

**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 Appropriations Subcommittee on Transportation, Tourism, and Economic Development

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BILL: PCS/SB 1066 (491260)

INTRODUCER: Fiscal Policy Committee (Recommended by Subcommittee on Transportation, Tourism, and Economic Development) and Senator Margolis

SUBJECT: Anatomical Gifts

DATE: January 22, 2016

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

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

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## I. Summary:

PCS/SB 1066 requires the Department of Highway Safety and Motor Vehicles (DHSMV) to maintain a link on its website referring customers who are renewing their driver license or conducting other business to the organ donation registry. According to the DHSMV, the bill codifies into law a practice that is already in place.<sup>1</sup>

To the extent that the bill codifies a current practice, the bill will not have a fiscal impact on the DHSMV.<sup>2</sup>

The bill has an effective date of July 1, 2016.

## 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>3</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>4</sup> Nationwide, nearly 6,000 people die each year waiting for an organ donation.<sup>5</sup>

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<sup>1</sup> Department of Highway Safety and Motor Vehicles, *SB 1066 Agency Bill Analysis* (January 14, 2016)(on file with the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

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

<sup>3</sup> Donate Life Florida, *FAQs about Donation* (2009), <https://www.donateliflorida.org/content/about/facts/faq/> (last visited Jan. 7, 2016).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

Florida has four federally designated, non-profit organ procurement agencies exclusively responsible for facilitating the process of organ donation. Each agency serves a different region of the state.<sup>6</sup> These agencies are certified by the U.S. Centers for Medicare and Medicaid Services, and operate in Florida to increase the number of registered donors and coordinate the donation process when organs become available.<sup>7</sup>

### **The Joshua Abbott Organ and Tissue Registry<sup>8</sup> (Donor Registry)**

In 2008,<sup>9</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>10</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>11</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, and driver's license or identification card number.

As of January 21, 2016, there were 8,608,722 people registered in the donor registry.<sup>12</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>13</sup>

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<sup>6</sup> *Id.*; LifeLink of Florida serves west Florida, LifeQuest Organ Recovery Services serves northern Florida, TransLife/Florida Hospital serves eastern Florida, and LifeAlliance Organ Recovery Agency serves southern Florida.

<sup>7</sup> Organ Procurement Organizations, Organdonor.gov, <http://organdonor.gov/materialsresources/materialsopolist.html>, (last visited Mar. 9, 2015).

<sup>8</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>9</sup> Chapter 2008-223, Laws of Fla.

<sup>10</sup> Section 765.5155(1), F.S.

<sup>11</sup> At the Donate Life Florida website, <https://www.donateliflorida.org/register/> (last visited Jan. 21, 2016).

<sup>12</sup> *Id.*

<sup>13</sup> Donate Life Florida, *2014 Annual Report*, available at: [https://www.donateliflorida.org/files/52\\_file.pdf](https://www.donateliflorida.org/files/52_file.pdf) at p. 7, (last visited Jan 7, 2016).

Information held in the donor registry which identifies a donor is confidential and exempt from the state's public records laws.<sup>14</sup> Donor information may be disclosed to:

- Procurement organizations certified by the AHCA; and
- Persons engaged in bona fide research.<sup>15</sup>

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.<sup>16</sup>

### **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>17</sup>

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

The bill requires the DHSMV to maintain an integrated link on its website referring customers who are renewing their driver license or conducting other business to the organ donation registry operated under s. 765.5155, F.S. The bill codifies into law a practice that has already been put into place by the agency.<sup>18</sup>

The bill takes effect July 1, 2016.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>14</sup> Section 119.07(1), F.S. and FLA. CONST. art. I, s. 24(a).

<sup>15</sup> Section 765.51551, F.S., requires persons engaged in bona fide research to agree to submit a research plan to the AHCA detailing the exact nature of the information requested and intended use, maintain the confidentiality of the information, destroy any confidential records or information obtained after the research is concluded, and not directly or indirectly contact any donor or donee.

<sup>16</sup> Section 765.5155(4), F.S.

<sup>17</sup> *Supra* note 11 at p. 12.

<sup>18</sup> *Supra* note 1.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

SB 1066 may increase the number of organ donors in this state.

**C. Government Sector Impact:**

To the extent that the bill codifies a current practice, the bill will not have a fiscal impact on the DHSMV.<sup>19</sup>

**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 Changes:**

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

**Recommended CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on January 21, 2016:**

The committee substitute removes the provision of the bill that required the DHSMV to implement procedures to require department staff to confirm electronically that each person entering a department office or facility to transact driver license services has been informed that he or she may become an organ donor. As the bill is codifying into law a practice currently in place, the committee substitute also removes the language that would have delayed the bill's implementation until the DHSMV's vehicle registration information technology modernization project is implemented.

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<sup>19</sup> *Supra* note 1.

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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