

## **BILL ANALYSIS**

C.S.S.B. 2721  
By: Parker  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The 88th Legislature passed S.B. 2040, which abolished the Anatomical Board of the State of Texas (SAB) and transferred its functions to the Texas Funeral Service Commission (TFSC). The bill sponsor has informed the committee that this change brought new attention to the sometimes underregulated realm of non-transplant anatomical donation organizations and willed body programs and that, soon after, investigative reporting disclosed grave missteps in the handling of unclaimed and donated remains, including instances where families were never notified that a relative's body was taken for research or training and where there was misuse of donated anatomical parts by middlemen and a lack of uniform, enforceable standards for procuring, dissecting, and disposing of human remains. C.S.S.B. 2721 seeks to ensure that donors' rights are better protected, that unclaimed remains receive dignified care, and that robust regulatory oversight and accountability bring transparency to the industry. The bill seeks to curb misuse of the non-transplant anatomical donation system and close regulatory loopholes that have eroded public trust. The bill also strengthens processes for documenting and tracking each body or anatomical specimen, preserving transparency for next of kin, and fostering confidence in the legitimate scientific and educational uses of donated remains. Through these reforms, the bill seeks to uphold higher ethical standards, provide greater oversight to protect against abuses, and continue to enable the advancement of vital medical research and training programs.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Funeral Services Commission to SECTIONS 1 and 10 of this bill.

### **ANALYSIS**

C.S.S.B. 2721 repeals all of the Health and Safety Code provisions comprising the current regulatory framework governing the donation of bodies and anatomical specimens and requiring the registration of a willed body program or non-transplant anatomical donation organization with the Texas Funeral Service Commission (TFSC) before operating in Texas, including provisions establishing the State Anatomical Advisory Committee to advise and provide expertise to the TFSC on matters related to the regulation and operation of willed body programs, non-transplant anatomical donation organizations, and anatomical facilities. The bill amends the Health and Safety Code to establish a new regulatory framework for the donation of bodies and anatomical specimens whereby:

- certain of the repealed provisions regarding the donation of bodies and anatomical specimens are subsumed by and repurposed within that new regulatory framework;

- an advisory committee is established with a different composition and advisory purpose; and
- the following licenses are required for, respectively, acquiring or distributing a body or anatomical specimen and for acquiring a body or anatomical specimen to be used for education or research purposes, with the licensees regulated by the TFSC and criminal penalties assessed for a person who violates the bill's licensing requirements:
  - an anatomical supplier license and a provisional anatomical supplier license; and
  - a researcher license.

## **Donation of Bodies and Anatomical Specimens; Licensing of Anatomical Suppliers and Researchers**

### Advisory Committee

C.S.S.B. 2721 establishes a five-member State Anatomical Advisory Committee under the new regulatory framework to advise and provide expertise to the TFSC regarding the regulation and operation of persons licensed under the bill's provisions, including the donation and use of bodies and anatomical specimens for education or research purposes. The committee is composed of the following:

- one member appointed by the governor;
- two members appointed by the presiding officer of the TFSC;
- one member who represents institutions of higher education or private or independent institutions of higher education that operate willful body programs, appointed by the commissioner of the Texas Higher Education Coordinating Board; and
- one member appointed by the executive commissioner of the Health and Human Services Commission.

Advisory committee members must have experience and knowledge in the donation and use of whole bodies and anatomical specimens for education and research. The bill requires appointments to the advisory committee to be made without regard to the race, creed, sex, religion, or national origin of the appointees. The bill establishes that members of the advisory committee serve two-year terms and that an advisory committee member may be reappointed.

C.S.S.B. 2721 exempts the advisory committee from Government Code provisions relating to the composition and duration of state agency advisory committees and authorizes the advisory committee to propose rules for the administration and enforcement of the bill's provisions.

### General Powers and Duties

C.S.S.B. 2721 requires the TFSC to administer and enforce the bill's provisions and authorizes the TFSC, in consultation with the advisory committee, to adopt rules consistent with the bill's provisions to regulate the acquisition, distribution, use, and disposition of donated bodies and anatomical specimens, including rules proposed by the advisory committee. The bill also requires the TFSC to adopt rules prescribing the procedure by which the advisory committee may propose rules to the TFSC.

C.S.S.B. 2721 authorizes the TFSC, in consultation with the advisory committee, by rule to set and collect fees in amounts reasonable and necessary to cover the cost of administering the bill's provisions, including fees for the following:

- authorizing the acquisition and distribution of bodies and anatomical specimens, other than temporary custody of a body or anatomical specimen on behalf of an anatomical supplier;
- conducting inspections, audits, and other verification activities authorized under the bill's provisions; and
- licensing persons under the bill's provisions.

C.S.S.B. 2721 requires the TFSC by rule to require a person who applies for a license under the bill's provisions to submit to a background check, including a review of the person's criminal history record information. If the applicant is a business or nonprofit entity, the TFSC by rule must require the submission of fingerprints for purposes of conducting a background check from each individual who has a controlling interest in the entity, is an officer or manager of the entity, is a member of the board of directors of the entity, or holds a substantial amount of stock or other similar interest in the entity, as determined by TFSC rule.

C.S.S.B. 2721 requires the TFSC to require a person licensed under the bill's provisions to do the following:

- issue a unique identifier for each body or anatomical specimen donated to or acquired by the person;
- maintain identification records of the body or anatomical specimen; and
- maintain records documenting the donation and each transfer, as applicable, of the body or anatomical specimen, including from whom the license holder acquired the body or anatomical specimen.

The bill requires TFSC, in adopting rules under the bill's provisions, to develop a method for ensuring that a body or anatomical specimen is not issued a duplicate identifier, which may include the use of the license holder's name or other characteristic as part of the identifier. The bill requires the TFSC to maintain copies of records submitted to the TFSC under the bill's provisions in a searchable database. However, the TFSC is not required to adopt rules requiring license holders to comply with the unique identifiers requirements or to maintain records in a searchable database before December 1, 2027.

C.S.S.B. 2721 requires TFSC to inspect anatomical suppliers and researchers at least once every three years to ensure the anatomical suppliers and researchers maintain appropriate facilities in accordance with the bill's provisions and rules adopted under those provisions for authorized activities with respect to bodies and anatomical specimens. The bill authorizes TFSC to conduct unannounced inspections of anatomical suppliers and researchers.

C.S.S.B. 2721 authorizes the TFSC to audit the records of any licensed person in connection with the person's activities under the bill's provisions to ensure compliance. The bill requires the TFSC to establish a process to periodically verify each anatomical supplier's and researcher's compliance with applicable state laws and rules.

C.S.S.B. 2721 requires the TFSC to develop and publish on the TFSC's website a document to inform a person making a gift of a decedent's body or anatomical specimen about the options for donation authorized under the bill's provisions, including the option to make decisions regarding the final disposition of the body or anatomical specimen.

C.S.S.B. 2721 establishes that the TFSC must review and may approve applications for persons located in other states to receive bodies or anatomical specimens from individuals in Texas. The bill authorizes the TFSC to withdraw the TFSC's approval of a person in another state who applies for approval. The bill requires a person applying for approval to meet the following conditions:

- be a postsecondary educational program accredited by a nationally recognized accreditation organization acceptable to the TFSC;
- provide proof of the accreditation by the applicable accrediting organization; and
- submit to inspection by the TFSC or by a local designee of the TFSC at the person's expense.

The bill prohibits an anatomical supplier from distributing a body or anatomical specimen to a person located in another state unless the person has been approved by the TFSC to receive bodies or anatomical specimens.

## Public Interest Information and Complaints

C.S.S.B. 2721 requires the TFSC to do the following with respect to public information, participation, and complaints:

- prepare information of public interest describing the functions of the TFSC under the bill's provisions and the TFSC's procedures for receiving and resolving complaints filed with the TFSC;
- make the information available to the appropriate state agencies and publish the information on the TFSC website;
- provide to individuals who make an anatomical gift, or who receive services from the TFSC or from a person licensed under the bill's provisions, the TFSC's contact information for filing complaints related to those services, including the TFSC's name, mailing address, and telephone number;
- publish the TFSC's complaint contact information on the TFSC website;
- maintain an information file on each complaint filed with the TFSC relating to the TFSC's functions under the bill's provisions;
- periodically notify the parties to the complaint of the status of the complaint until final disposition unless notice would jeopardize an undercover investigation if a complaint is filed with the TFSC relating to a person licensed by the TFSC under the bill's provisions; and
- develop and implement policies that provide the public a reasonable opportunity to appear before the TFSC and speak on any issue under the jurisdiction of the TFSC.

The bill authorizes the TFSC to notify individuals by including the TFSC's complaint contact information on each written contract relating to bodies willed or donated to a person licensed or regulated by the TFSC.

## Anatomical Supplier License; Special Practice Requirements

C.S.S.B. 2721 prohibits a person from doing the following:

- acquiring a body or anatomical specimen unless the person holds an anatomical supplier or researcher license issued under the bill's provisions; or
- distributing a body or anatomical specimen within Texas or to another jurisdiction, regardless of whether the body or anatomical specimen was acquired within Texas or from another jurisdiction, unless the person holds an anatomical supplier license issued under the bill's provisions and distributes the body or anatomical specimen to an approved researcher or a person.

The bill prohibits an anatomical supplier from using a body or anatomical specimen for any purpose other than an approved distribution to a researcher or other qualifying person. These bill provisions do not apply to the following:

- a person who acquires a body or anatomical specimen for law enforcement, cemetery, crematory, funeral, embalming, hospital, transplantation, or therapy purposes if the person acts within the scope of the person's license or other lawful authorization in acquiring, distributing, using, and disposing of the body or anatomical specimen, as applicable; or
- a political subdivision required by law to receive and bury unclaimed bodies or bodies required to be buried at public expense.

C.S.S.B. 2721 establishes that, to be eligible for an anatomical supplier license, an applicant, as follows:

- must be of good professional character;
- must maintain facilities and conduct operations that meet the standards applicable to anatomical facilities established under the bill's provisions;
- may not hold a researcher license issued under the bill's provisions or have a pending application with the TFSC for a researcher license; and

- must meet any other eligibility requirements established by TFSC rule for an anatomical supplier license.

The bill authorizes an applicant for an anatomical supplier license to satisfy the requirement relating to anatomical facility and operation standards by holding an accreditation issued by a nationally recognized accreditation organization acceptable to the TFSC. The bill authorizes a person to apply for an anatomical supplier license by submitting an application to the TFSC in the form and manner prescribed by TFSC rule. The bill requires the TFSC to issue an anatomical supplier license to an applicant who submits an application, meets the eligibility requirements established under the bill's provisions, and pays any required fee.

C.S.S.B. 2721 requires the TFSC by rule to establish a provisional anatomical supplier license for an applicant for an anatomical supplier license who does the following:

- has applied for nationally recognized accreditation but is not yet accredited; and
- demonstrates to the satisfaction of the TFSC that the applicant is making a good faith effort to obtain the accreditation or establish and maintain facilities and conduct operations that meet the standards applicable to anatomical facilities.

The bill requires TFSC to issue a provisional anatomical supplier license to an applicant who submits an application for a provisional license, meets the eligibility requirements established under the bill, and pays any required fee. The bill establishes that a provisional anatomical supplier license expires not later than the 180th day after the date the provisional license is issued. On application, a provisional anatomical supplier license may be renewed not more than once for a renewal period not to exceed 180 days.

C.S.S.B. 2721 requires the anatomical supplier, for each body or anatomical specimen an anatomical supplier acquires, to ensure the following:

- the body or anatomical specimen receives full serological testing from a testing laboratory that holds a certificate issued by the federal Centers for Medicare and Medicaid Services for compliance with the federal Clinical Laboratory Improvement Amendments of 1988;
- the test results show no indication of hepatitis B, hepatitis C, or HIV/AIDS; and
- the medical and social history of the individual whose body or anatomical specimen was donated accompanies the test results.

#### Researcher License, Standards, and Authorized Uses

C.S.S.B. 2721 prohibits a person from acquiring a body or anatomical specimen to be used for education or research purposes unless the person holds a researcher license issued under the bill's provisions and acquires the body or anatomical specimen from an anatomical supplier. The bill authorizes a willed body program that holds a researcher license to acquire a body or anatomical specimen for uses related to education or research purposes from any person. The bill establishes that a researcher may use a body or anatomical specimen only for education or research purposes.

C.S.S.B. 2721 establishes that, to be eligible for a researcher license, and applicant must, as follows:

- be of good professional character;
- comply with the TFSC's rules for handling bodies and anatomical specimens for purposes of education and research;
- be a willed body program, a forensic science program, an anatomical facility, a search and rescue organization or recovery team, a surgical center, a medical device company, a fixed or mobile medical training facility, a hospital, an organ procurement organization, an eye or tissue bank, or a meeting facility in a hotel or convention center;
- pay any required fee; and
- meet any other eligibility requirements established by TFSC rule for a researcher license.

C.S.S.B. 2721 requires TFSC to adopt minimum standards for anatomical facilities licensed as researchers, and anatomical facilities applying for that license. The standards must require a facility to meet the following conditions:

- meet the applicable building, fire safety, and health standards imposed by the state, and if located in a municipality, imposed by the municipality for similar facilities;
- be in a fixed location;
- include a preparation room containing the equipment and supplies required by the TFSC's rule to ensure the provision of adequate services;
- be designed to ensure security and respectful treatment of bodies and anatomical specimens and to restrict public view of and access to bodies and anatomical specimens;
- include other facilities as necessary to comply with the applicable state sanitary codes and the municipality in which the facility is located, if the facility is located in a municipality; and
- include any other construction, health, and safety provisions the TFSC determines necessary to protect the public and donors.

C.S.S.B. 2721 requires the TFSC to adopt minimum standards for a meeting facility in a hotel or convention center with respect to the education or research that may be performed in the facility and the researchers who may perform the education or research and the facility in which the authorized education or research may be performed.

C.S.S.B. 2721 authorizes a person to apply to the TFSC for a researcher license in the form and manner prescribed by TFSC rule. The bill requires the TFSC to issue a researcher license to an applicant who submits an application, meets the applicable eligibility requirements for the type of entity applying for the license, and pays any required fee.

C.S.S.B. 2721 establishes that a willed body program or forensic science program that holds a researcher license may only use a body or anatomical specimen for education or research that is, as follows:

- conducted by an accredited medical, dental, health sciences, or forensic science training program supervised by professionals in educational environments in which knowledge, skills, and competencies are imparted in accordance with accrediting standards;
- designed to expand knowledge within one of those fields; and
- for research use, formally approved by a recognized institutional review board or an equivalent ethical oversight body.

The bill establishes that a search and rescue organization or recovery team that holds a researcher license may only use a body or anatomical specimen for education or research purposes that relate to the organization's or team's functions, including canine cadaver training.

#### License Renewal

C.S.S.B. 2721 establishes that a license issued under the bill's provisions expires not later than the second anniversary of the date the license was issued, unless the TFSC establishes an earlier expiration date for the purpose of staggering license renewals. The bill authorizes a person who holds such a license to apply to the TFSC to renew the license and authorizes the TFSC to adopt rules for the renewal of that license.

#### Practice Provisions for License Holders

C.S.S.B. 2721 requires the TFSC to adopt rules to ensure the following:

- that each body or anatomical specimen received or distributed is properly transported;
- that a label with a statement that a container's contents are derived from human tissue is affixed to each container in which a body or anatomical specimen is transported; and
- that each person who has control or possession of a body or anatomical specimen satisfactorily completes a chain-of-custody form prescribed by the TFSC to document

the person's control or possession of the body or anatomical specimen, maintains a copy of the form for the person's records, and transfers the form to any other person to whom control or possession of the body or anatomical specimen is transferred.

The bill requires an anatomical supplier and researcher to maintain a copy of each chain-of-custody form and submit a copy of each form to the TFSC. The bill requires each transferred body or anatomical specimen to be carefully deposited and transported with the least possible public display.

C.S.S.B. 2721 requires a person who transfers a body or anatomical specimen to keep on permanent file records that do the following:

- contain a description of the body or anatomical specimen, including if known the deceased person's name, race and ethnicity, sex, age, and place and reported cause of death and any other information available for identification of the body or anatomical specimen, such as the existence of scars or deformities; and
- track the possession of the body or anatomical specimen from intake to final disposition.

The bill requires the person who transfers a body or anatomical specimen to mail or otherwise safely convey to the person to whom the body is sent a copy of the description of the body or anatomical specimen. The person receiving the body or anatomical specimen must immediately and safely transmit to the transferor a receipt that acknowledges the person received the body or anatomical specimen and that contains the full description of the body or anatomical specimen provided by the transferor.

C.S.S.B. 2721 requires the transferor and receiver of each body or anatomical specimen to maintain the required records in accordance with TFSC rule and to allow the TFSC or a district or county attorney to inspect the records at any time. The bill requires the TFSC, in consultation with the advisory committee, to adopt rules to enforce the documentation and labeling requirements for each body and anatomical specimen distributed or received.

C.S.S.B. 2721 requires a researcher acquiring a body or anatomical specimen from an anatomical supplier to pay the costs associated with the distribution in a manner specified by agreement with the anatomical supplier regarding the distribution. Before a body or anatomical specimen may be acquired, the anatomical supplier or researcher, as applicable, must do the following:

- obtain verifiable documentation of the voluntary donation of the body or anatomical specimen under the applicable bill provisions;
- ensure the documentation demonstrates clear, informed consent by the deceased, or a representative of the deceased authorized by law to provide consent, to donate the body or anatomical specimen for education or research purposes; and
- submit the documentation to the TFSC.

The bill authorizes the TFSC by rule to establish a time, not later than a reasonable date before the date of acquisition, for the submission of the documentation.

C.S.S.B. 2721 requires a licensed anatomical supplier or researcher to dispose of a body or anatomical specimen after any authorized use either through a state licensed third-party crematory or through a crematory owned and operated by a willed body program. The bill prohibits a licensed anatomical supplier or researcher from disposing of a body or anatomical specimen as medical waste or through the use of alkaline hydrolysis. The bill requires a researcher to return a donor's body or anatomical specimen after use to any person the donor designates or otherwise dispose of the body or anatomical specimen, in accordance with the donor agreement. The bill establishes that an anatomical supplier may only do the following:

- distribute a body or anatomical specimen to a researcher or to a person approved for export under the bill's provisions; or
- dispose of the body or anatomical specimen in the specified manner.

A researcher may only dispose of a body or anatomical specimen in accordance with the bill's provisions.

C.S.S.B. 2721 requires a licensed person to allow the TFSC to inspect or audit the person's facilities, equipment, and records at any time in connection with the person's activities. To aid prosecutions of the offense of abuse of a corpse, as soon as possible after a person becomes aware of the possible abuse of a corpse, the person must report the facts, as known, to the TFSC.

C.S.S.B. 2721 provides for the following limitations to liability:

- a person who acts in accordance with the bill's provisions, the rules adopted under the bill, and the applicable laws for acquiring, distributing, using, or disposing of bodies or anatomical specimens in Texas is not liable for those actions in a civil action, criminal prosecution, or administrative proceeding;
- a person who is in compliance is not liable as a result of those actions except in the case of an act or omission by the person that is intentional or constitutes gross negligence; and
- a person donating a body or anatomical specimen, including the person's estate, is not liable for any injury or damage that results from the donation.

The bill authorizes a person, in determining whether a donation has been made, amended, or revoked, to rely on representations of an individual relating to the individual's relationship to the donor unless the person knows the representation is untrue.

#### Donation of Body or Anatomical Specimen

C.S.S.B. 2721 authorizes a person to donate a body or anatomical specimen to the following individuals or entities named in a will or other written instrument:

- a willed body program;
- a forensic science program;
- a search and rescue organization or recovery team;
- a physician licensed to practice medicine in Texas;
- an anatomical facility; or
- a licensed or approved person.

C.S.S.B. 2721 establishes that a person is prohibited from donating a body not claimed for burial or a body required to be buried at public expense to another person for any reason. The bill authorizes a donor, by will or other written instrument, to donate a donor's body to a qualifying individuals for use in education or research. The bill authorizes a person who is authorized to claim a decedent's body for burial to provide informed consent for the body to be donated to a person for use in education or research and requires the TFSC to adopt rules necessary to implement these provisions.

C.S.S.B. 2721 authorizes an adult living in Texas who is of sound mind to donate the adult's body or anatomical specimen by will or other written instrument to a qualifying individual as authorized by the TFSC to be used for education or research purposes. Such a donation is not effective unless the donor provides written informed consent by signing a form prescribed by the TFSC in the presence of two adult witnesses. The bill requires the form to clearly convey the donor's intent and the donor's acknowledgment that the donor was informed about the following:

- the consequences of the anatomical donation before providing consent, including the potential for dividing the body into anatomical specimens for various uses by different researchers;
- the intended use of the donated body or anatomical specimen by the person to whom the body or anatomical specimen is donated, if known; and
- if applicable, the condition in which the body or anatomical specimen will be returned to the person designated by the donor.

For these purposes, the donor must be informed in writing about the information in a clear manner on a single piece of paper that is 8-1/2 by 11 inches with 14-point type. The bill requires the TFSC, in consultation with the advisory committee, by rule to design and adopt a form that

complies with the bill's provisions and requires licensed anatomical suppliers and researchers to use the form.

C.S.S.B. 2721 establishes that appointment of an administrator or executor or issuance of a court order is not necessary before the body or anatomical specimen may be acquired under the bill. The bill authorizes a donor to do the following:

- specify the use for which the donor's body or anatomical specimen may be used, including whether the donor's body is authorized to be divided into anatomical specimens; and
- revoke a donation by executing a written instrument in a manner similar to the original donation.

C.S.S.B. 2721 authorizes any member of the following classes of persons who are reasonably available, in the order of priority listed, to donate the donor's body or anatomical specimen to a qualifying individual for a purpose authorized by the bill's provisions, unless the donor or the donor's agent made a donation by a written instrument, the donor indicated before death the donor did not want the donor's body donated, or an anatomical gift has been:

- an agent of the donor at the time of death who could have donated the donor's body or anatomical specimen;
- the donor's spouse;
- adult children of the donor;
- parents of the donor;
- adult siblings of the donor;
- adult grandchildren of the donor;
- grandparents of the donor; and
- the persons who were acting as legal guardians of the donor at the time of the donor's death.

The bill authorizes a member of that class, if more than one member of those persons is entitled to donate the donor's body or anatomical specimen, to make the donation unless that member or the representative of a licensed anatomical supplier or researcher who is coordinating the donation has actual knowledge of an objection by another member of the class. If an objection is known, the donation may be made only by a majority of the members of the class who are reasonably available.

C.S.S.B. 2721 prohibits a person from making a donation if, at the time of the donor's death, a person in a class with higher priority is reasonably available to make or to object to the donation. A donation is not effective unless the person authorized to donate the donor's body or anatomical specimen provides written informed consent by signing a form prescribed by the TFSC in the presence of two adult witnesses. The form must clearly convey the person's intent and the person's acknowledgment that the person was informed about the following:

- the consequences of the donation before providing consent;
- the intended use of the donated body or anatomical specimen by the person to whom the body or anatomical specimen is donated, if known; and
- if applicable, the condition in which the body or anatomical specimen will be returned to the person.

For these purposes, the person or class of persons authorized to donate the donor's body or anatomical specimen must be informed in writing about the information in a clear manner on a single piece of paper that is 8-1/2 by 11 inches with 14-point type. The bill requires the TFSC, in consultation with the advisory committee, by rule to design and adopt a form that complies with the bill's provisions and require licensed anatomical suppliers and researchers to use the form. The bill authorizes a person who makes a donation to specify the use for which the donated body or anatomical specimen may be used, including whether the donated body is authorized to be divided into anatomical specimens.

C.S.S.B. 2721 establishes that a donation may be revoked orally or in writing by any member of a class with higher priority who is reasonably available. The bill authorizes the donation, if more than one member of the class with higher priority is reasonably available, to be revoked only if a majority of the reasonably available members agree to the revocation or if the reasonably available members are equally divided as to whether to revoke the donation. A revocation is effective only before completion of the donation and the acceptance of the body or anatomical specimen.

### Regulation of Unclaimed Bodies; Autopsy

#### *Duty to Deliver Certain Bodies*

C.S.S.B. 2721 requires an officer, employee, or representative of the state, of a political subdivision, or of an institution having charge or control of a body not claimed for burial or a body required to be buried at public expense to do the following:

- notify the TFSC or the TFSC's representative of the body's existence when the body comes into the person's possession, charge, or control if the TFSC or the TFSC's representative provides to the person written notice of the notification requirement; and
- deliver or dispose of the body in accordance with the direction of the TFSC.

#### *Persons Who May Claim Body for Burial*

C.S.S.B. 2721 expressly does not require an officer, employee, or representative of the state, of a political subdivision, or of an institution to give notice or deliver a body if the body is claimed for burial. The bill authorizes a relative, bona fide friend, or representative of an organization to which the deceased belonged to claim the body for burial and requires the person in charge of the body to release the body to the claimant without requiring payment when the person is satisfied that the claimed relationship exists.

C.S.S.B. 2721 requires a claimant alleging to be a bona fide friend or a representative of an organization to which the deceased belonged to present a written statement of the relationship under which the claimant qualifies as a bona fide friend or organization representative. For these purposes, a bona fide friend means a person who is like a member of the deceased person's family, and does not include the following:

- an ordinary acquaintance;
- an officer, employee, or representative of the state or a political subdivision having charge of a body not claimed for burial or a body required to be buried at public expense;
- an employee of any such entity listed with which the deceased was associated;
- a patient, inmate, or ward of an institution with which the deceased was associated;
- an officer, employee, or representative of an institution having charge of a body not claimed for burial or a body required to be buried at public expense; or
- an employee of an institution with which the deceased was associated.

C.S.S.B. 2721 authorizes the following individuals to qualify as a bona fide friend if the friendship existed before the deceased entered the institution:

- a patient, inmate, or ward of an institution with which the deceased was associated;
- an officer, employee, or representative of an institution having charge of a body not claimed for burial or a body required to be buried at public expense; or
- an employee of an institution with which the deceased was associated.

#### *Procedure After Death*

C.S.S.B. 2721 provides for the following with respect to the procedures after death:

- if a body is not claimed for burial immediately after death, the body is required to be embalmed within 24 hours;

- for 72 hours after death, the person in charge of the institution having charge or control of the body is required to make a reasonable effort to find a relative of the deceased and notify the relative of the death; and
- if the person is not able to find a relative, the person is required to file with the county clerk an affidavit stating that the person has made a diligent inquiry to find a relative and stating the inquiry the person made.

### *Body of a Traveler*

C.S.S.B. 2721 requires the county commissioners court in which a traveler died to retain possession of the body until the earlier of the six months after the date of the traveler's death or the date the body is identified and claimed if an unclaimed body is the body of a traveler who died suddenly. The bill authorizes the county to inter such a body before the expiration of six months after the date of the traveler's death or the date the body is identified and claimed provided the county disinters the body as necessary for identification purposes during that period.

### *Autopsy*

C.S.S.B. 2721 limits the authority to grant permission to perform an autopsy on an unclaimed body to the TFSC, except as otherwise provided by law, and authorizes the TFSC to grant permission after receiving a specific request for an autopsy that shows sufficient evidence of medical urgency.

### Enforcement

C.S.S.B. 2721 authorizes TFSC, under procedures provided by statutory provisions relating to crematory services, funeral directing, and embalming, to refuse to issue or renew, suspend, revoke, or probate the suspension of a license, or reprimand an anatomical supplier or researcher license holder, if the TFSC determines the following:

- a person violated the bill's provisions or a rule adopted under the bill's provisions, including improper use of a body or anatomical specimen; or
- for an applicant for an anatomical supplier or researcher license, the applicant fails to meet the eligibility requirements for the license.

An anatomical supplier or researcher license is not valid during the pendency of an appeal of a decision to refuse to issue, renew, suspend, or revoke the license. This provision takes effect January 1, 2026.

C.S.S.B. 2721 creates a state jail felony offense for a person who violates the bill's applicable licensing requirements. This provision takes effect January 1, 2026.

C.S.S.B. 2721 authorizes TFSC to assess an administrative penalty on a person who violates the bill's provisions or a rule adopted the bill's provisions in an amount not to exceed \$5,000 per violation. This provision takes effect January 1, 2026.

C.S.S.B. 2721 establishes as a defense to prosecution for the offense of abuse of a corpse that the actor engaged in activities authorized by the bill's provisions in a manner that complies with those provisions and the rules adopted under those provisions.

C.S.S.B. 2721 requires the TFSC, as soon as practicable after the bills effective date, but not later than March 1, 2026, to adopt rules necessary to implement the bill's provisions relating to the donation of bodies and anatomical specimens and the licensing of anatomical suppliers and researchers.

C.S.S.B. 2721, with respect to the foregoing bill provisions, applies to the donation of a body or anatomical specimen by will or other written instrument executed on or after the bill's effective

date. The donation of a body or anatomical specimen by will or other written instrument that is executed before the bill's effective date is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

C.S.S.B. 2721 defines the following terms for purposes of the foregoing bill provisions:

- "advisory committee" as the State Anatomical Advisory Committee established under the bill's provisions;
- "anatomical specimen" as a part of the corporeal remains of a human that is used for an education or research purpose;
- "anatomical supplier" as a person who holds an anatomical supplier license issued under the bill's provisions to acquire and distribute bodies and anatomical specimens to researchers;
- "body" as the intact corporeal remains of a human;
- "commission" as the Texas Funeral Service Commission;
- "forensic science program" as an academic program in forensic anthropology, forensic pathology, or another similar discipline accredited by a nationally recognized body and operated by a public institution of higher education or private or independent institution of higher education;
- "researcher" as a person who holds a researcher license issued under the bill's provisions to use a body or anatomical specimen for education or research purposes;
- "search and rescue organization or recovery team" as an organization or team that is exempt from federal taxation under the Internal Revenue Code of 1986, and uses human remains detection canines with the authorization of a local law enforcement agency, including a sheriff's office; and
- "willed body program" as a program accredited by a nationally recognized body and operated at an institution of higher education or private or independent institution of higher education in Texas that allows the donation of an individual's body or anatomical specimen for education or research purposes.

The bill establishes that the term "political subdivision" includes a municipality, county, or special purpose district or authority. The bill establishes that "institution of higher education" and "private or independent institution of higher education" have the meanings assigned by The Texas Higher Education Coordinating Act of 1965.

### **Revised Uniform Anatomical Gift Act**

C.S.S.B. 2721 prohibits a person from acquiring an anatomical gift as part of a willed body program in Texas unless the program is licensed under the bill's provisions.

C.S.S.B. 2721 removes research and education from the purposes for which an anatomical gift of a decedent's body or part may be made by any member of the specified classes of persons who is reasonably available.

C.S.S.B. 2721 revises statutory provisions authorizing an anatomical gift to be made to certain persons named in the document of gift as follows:

- removes the exception applicable to an eye bank or tissue bank that the use of a gift of a whole body must be coordinated through the TFSC;
- includes a willed body program licensed as a researcher under the bill's provisions as an entity to whom an anatomical gift may be made; and
- includes an anatomical supplier licensed under the bill's provisions as an entity to whom an anatomical gift may be made.

The bill, in conformance with its licensing requirements, authorizes a person authorized to receive an anatomical gift to acquire those gifts only if the person holds an anatomical supplier or researcher license.

C.S.S.B. 2721 requires the TFSC, as soon as practicable after the bill's effective date, but not later than March 1, 2026, to adopt rules necessary to implement the bill's provisions revising the Revised Uniform Anatomical Gift Act.

### **Disposition of Remains; Duty to Inter**

C.S.S.B. 2721 establishes that a cemetery organization or funeral establishment that is unaware of a dispute concerning the qualifying persons' right to control the disposition, including cremation, of a decedent's remains is not liable for disposing of the decedent's remains if the organization or establishment:

- reasonably relies in good faith on the representations of a person who states in writing that the person is entitled to control the disposition of the decedent's remains;
- disposes of the decedent's remains in accordance with the written directions of the person; and
- is unaware, after inquiring of the person, of another person who is listed in a priority before the person.

### **Crematory Services, Funeral Directing, and Embalming**

#### Complaints

C.S.S.B. 2721 amends the Occupations Code to authorize a TFSC employee to dismiss a complaint received by the TFSC relating to a funeral director, embalmer, provisional license holder, funeral establishment, or other person licensed or registered under statutory provisions relating to crematory services, funeral directing, and embalming without further investigation under the following conditions:

- the subject matter of the complaint is a funeral service provided under a contract with a license holder and the complainant is not a party to the contract or the person entitled to control the disposition of the remains of the decedent to whom the service relates; or
- regardless of the subject matter of the complaint, the complaint is not accompanied by substantial evidence of a violation of a statute administered by the TFSC.

#### Scope of Service

C.S.S.B. 2721 authorizes the TFSC by rule to prescribe the minimum requirements for a licensed funeral establishment to provide a service in relation to an anatomical gift made under the bill's provisions and the Revised Uniform Anatomical Gift Act that is not intended for transplantation, including requirements for the storage or transportation of the anatomical gift.

### **Criminal History Record Information**

C.S.S.B. 2721 amends the Government Code to make conforming changes with respect to provisions relating to criminal history record information.

### **Repealed Provision**

C.S.S.B. 2721 repeals Chapter 691, Health and Safety Code.

### **EFFECTIVE DATE**

Except as otherwise provided, September 1, 2025.

## **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 2721 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

Whereas the engrossed amended and repealed only certain of the Health and Safety Code provisions regarding the donation of bodies and anatomical specimens and established certain new provisions within the current regulatory scheme regulated by the TFSC through required registration of willed body programs and non-transplant anatomical donation organizations, the substitute repeals all of the Health and Safety Code provisions relating to the donation of bodies and anatomical specimens, creates a new regulatory framework comprising both new provisions and provisions that are retained, subsumed, and repurposed within the new regulatory framework, which provides for a licensure as a means of regulation by TFSC of the donation of bodies and anatomical specimens, including the requirement for a willed body program to be licensed.

Whereas the engrossed revised definitions relating to the donation of bodies and anatomical specimens, the substitute repeals those definitions and sets out new definitions relating to the donation of bodies and anatomical specimens and the licensing of anatomical suppliers and researchers.

Whereas the engrossed removed the specifications for each member of the State Anatomical Advisory Committee, the substitute repeals those provisions and reestablishes the committee, sets out the composition and terms of the committee, and specifies the appointing entity and the background of certain members.

Whereas the engrossed revised provisions relating to public information and participation, and complaints, the substitute repeals those provisions and sets out provisions relating to public information and participation, complaints, and public comments on issues under the jurisdiction of the TFSC.

Whereas the engrossed revised provisions relating to records maintained by the TFSC, including a requirement for TFSC to issue a unique identification number for each donated body or anatomical specimen, the substitute repeals those provisions and sets out provisions requiring a person licensed under the bill's provisions to issue a unique identifier and maintain identification records for each body or anatomical specimen donated or acquired by the person.

Whereas the engrossed revised provisions relating to fees set and collected by the TFSC in amounts reasonable and necessary to cover the cost of administering provisions relating to the donation of bodies and anatomical specimens, the substitute repeals provisions relating to such fees and sets out provisions relating to such fees.

Whereas the engrossed revised provisions relating to the general duties of the TFSC with respect to bodies and anatomical specimens distributed by the TFSC to persons authorized to receive a body or specimen, the substitute repeals those provisions and sets out provisions relating to the general powers and duties of the TFSC with respect to the administration of the bill's provisions relating to the donation of bodies and anatomical specimens and the licensing of anatomical suppliers and researchers.

Whereas the engrossed revised provisions relating to the duty of an officer, employee, or representative of the state, of a political subdivision, or of an institution having charge or control of a body not claimed for burial or a body required to be buried at public expense to deliver certain bodies to the TFSC, the substitute repeals those provisions and sets out provisions relating to the duty of such persons to notify the TFSC of a body that comes into the possession of the person and deliver or dispose of the body in accordance with the direction of the TFSC.

Whereas the engrossed revised provisions relating to retaining the unclaimed body of a traveler who died suddenly, the substitute repeals those provisions and sets out provisions relating to the retention of such a body.

Whereas the engrossed revised provisions relating to the TFSC's authority to distribute bodies and anatomical specimens to authorize a person to donate the person's body by will or other written instrument, the substitute repeals those provisions and authorizes a person to do so before death.

Whereas the engrossed revised provisions relating to the costs of distribution incurred in distributing a body or anatomical specimen to require a person or institution to pay the costs for distribution, the substitute repeals those provisions and requires a researcher acquiring a body or anatomical specimen to pay for such costs.

Whereas the engrossed changed provisions relating to the regulation and registration of persons and institutions using bodies and anatomical specimens to provisions relating to the licensing and regulation of persons and institutions using bodies and anatomical specimens and set out licensing requirements, inspection and verification of compliance requirements for anatomical facilities, an authorization for the TFSC to refuse to issue a license, and a requirement for TFSC to review and approve applications for a person in another state to receive whole bodies, anatomical specimens, or non-transplant anatomical parts from individuals in Texas, the substitute repeals those provisions and sets out the following:

- license requirements for acquiring or distributing a body or anatomical specimen;
- an exception from such licensure for law enforcement, cemetery, crematory, funeral, embalming, hospital, transplantation, or therapy purposes;
- eligibility requirements for such a license;
- provisions relating to the application and issuance of such a license;
- provisional anatomical suppliers license requirements;
- serological testing requirements for each body or anatomical specimen an anatomical supplier acquires;
- license requirements for education or research uses of a body or anatomical specimen;
- eligibility requirements for such a license;
- requirements for standards for licensing and operations of anatomical facilities;
- requirements for standards for licensing and operation of meeting facility in hotels or convention centers with respect to education or research that may be performed in such a facility;
- researcher license application and issuance requirements;
- authorizations relating to the use of a body or anatomical specimen by a willed body program, forensic science program, search and rescue organization, or recovery team;
- provisions relating to terms of licenses and renewal application; and renewal requirements; and
- an authorization for the TFSC to adopt rules for renewal of a license.

The substitute includes the following provisions absent from the engrossed:

- a requirement for the TFSC to adopt rules to ensure each body or anatomical specimen received or distributed is properly transported, a certain label is affixed to each container in which a body or anatomical specimen is transported, and requirements for each person who has control or possession of a body or anatomical specimen;
- requirements relating to the transfer of a body or anatomical specimen;
- requirements relating to documentation of informed consent for acquisition of a body or anatomical specimen;
- requirements relating to the final disposition of a body or anatomical specimen;
- a requirement for a licensed person to allow the TFSC to inspect or audit the person's facilities, equipment, and records; and
- a requirement for a person to report the possible abuse of a corpse.

Whereas the engrossed removed the requirement for an anatomical gift made to an eye bank or tissue bank to be coordinated through the TFSC and required such a gift to be to a person who holds a license issued by TFSC, the substitute removes that requirement.

The substitute includes the following provisions absent from the engrossed;

- a provision removing the specification that a search and rescue organization or recovery team who may receive an anatomical gift is a 501(c)(3) tax-exempt organization; and
- a provision removing the requirement for the TFSC or a non-transplant anatomical donation organization to be the donee of gifts of bodies or parts of bodies made for the purpose of education or research that are subject to distribution by the TFSC or the organization and replacing it with a provision specifying that a donee may acquire gifts of bodies or parts of bodies made for the purpose of education or research that are subject to distribution only if the person holds an appropriate license under the bill's provision.

Whereas the engrossed removed the requirement for the TFSC to regulate non-transplant anatomical donation organizations in accordance with applicable state law, the substitute revises the regulatory requirement in conformance with the substitute's licensure requirement applicable to licensed willful body programs.

Whereas the engrossed required the TFSC to adopt rules necessary to implement the bill's provisions as soon as practicable after the bill's effective date and to adopt rules necessary to implement the bill's provisions relating to prohibited activities, a criminal offense, and an administrative penalty not later than March 1, 2026, the substitute requires TFSC to adopt rules necessary to implement the bill's provisions as soon as practicable after the bill's effective date, but not later than March 1, 2026.

The substitute includes a provision absent from the engrossed establishing that the TFSC is not required before December 1, 2027, to adopt rules requiring license holders to comply with that section with respect to issuing unique identifiers or maintain records in a searchable database.

While both the engrossed and substitute set the bill's effective date on September 1, 2025, the substitute creates an exception for that effective date that sets January 1, 2026, as the effective date for the following provisions of the substitute:

- the provision relating to license denial, renewal, suspension, and revocation;
- the provision creating criminal penalty for an unlicensed practice, acquisition, distribution, and use relating to a body or anatomical specimen; and
- the provision creating an administrative penalty.