

## **BILL ANALYSIS**

S.B. 1040  
By: Kolkhorst  
Public Health  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Wait times for lifesaving organ transplants in the United States can be years long, with some people dying without ever making it near the top of the list. Because of these wait times, some desperate people will travel overseas to countries such as China, where organs are more readily available. However, the availability of these organs is due in part to a forced organ harvesting market. China is known to have a large-scale industry of forced organ harvesting of prisoners. Some people needing lifesaving transplants have turned to "transplant tourism," where they travel to China for the sole purpose of getting a quick organ transplant. Whether people are aware or not, some of these organs may be obtained forcibly from others. S.B. 1040 prohibits a health benefit plan issuer from covering a human organ transplant or post-transplant care if the transplant operation is performed in, or the organ to be transplanted was procured by a sale or donation originating in, China or another country that is known for participating in organ harvesting.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 1040 amends the Insurance Code to prohibit a health benefit plan issuer from covering a human organ transplant or post-transplant care if the transplant operation is performed in, or the organ to be transplanted was procured by a sale or donation originating in, China or another country known to have participated in forced organ harvesting, as designated by the commissioner of state health services. The bill authorizes the commissioner to designate additional countries with governments that fund, sponsor, or otherwise facilitate forced organ harvesting and requires the commissioner to provide written notice to the commissioner of insurance, Teacher Retirement System of Texas, Employees Retirement System of Texas, and executive commissioner of the Health and Human Services Commission when an additional country is designated. The bill defines "forced organ harvesting" as the removal of one or more organs from a living person by means of coercion, abduction, deception, fraud, or abuse of power or a position of vulnerability. The bill specifies the types of plans to which its provisions apply.

S.B. 1040 provides for the delayed implementation of any provision for which an applicable state agency determines a federal waiver or authorization is necessary for implementation until

the waiver or authorization is requested and granted. The bill's provisions apply only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2024.

**EFFECTIVE DATE**

September 1, 2023.