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## FISCAL IMPACT REPORT

ORIGINAL DATE 03/09/07  
 SPONSOR HJC LAST UPDATED 03/14/07 HB 1276/HJCS/aSJC  
 SHORT TITLE Revise Uniform Anatomical Gift Act SB \_\_\_\_\_  
 ANALYST Hanika Ortiz/Geisler

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		see narrative				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of SJC Amendments

The Senate Judiciary Committee amendments to Section 31 of HB 1276 impact:

1. In the area of confidentiality of motor vehicle records (66-2-7.1), clarify that the bill section applies to current and former “bureau” employees as well as current and former department employees;
2. In the area of confidentiality of motor vehicle records (66-2-7.1), clarify that this information includes “administration of the Ignition Interlock Licensing Act and the interlock device fund.”

#### Synopsis of Original Bill

The House Judiciary Committee Substitute for House Bill 1276 replaces the existing Uniform Anatomical Gift Act (NMSA Sections 24-6A-1 to 24-6A-15) by renaming and enacting the “Jonathan Spradling Revised Uniform Anatomical Gift Act” with content promulgated by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in July, 2006.

The Act provides for definitions to include:

- “adult” means an individual at least sixteen years of age;
- “anatomical gift” means a donation of all or part of a human body to take effect after death for the purpose of transplantation, therapy, research or education.
- “disinterested witness” to include persons other than next-of-kin or guardian; other adults who exhibit special care and concern; and, excludes certain beneficiary of gifts including

transplant recipients.

- “reasonably available” means able to be contacted by a procurement organization without undue effort in a timely manner for the making of an anatomical gift.

The substitute bill also amends NMSA Section 12-2-4 regarding determination of death to provide that death must be pronounced before artificial means of supporting circulatory or respiratory functions are terminated and prior to removal of any vital organ for transplantation, therapy, research or education in compliance with the provisions of the revised act.

The substitute bill also amends the Uniform Electronic Transactions Act, Section 14-16-3 NMSA 1978 relating to electronic signatures, and further states the act will not apply to certain court orders, notices or documents in court transactions; or, documents required to accompany transportation or handling of hazardous materials.

### **FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary or corrections would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

### **SIGNIFICANT ISSUES**

The substitute bill is limited to donations from deceased donors as a result of anatomical gifts made before or after their deaths. The substitute bill simplifies donation and allows for recognition of forms commonly found on driver’s licenses or other records signed by the donor or other persons authorized to make the gift. An individual is also given the ability to refuse to make a gift.

For persons who do not have a document of a gift, persons close to the individual may provide for the donation. Persons who may make this gift and an order of the decision makers are defined in the bill. If there is more than one person in a class of decision makers, there must be a majority decision of persons reasonably available.

The bill gives procurement organizations access to donor registries, medical records and motor vehicle division records to determine if someone has authorized a gift. If a donor has a clear record of donation the family cannot override that decision, with the exception of a minor child. The bill also prioritizes gifts for the purpose of transplantation or therapy; and, if the gift is not suitable for such then provides for its use in research or education.

The bill provides for penalties. Falsifying a document of gift or refusal in order to obtain a financial gain, purchasing or selling of body parts is a third degree felony with up to six years imprisonment and/or a \$5,000 fine.

Health care providers can continue measures needed to maintain the medical suitability of the donation. This can be done prior to invoking health care directives regarding withholding or withdrawing life support measures. The bill clarifies coordination and cooperation between procurement organizations and State medical examiners.

## **PERFORMANCE IMPLICATIONS**

This proposal was developed according to recommendations from the NCCUSL to provide for uniform law in all states. Laws regarding organ and tissue donation vary from state to state and this can delay, hinder and even obstruct the process.

## **TECHNICAL ISSUES**

The substitute bill provides for cooperation between Office of the State Medical Investigator and the procurement organizations; however, does not address county coroners or funeral homes which can further delay or obstruct the process.

Under Section 12-2-4 within paragraph C; “before artificial means of supporting circulatory or respiratory functions are terminated” may not allow for the current practice of the recovery of certain organs after life support has been withdrawn and the person has been declared dead. The committee might decide to delete that portion of the sentence.

## **OTHER SUBSTANTIVE ISSUES**

This newly revised version is intended to address the critical organ shortage by providing additional ways for making organ, eye, and tissue donations. This act is designed to encourage the making of anatomical gifts. It is also designed to honor and respect the autonomy interest of individuals to make or not to make an anatomical gift of their body or parts. The act preserves the current anatomical gift system founded upon altruism by requiring a positive affirmation of intent to make a gift and prohibiting the sale and purchase of organs. (<http://www.law.upenn.edu/bll/ulc/uaga/2006final.htm>).

## **AMENDMENTS**

Pg 6, line 14, insert “human” between “of” and “tissue”

Pg 6, GG, line 16, delete “furnishes organ transplants” and replace with “provides for organ and tissue recovery and transplantation”

Pg 25, line 20; delete “in order to obtain a financial gain” from the sentence to allow for other types of compensation

GG/mt