



705054

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/29/2020	.	
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The Committee on Health Policy (Harrell) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 408.0455, Florida Statutes, is amended  
to read:

408.0455 Rules; pending proceedings.—The rules of the  
agency in effect on June 30, 2004, ~~shall~~ remain in effect and  
are ~~shall be~~ enforceable by the agency with respect to ss.  
408.031-408.045 until such rules are repealed or amended by the



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11 agency. Rules 59C-1.039 through 59C-1.044, Florida  
12 Administrative Code, including, but not limited to, the minimum  
13 volume standards for organ transplantation and neonatal  
14 intensive care services, remain in effect for the sole purpose  
15 of maintaining licensure requirements for the applicable  
16 services until the agency has adopted rules for the  
17 corresponding services pursuant to s. 395.1055(1)(i), Florida  
18 Statutes 2018.

19 Section 2. Present subsections (3) and (4) of section  
20 627.6045, Florida Statutes, are redesignated as subsections (4)  
21 and (5), respectively, and a new subsection (3) is added to that  
22 section, to read:

23 627.6045 Preexisting condition.—A health insurance policy  
24 must comply with the following:

25 (3) A preexisting condition provision may not limit or  
26 exclude coverage solely on the basis that an insured is a living  
27 organ donor.

28 Section 3. Paragraph (f) of subsection (1) of section  
29 765.514, Florida Statutes, is amended to read:

30 765.514 Manner of making anatomical gifts.—

31 (1) A person may make an anatomical gift of all or part of  
32 his or her body under s. 765.512(1) by:

33 (f) Expressing a wish to donate in a document other than a  
34 will. The document must be signed by the donor in the presence  
35 of two witnesses who shall sign the document in the donor's  
36 presence. If the donor cannot sign, the document may be signed  
37 for him or her at the donor's direction and in his or her  
38 presence and the presence of two witnesses who must sign the  
39 document in the donor's presence. Delivery of the document of



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40 gift during the donor's lifetime is not necessary to make the  
41 gift valid. The following form of written document is sufficient  
42 for any person to make an anatomical gift for the purposes of  
43 this part:

44 UNIFORM DONOR CARD

45 The undersigned hereby makes this anatomical gift, if medically  
46 acceptable, to take effect on death. The words and marks below  
47 indicate my desires:

48 I give:

49 (a) .... any needed organs, tissues, or eyes;

50 (b) .... only the following organs, tissues, or eyes

51 ...[Specify the organs, tissues, or eyes]...

52 for the purpose of transplantation, therapy, medical research,  
53 or education;

54 (c) .... my body for anatomical study if needed.

55 Limitations or special wishes, if any:

56 ... (If applicable, list specific donee;

57 this must be arranged in advance with the donee.)...

58

59 I understand that neither I nor any member of my family is  
60 responsible for the payment of any fees associated with services  
61 relating to the procurement or donation of my organs, tissues,  
62 or eyes.

63

64 Signed by the donor and the following witnesses in the presence  
65 of each other:

66 ... (Signature of donor) ... (Date of birth of donor) ...

67 ... (Date signed) ... (City and State) ...

68 ... (Witness) ... (Witness) ...



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69 ... (Address)... ... (Address)...

70 Section 4. Paragraph (b) of subsection (3) of section  
71 765.5155, Florida Statutes, is amended to read:

72 765.5155 Donor registry; education program.—

73 (3) The contractor shall be responsible for:

74 (b) A continuing program to educate and inform medical  
75 professionals, law enforcement agencies and officers, other  
76 state and local government employees, high school students,  
77 minorities, and the public about state and federal ~~the laws of~~  
78 ~~this state~~ relating to anatomical gifts and the need for  
79 anatomical gifts, including the organ donation and  
80 transplantation process.

81 1. Existing community resources, when available, must be  
82 used to support the program and volunteers may assist the  
83 program to the maximum extent possible.

84 2. The contractor shall coordinate with the head of a state  
85 agency or other political subdivision of the state, or his or  
86 her designee, to establish convenient times, dates, and  
87 locations for educating that entity's employees.

88 Section 5. Subsection (4) of section 765.517, Florida  
89 Statutes, is amended to read:

90 765.517 Rights and duties at death.—

91 (4) All reasonable additional expenses incurred in the  
92 procedures to preserve the donor's organs or tissues shall be  
93 reimbursed by the procurement organization. An organ  
94 transplantation facility may not charge a donor or his or her  
95 family member any fee for services relating to the procurement  
96 or donation of his or her organs.

97 Section 6. Subsection (3) of section 765.522, Florida



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98 Statutes, is amended to read:

99 765.522 Duty of hospital administrators; liability of  
100 hospital administrators and procurement organizations.—

101 (3) The agency shall establish rules and guidelines  
102 concerning the education of individuals who may be designated to  
103 perform the request and the procedures to be used in making the  
104 request, including a requirement that such individuals clearly  
105 explain to patients and living organ donors the protocols of the  
106 hospital and the federal and state regulations regarding  
107 donation. The agency is authorized to adopt rules concerning the  
108 documentation of the request, where such request is made.

109 Section 7. Section 765.53, Florida Statutes, is amended to  
110 read:

111 (Substantial rewording of section. See  
112 s. 765.53, F.S., for present text.)

113 765.53 Organ Transplant Technical Advisory Council.—

114 (1) CREATION AND PURPOSE.—The Organ Transplant Technical  
115 Advisory Council, an advisory council as defined in s. 20.03, is  
116 created within the agency to develop standards for measuring  
117 quality and outcomes of adult and pediatric organ transplant  
118 programs. In order to increase the number of organs available  
119 for transplantation in this state, the council shall advise the  
120 agency and the Legislature regarding the cost savings, trends,  
121 research, and protocols and procedures relating to organ  
122 donation and transplantation, including the availability of  
123 organs for donation. Unless expressly provided otherwise in this  
124 section, the council shall operate in a manner consistent with  
125 s. 20.052.

126 (2) MEMBERS.—



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127 (a) Voting members of the council must have technical  
128 expertise in adult or pediatric organ transplantation. The chief  
129 executive officers of the following organ transplantation  
130 facilities shall each appoint one representative, who must be an  
131 organ transplant nurse coordinator licensed under chapter 464 or  
132 an organ transplant surgeon licensed under chapter 458 or  
133 chapter 459, to serve as a voting member of the council:

- 134 1. Jackson Memorial Hospital in Miami.  
135 2. Tampa General Hospital in Tampa.  
136 3. University of Florida Health Shands Hospital in  
137 Gainesville.

- 138 4. AdventHealth Orlando in Orlando.  
139 5. Mayo Clinic in Jacksonville.  
140 6. Cleveland Clinic Florida in Weston.  
141 7. Largo Medical Center in Largo.  
142 8. Broward Health Medical Center in Fort Lauderdale.

143 (b) The Secretary of Health Care Administration shall serve  
144 as the chair and a nonvoting member of the council.

145 (c) The Secretary of Health Care Administration shall  
146 appoint the following individuals to serve as voting members of  
147 the council:

- 148 1. The State Surgeon General or his or her designee.  
149 2. A parent of a child who has had an organ transplant.  
150 3. An adult who has had an organ transplant.  
151 4. An adult patient who is on an organ transplant waiting  
152 list.

153 5. A licensed physician who practices in each of the  
154 following organ transplantation areas:

- 155 a. Kidneys.



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156 b. Lungs.

157 c. Heart.

158 d. Liver.

159 e. Pancreas.

160 (d) Appointments made under paragraph (a) are contingent  
161 upon the hospital's compliance with chapter 395 and rules  
162 adopted thereunder. A member of the council appointed under  
163 paragraph (a) whose hospital fails to comply with such law and  
164 rules may serve only as a nonvoting member until the hospital  
165 comes into compliance.

166 (e) Any vacancy on the council must be filled in the same  
167 manner as the original appointment. Members are eligible for  
168 reappointment.

169 (f) Members of the council shall serve without compensation  
170 but may be reimbursed as provided in s. 112.061 for per diem and  
171 travel expenses incurred in the performance of their duties  
172 under this section.

173 (3) MEETINGS.—The council shall meet at least twice  
174 annually and upon the call of the chair. The council may use any  
175 method of telecommunications to conduct its meetings.

176 (4) DUTIES.—The council shall recommend to the agency and  
177 the Legislature the standards for quality care of adult and  
178 pediatric organ transplant patients, including recommendations  
179 on minimum volume of transplants by organ type, personnel,  
180 physical plant, equipment, transportation, and data reporting  
181 for hospitals that perform organ transplants. The council may  
182 further advise the agency and the Legislature regarding research  
183 focused on improving overall organ availability. A voting member  
184 may vote on standards related to a specific type of organ only



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185 if he or she represents a hospital that has a transplant program  
186 for that organ.

187 (5) REPORT.—By October 1, 2021, the council shall submit a  
188 report of its recommendations to the Governor, the President of  
189 the Senate, the Speaker of the House of Representatives, the  
190 Secretary of Health Care Administration, and the State Surgeon  
191 General.

192 (6) SOVEREIGN IMMUNITY.—Members of the council acting in  
193 good faith in the performance of their duties under this section  
194 are considered agents of the state for purposes of s. 768.28.

195 (7) AGENCY RULES.—

196 (a) Based on the recommendations of the council, the agency  
197 shall develop and adopt rules for organ transplant programs  
198 which, at a minimum, include all of the following:

199 1. Quality of care standards for adult and pediatric organ  
200 transplants, including minimum volume thresholds by organ type,  
201 personnel, physical plant, equipment, transportation, and data  
202 reporting.

203 2. Outcome and survival rate standards that meet or exceed  
204 nationally established levels of performance in organ  
205 transplantation.

206 3. Specific steps to be taken by the agency and licensed  
207 facilities when the facilities do not meet the volume, outcome,  
208 or survival rate standards within a specified timeframe that  
209 includes the time required for detailed case reviews and the  
210 development and implementation of corrective action plans.

211 (b) This subsection is repealed July 1, 2030, unless  
212 reviewed and saved from repeal through reenactment by the  
213 Legislature.





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214 Section 8. Subsection (3) of section 765.543, Florida  
215 Statutes, is amended to read:

216 765.543 Organ and Tissue Procurement and Transplantation  
217 Advisory Board; creation; duties.-

218 (3) The board shall:

219 (a) Assist the agency, in collaboration with other relevant  
220 public or private entities, in the development of necessary  
221 professional qualifications, including, but not limited to, the  
222 continuing education, training, and performance of persons  
223 engaged in the various facets of organ and tissue procurement,  
224 processing, preservation, and distribution for transplantation;

225 (b) Assist the agency in monitoring the appropriate and  
226 legitimate expenses associated with organ and tissue  
227 procurement, processing, and distribution for transplantation  
228 and developing methodologies to assure the uniform statewide  
229 reporting of data to facilitate the accurate and timely  
230 evaluation of the organ and tissue procurement and  
231 transplantation system;

232 (c) Provide assistance to the Florida Medical Examiners  
233 Commission in the development of appropriate procedures and  
234 protocols to ensure the continued improvement in the approval  
235 and release of potential donors by the district medical  
236 examiners and associate medical examiners;

237 (d) Develop with and recommend to the agency the necessary  
238 procedures and protocols required to assure that all residents  
239 of this state have reasonable access to available organ and  
240 tissue transplantation therapy and that residents of this state  
241 can be reasonably assured that the statewide procurement  
242 transplantation system is able to fulfill their organ and tissue



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243 requirements within the limits of the available supply and  
244 according to the severity of their medical condition and need;  
245 and

246 (e) Develop with and recommend to the agency any changes to  
247 the laws of this state or administrative rules or procedures to  
248 ensure that the statewide organ and tissue procurement and  
249 transplantation system is able to function smoothly,  
250 effectively, and efficiently, in accordance with the Federal  
251 Anatomical Gift Act and in a manner that assures the residents  
252 of this state that no person or entity profits from the  
253 altruistic voluntary donation of organs or tissues. In addition  
254 to the general duties described in this subsection, by September  
255 1, 2021, the board shall submit to the agency recommendations  
256 that address the following:

257 1. The frequency of communication between patients and  
258 organ transplant coordinators.

259 2. The monitoring of each organ transplantation facility  
260 and the annual reporting and publication of relevant information  
261 regarding the statewide number of patients placed on waiting  
262 lists and the number of patients who receive transplants,  
263 aggregated by the facility.

264 3. The establishment of a coordinated communication system  
265 between organ transplantation facilities and living organ donors  
266 for the purpose of minimizing the cost and time required for  
267 duplicative lab tests, including the sharing of lab results  
268 between facilities.

269 4. The potential incentives for organ transplantation  
270 facilities that may be necessary to increase organ donation in  
271 this state.



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272 5. The creation of a more efficient regional or statewide  
273 living organ donor process.

274 6. The potential opportunities and incentives for organ  
275 transplantation research.

276 7. The best practices for organ transplantation facilities  
277 and organ procurement organizations which promote the most  
278 efficient and effective outcomes for patients.

279 8. The monitoring of organ procurement organizations.

280 Section 9. Section 765.548, Florida Statutes, is created to  
281 read:

282 765.548 Duties of the agency; organ donation.-

283 (1) The agency shall:

284 (a) Monitor the operation of each organ transplantation  
285 facility and organ procurement organization located in this  
286 state.

287 (b) Develop uniform statewide rules regarding organ  
288 donations, which may include, but need not be limited to,  
289 procedures for maintaining a coordinated system of communication  
290 between organ transplantation facilities.

291 (c) Evaluate the current protocols and procedures used by  
292 organ transplantation facilities and make recommendations for  
293 improving such protocols and procedures.

294 (d) Establish annual reporting requirements for organ  
295 transplantation facilities and organ procurement organizations.

296 (e) In consultation with the State Board of Education and  
297 the contractor procured by the agency pursuant to s. 765.5155,  
298 develop a curriculum for educating high school students  
299 regarding the laws of this state relating to organ donation.

300 (2) By December 1, 2021, and each year thereafter, the



301 agency shall publish any data and other relevant information to  
302 adequately inform patients and potential donors about organ  
303 donation and organ transplantation.

304 Section 10. Paragraph (e) of subsection (2) of section  
305 409.815, Florida Statutes, is amended to read:

306 409.815 Health benefits coverage; limitations.—

307 (2) BENCHMARK BENEFITS.—In order for health benefits  
308 coverage to qualify for premium assistance payments for an  
309 eligible child under ss. 409.810-409.821, the health benefits  
310 coverage, except for coverage under Medicaid and Medikids, must  
311 include the following minimum benefits, as medically necessary.

312 (e) *Organ transplantation services.*—Covered services  
313 include pretransplant, transplant, and postdischarge services  
314 and treatment of complications after transplantation for  
315 transplants deemed necessary and appropriate within the  
316 guidelines set by the Organ Transplant Technical Advisory  
317 Council under s. 765.53 or the Bone Marrow Transplant Advisory  
318 Panel under s. 627.4236.

319 Section 11. This act shall take effect July 1, 2020.

320  
321 ===== T I T L E A M E N D M E N T =====

322 And the title is amended as follows:

323 Delete everything before the enacting clause  
324 and insert:

325 A bill to be entitled  
326 An act relating to organ donation; amending s.  
327 408.0455, F.S.; revising a provision relating to the  
328 operation of certain rules adopted by the Agency for  
329 Health Care Administration; amending s. 627.6045,



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330 F.S.; prohibiting a health insurance policy from  
331 limiting or excluding coverage solely on the basis  
332 that an insured is a living organ donor; amending s.  
333 765.514, F.S.; revising a written document for making  
334 an anatomical gift to include a specified statement  
335 relating to the responsibility of payment for fees  
336 associated with certain services; amending s.  
337 765.5155, F.S.; revising the responsibilities of a  
338 contractor procured by the agency for the purpose of  
339 educating and informing the public about anatomical  
340 gifts; amending s. 765.517, F.S.; prohibiting an organ  
341 transplantation facility from charging a donor or his  
342 or her family member any fee for services relating to  
343 the procurement or donation of organs; amending s.  
344 765.522, F.S.; revising a requirement that the agency  
345 establish rules and guidelines relating to the  
346 education of certain individuals designated to perform  
347 certain organ donation procedures; amending s. 765.53,  
348 F.S.; requiring the agency to establish the Organ  
349 Transplant Technical Advisory Council for a specified  
350 purpose; providing for membership, meetings, and  
351 duties of the council; requiring the council to submit  
352 a report to the Governor, the Legislature, the  
353 Secretary of Health Care Administration, and the State  
354 Surgeon General by a specified date; providing for  
355 sovereign immunity of council members under certain  
356 circumstances; requiring the agency to adopt specified  
357 rules based on the council's recommendations;  
358 providing for future legislative review and repeal of



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359 certain provisions; amending s. 765.543, F.S.;

360 revising the duties of the Organ and Tissue

361 Procurement and Transplantation Advisory Board;

362 requiring the board to submit certain recommendations

363 to the agency by a specified date; creating s.

364 765.548, F.S.; providing additional duties of the

365 agency relating to organ transplantation facilities

366 and organ procurement organizations and organ donation

367 procedures and protocols; requiring the agency to

368 publish certain data and information by a specified

369 date and annually thereafter; amending s. 409.815,

370 F.S.; conforming a provision to changes made by the

371 act; providing an effective date.