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BILL ANALYSIS

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House Bill 4938 (Substitute H-2 as passed by the House)
Sponsor: Representative Joe Hune
House Committee: Health Policy
Senate Committee: Health Policy

Date Completed: 9-21-05

CONTENT

The bill would amend Public Act 181 of 1953, which regulates county medical examiners, to do the following:

- Require a county medical examiner to contact the State's Federally designated organ procurement organization if he or she determined that a body might be suitable for donation or the donation of physical parts.**
- Require a county medical examiner to enter into an agreement regarding the donation of organs and tissues with the organ procurement organization and the eye and tissue organization that coordinated the recovery and allocation of anatomical donations in that county, if contacted by one or both of the organizations.**
- Require a county medical examiner to conduct the examination of the body of a donor within a time period that permitted organs, tissues, and eyes to remain viable for transplant.**

Under the bill, if a county medical examiner or his or her designee received notification from a person other than a representative of a hospital of a death that required an investigation by the county medical examiner's office under the Act, the medical examiner or designee would have to take charge of the body. (The circumstances requiring an investigation are described below, under **BACKGROUND.**)

If, upon viewing the body and inquiring personally into the cause and manner of the death, the medical examiner or designee determined that the body could be suitable for donation or for the donation of physical parts, according to criteria established by Michigan's Federally designated organ procurement organization, he or she would have to contact the organization or its successor organization in a timely manner as prescribed by the bill.

If contacted by the organ procurement organization or the eye and tissue organization, or both, the county medical examiner would have to enter into an agreement with both organizations that coordinated the recovery and allocation of anatomical donations in that county. The agreement would have to outline the procedures and protocols of each party to assure that transplantable organs, tissues, and eyes were obtained from potential donors. The agreement would have to provide that if any extraordinary medical examinations were necessary before the removal of organs, tissues, or eyes, the organization would have to cover those costs.

The county medical examiner or designee could release any information to the organ procurement organization or the eye and tissue organization that was necessary to identify potential organ, tissue, or eye donors and seek consent for donations in accordance with Part 101 of the Public Health Code (described below).

The bill would prohibit the county medical examiner or a designee from discussing the option of organ donation with any individual with the authority to make a gift under the Public Health Code.

Whether a death occurred in a hospital or not, if an investigation of the cause and manner of death were required under the Act and the county medical examiner or designee had notice that the individual was a donor, the medical examiner or designee would have to conduct the examination of the body within a time period that permitted organs, tissues, and eyes to remain viable for transplant. If the medical examiner or designee were unable to conduct the investigation within that time period, a health care professional who was authorized to remove an anatomical gift from a donor could remove the donated tissues and/or organs in order to preserve their viability for transplant upon notifying the medical examiner or designee. If the medical examiner or designee determined that an organ could be related to the cause of death, he or she could request to be present during the removal of, or request a biopsy of, the donated organs.

Proposed MCL 52.209

BACKGROUND

Public Act 181 of 1953 requires a county medical examiner or deputy county medical examiner to investigate the cause and manner of death of an individual under each of the following circumstances:

- The individual dies by violence.
- The individual's death is unexpected.
- The individual dies without medical attendance by a physician, or while under home hospice care without medical attendance by a physician or a registered nurse, during the 48 hours immediately preceding the time of death, unless the attending physician is able to determine accurately the cause of death.

Additionally, if a prisoner in a county or city jail dies while imprisoned, the county medical examiner or deputy county medical examiner must examine the deceased prisoner's body.

Under Part 101 of the Public Health Code, upon or immediately before the death of an individual who has not made an anatomical gift as described in the Code, any of the following individuals, in the following priority, may make a gift of all or a physical part of the deceased person's body: a patient advocate designated under the Estates and Protected Individuals Code who is authorized to make such a gift; a spouse; an adult son or daughter; either parent; an adult brother or sister; a guardian of the person of the decedent at the time of death; and any other individual who is authorized or under obligation to dispose of the body.

The chief executive officer of each hospital must develop and implement a policy regarding anatomical gift requests. At a minimum, the policy must provide for the designation of individuals who will make requests; that a clergy of the patient's religious preference, if known, is made available upon request to the individuals to whom a request is made; the development of a support system that facilitates the making of requests; and the maintenance of an organ donation log sheet. At or near the death of a patient whose body, according to accepted medical standards, is suitable for donation or for the donation of physical parts, an individual designated to make requests under the policy must request one

of the individuals listed above, in the order of stated priority, to consent to the gift. The hospital's designated individual may not make a request if any of the following conditions exist.

- He or she has actual notice that the patient or decedent had expressed an unwillingness to make the gift.
- He or she has actual notice that an individual with a higher priority or equal priority opposes the making of a gift.
- He or she has knowledge that the gift is contrary to the decedent's religious beliefs.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill would have no effect on State revenues or expenditures. The bill could alter local government expenditures by an unknown and likely minimal amount. The bill would have no effect on local government revenues.

This estimate is preliminary and will be revised as new information becomes available.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.