blood type registry with designation of the information on a driver's license or identification card would require AHCA to restructure the existing organ donor registry. According to the agency, the computer hardware and software of the current registry is out-of-date. A major hardware purchase and software development would be needed to accommodate the advance directive/blood type registry. A mechanism to fund a health care advance directive registry would also offer the opportunity to update and streamline the organ donor registry. A totally web based system could be implemented that would allow individuals to file their advance health care directives with the registry without the intervention of AHCA or DHSMV.

Without substantive figures regarding the data storage size of the advance directive document and/or blood type document, AHCA cannot give an accurate description of the fiscal impact of the development and implementation on the agency. AHCA proposes that a thorough analysis of the requirements of this bill be conducted. Such a study would encompass a system to host (1) both the existing organ donor wills and the proposed advance directive and blood-type wills; or (2) the proposed advance directive and blood-type wills only.

The cost of such a study is estimated at $50,000 involving 500 consultant hours at $100 per hour.

The deliverable of the proposed study will be a thorough scope and assessment of a system or systems to meet the requirements of this bill. Thereafter, using the content of this study report, AHCA will publish a request for proposals for the implementation of such system or systems.

On the basis of collecting responses to a request for proposals from vendors, AHCA will project a cost for the requirements of the bill to be delivered before the beginning of the 2005/2006 legislative session.

The continuing education program to educate and inform health care professionals, law enforcement agencies and officers, state and local government employees, and the public would have to be done with the concurrence of DHSMV. Review of the requirements for this education program would be considered in conjunction with the study of establishing the registry.

Cost to DHSMV

This bill would require 1,150 hours of contract programming at $53.83 per hour to modify existing Driver Licensing Software Systems, for a cost of $61,905. This cost would be incurred in the 2005-2006 fiscal year.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The ability of an individual to change a statement of intentions for health care as the condition of his or her health changes, and the ability of a surrogate to do so when the individual is no longer capable of expressing his or her intentions, is essential for an advance directive to truly enable an individual to have the health care he or she intends at the end of his or her life. In order for the statewide registry of advance directives to assist, rather than thwart, an individual's intentions, it would be necessary for a more recent directive given to the patient's physician in accordance with the provisions of chapter 765, F.S., to take precedence over the advance directive on file in the registry.

It is unclear how a person's intentions concerning life-prolonging procedures could be stated within the limited space available on a driver's license or identification card (p. 5, line 29 – p. 6, line 3). It is also not clear how simply stating on a person's driver's license or identification card that the person has an advance directive could satisfy all requirements concerning life-prolonging procedures for health care providers (p. 6, lines 3-8).

The requirement in s. 765.3061(3)(b)2., F.S., that the forms for participation in the registry must require an individual to waive all privacy rights granted under state or federal law is broader than would be necessary for the registry. The form should require a waiver of privacy rights for the purpose of allowing authorized individuals to access the advance directive or blood type documentation in the registry. However, a public records exemption would then be required.

The requirement in s. 765.3061(3)(b)3., F.S., that the forms for participation in the registry must require an individual to expressly waive liability for health care providers who rely upon the information on the principal's driver's license or in the registry could be challenged on the basis that the principal could not know in advance what health care providers might be relying on the information or under what circumstances the information would be used. The express waiver of liability for health care providers may be unenforceable.

The bill requires AHCA to conduct a study of the implementation of the health care advance directive and blood-type registry and report its findings and recommendations to the Speaker of the House of Representatives and the President of the Senate by January 1, 2005. The subjects specified for the study include the type of information that would be gathered before implementing such a registry. To conduct the study while simultaneously implementing the registry would deprive AHCA of the ability to use information from the study in setting up the registry.

If currently accepted practice standards in blood banking do not condone the use of blood type documentation, the provision of this bill requiring such a registry may have little practical application. In addition, it is not clear who would incur the cost of having the blood type tested.

In section 7, the bill creates s. 765.3064, F.S., to grant immunity from liability to a health care provider or other person acting under the direction of a health care provider carrying out a health care decision made in accordance with a properly recorded health care advance directive or blood-type confirmation transmitted by DHSMV. This section does not include a standard of good faith. To maintain consistency within chapter 765, F.S., this newly created section should have the same good faith standard as s. 765.109, F.S. As an alternative, if s. 765.109, F.S., were amended to provide immunity to a health care provider carrying out a health care decision made in accordance with a properly recorded health care advance directive or blood-type confirmation transmitted by DHSMV, there would be no need to create s. 765.3064, F.S.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.