

**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.)

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Prepared By: The Professional Staff of the Committee on Transportation

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BILL: SB 988

INTRODUCER: Senator Margolis

SUBJECT: Anatomical Gifts

DATE: March 11, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Eichin	TR	<b>Pre-meeting</b>
2.			ATD	
3.			FP	

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**I. Summary:**

SB 988 requires the Department of Highway Safety and Motor Vehicles (DHSMV) to establish and maintain the First Person Consent organ and tissue donor registry. The DHSMV must also develop and issue a brochure explaining the registry to applicants for issuance and renewal of driver licenses and identification cards. Such applicants must choose in writing, or by another means established by the DHSMV, one of three options regarding being included in the registry.

The bill allows the DHSMV to answer if a potential organ donor's name is included in the First Person Consent registry when asked by certain individuals.

**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.<sup>1</sup> 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.<sup>2</sup> Nationwide, nearly 6,000 people die each year waiting for an organ donation.<sup>3</sup>

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.<sup>4</sup> These agencies are certified

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<sup>1</sup> *FAQs About Donation*, Donate Life Florida, 2009, available at: [http://www.donatelifeflorida.org/content/about/facts/faq/#faq\\_22](http://www.donatelifeflorida.org/content/about/facts/faq/#faq_22), (Last visited Mar. 6, 2015).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *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.

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.<sup>5</sup>

### **The Joshua Abbott Organ and Tissue Donor Registry<sup>6</sup> (Donor Registry)**

In 2008,<sup>7</sup> 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.<sup>8</sup> 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,<sup>9</sup> 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 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.<sup>10</sup> 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.<sup>11</sup>

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

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

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

<sup>6</sup> 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.

<sup>7</sup> Chapter 2008-223, Laws of Fla.

<sup>8</sup> Section 765.5155(1), F.S.

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

<sup>10</sup> [http://www.donateliflorida.org/content/about/facts/faq/#faq\\_22](http://www.donateliflorida.org/content/about/facts/faq/#faq_22), (last visited Mar. 9, 2015).

<sup>11</sup> Donate Life Florida's annual report to AHCA for 2013.

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

<sup>13</sup> 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.

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.<sup>14</sup>

### **Organ Donation "Mandated Choice"**

In 2006, Illinois enacted the First-Person Consent Act, establishing the First-Person Consent organ and tissue donor registry.<sup>15</sup> The act requires that each applicant for issuance or renewal of a driver license or identification card, who is 18 years of age or older, be offered the opportunity to have his name included in the First-Person Consent registry. The individual must answer if they wish to be an organ donor, or not. Additionally, a brochure explaining the First-Person Consent registry must be given to each applicant.

Sixty percent of Illinoisans are registered with the First-Person Consent registry.<sup>16</sup> Currently, 47 percent of Floridians are registered with the Joshua Abbott Organ and Tissue Donor Registry.

### **III. Effect of Proposed Changes:**

The bill requires the DHSMV to establish and maintain the First Person Consent organ and tissue donor registry. An applicant for issuance or renewal of a driver license or an identification card is required to provide a statement in writing, or by another means approved by the DHSMV, stating he agrees, disagrees, or defers to family wishes<sup>17</sup> to have his name included in the First Person Consent registry.

A person may revise or withdraw his statement to have his name included in the First Person Consent registry by notifying the DHSMV in writing or by another means approved by the DHSMV.

The bill allows the DHSMV to establish additional methods by which a person may register with the First Person Consent registry.

Additionally, the bill requires the DHSMV to develop and issue a brochure to every applicant for issuance or renewal of a driver license or identification card explaining the First Person Consent registry. The brochure must advise the applicant that he is not required to agree to have his name included in the First Person Consent registry, and he may wish to consult with family, friends, or clergy before having his name included in the registry.

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<sup>14</sup> *Id.*

<sup>15</sup> 625 ILCS 5/6-117 (2014).

<sup>16</sup> Donate Life Illinois, <http://www.donatelifellinois.org/index.php/about-us/> (Last visited Mar. 9, 2015).

<sup>17</sup> Allows a person listed in s. 765.512(3), F.S., to donate all or any part of the decedent's body.

**Section 3** of the bill allows the DHSMV to release whether a potential organ donor's name is included in the First Person Consent registry if asked by:

- A representative of an organ procurement organization;
- A tissue bank; or
- A coroner's or medical examiner's office.

The bill takes effect July 1, 2015.

**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:

The bill may increase the amount of organ donors in the state.

C. Government Sector Impact:

The DHSMV estimates programming costs to create the donor registry database and public access website, and to modify the current system and applications are \$174,600.<sup>18</sup>

Other costs associated with implementing this bill are unknown at this time.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill appears to create a second competing organ and tissue donor registry within the state.

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<sup>18</sup> Email from the DHSMV. (Mar. 9, 2015) (On file with the Senate Committee on Transportation).

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 765.514, 765.521, and 765.51551.

This bill reenacts the following sections of the Florida Statutes: 381.0041, 765.511, 765.512, and 765.515

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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