

**Public Bills and Orders Other than  
Government Bills and Orders  
Second Reading**

**Bill 32  
Human Tissue and Organ Donation Act**

**Mr. Rodney:** Mr. Speaker, the principles and policies in this legislation before us today reflect the recommendations of two advisory committees for organ and tissue donation and transplantation. The new legislation will broaden the scope of and modernize the Human Tissue Gift Act, originally passed in 1973.

The first key component consists of changes to definitions in the legislation. The definitions that are currently in the Human Tissue Gift Act need to be updated to reflect and include modern technology and procedures. New and revised definitions will make the act consistent with current standards. Among the updates are changes to the definitions of “tissue” and “transplant.” They’ll be defined distinctly now, whereas in the current legislation they are both under the definition of tissue. The new section includes definitions for “donor,” “estranged,” “immediate family,” and “independent assessment committee.”

The second key component speaks to living donations by minors. The current act does not allow for living donations by minors. The new act will enable minors to consent to donation in specific situations or require the consent of a guardian and the approval of an independent assessment committee in other situations. All living donations by minors will be addressed in this legislation: donation of by-products from a medical procedure, donation of regenerative organs or tissues, and the donation of nonregenerative organs or tissues.

A minor who is 16 years of age or older or who is living independently of a guardian can consent to donate by-products from a medical procedure. The donation of medical by-products has no foreseeable medical consequences for the donor. An example might be the donation of amniotic tissue obtained during a Caesarean section. A minor can make a living donation of regenerative organs or tissues with the consent of a parent or legal guardian. Examples of regenerative tissues and organs include a liver lobe or bone marrow. Now, because there may be medical consequences to making a living donation of regenerative organs or tissues, the consent of the parent or legal guardian will be required as well as the requirement for an independent assessment to ensure that the minor’s interests are indeed protected.

The donation of nonregenerative organs or tissues will always have medical consequences for the donor. For that reason donations of this type will not be allowed by minors less than 16 years of age and will also require the consent of a guardian and the approval of an independent assessment committee.

The third key component of this legislation describes the operation of independent assessment committees. This independent assessment is designed to protect the minor donor, especially when the legal decision-makers may be compromised in their ability to make a decision in the best interest of the child. An example of this situation may be when a child is considered for the donation of a kidney to a sister, brother, father, or mother. In this scenario the parents may be unable to balance the best interest of one family member with that of another.

An independent assessment committee will be established and must include three people not involved in the donation or transplantation, including one physician, one psychiatrist or psychologist, and one additional person. The independent assessment shall ensure that the agreement has been obtained from the minor to the extent possible considering the minor’s age, that the donation presents

minimal risk to the donor, and that no coercion or pressure has been placed on the minor. The independent assessment must be unanimously in favour of allowing the donation. The donation cannot proceed if any of the three individuals does not agree that all of the above conditions have been met.

Another area of change is in regard to consent requirements. They’ve been revised to address certain gaps. These include how consent must be documented if the consent is not physically capable of providing written consent or, in the case of a cadaveric donation, if the next of kin is available but not physically present to provide consent. If a consent is physically unable to sign, consent must be documented in the presence of two witnesses. In the case of a cadaveric donation by next of kin who are not physically present, one of the two witnesses must be knowledgeable and inform the consent with respect to the nature and consequences of the donation. Minors and dependent adults are now specifically addressed.

A provision has been added to ensure that consent as documented on the back of Alberta health care insurance cards is considered valid.

On to the fifth key component, which deals with respecting the wishes of the deceased. The current legislation does not ensure that the donor’s expressed wishes take precedence over the wishes of the family, but the new act includes an addition so that the known wishes of the potential donor take precedence even if they conflict with the wishes of the family. This, of course, represents a change in current practice. Clinicians generally require consent from next of kin even when the known wishes of the deceased were indicated by a donor card or other document. So this change will strengthen the donation program.

Consent by next of kin is another key change in the legislation before us. Current legislation does not speak to an estranged spouse. The new legislation will exclude estranged spouses or estranged adult interdependent partners from the consent hierarchy as it has been determined that since they are estranged, they do not have a right to provide consent.

Mr. Speaker, consistent with proposed changes under private member’s Bill 201, changes are being made to the area of mandatory consideration for donation. Currently there are no mandatory consideration, documentation, or notification requirements. The new Human Tissue and Organ Donation Act will ensure that every person who dies will be considered for organ and/or tissue donation. The objective of these amendments is to consistently consider all potential donors in an effort to significantly increase the conversion of potential donors into actual donors. The process of donation consideration will be carried out and documented by medical practitioners in conjunction with appropriate donation agencies.

The seventh key component is the addition of sections that address safety and quality. Current legislation does not contain any quality assurance mechanisms. Proposed changes will require all individuals, agencies, and regional health authorities that conduct donation and transplantation procedures and activities to be registered with the provincial government. All of these organizations must comply with this act and forthcoming regulations, including any regulations regarding registration requirements or accreditation. This will include agencies that broker tissue. The list of registrants will be disclosed to the federal government and/or other regulatory organizations as required.

Changes have also been made to the area of information confidentiality. Proposed changes will protect the privacy of individuals while providing explicit legislative authority for the collection, use, and disclosure of personal information for the purpose of the act. Personal information will be required to seek consent, to screen

donors, and to carry out procurement and transplantation activities. Proposed changes will integrate and align with provincial privacy legislation.

In relation to the area of buying and selling tissues and organs, the current act prohibits anyone from buying, selling, or otherwise gaining from any tissue for transplantation purpose, medical education, or scientific research. This provision has been revised to apply to organs as well as tissue, and the offence for noncompliance has been significantly increased. In fact, penalties for all types of offences have been increased in the new legislation.

The offence for knowingly contradicting the current legislation is a maximum fine of \$1,000 and up to six months' imprisonment. While this offence provision may have been adequate in 1973, when the act was introduced, it's no longer viewed as an effective deterrent. So in the new legislation the general offence provision has been increased to a maximum of \$10,000. This could apply to a health service provider who intentionally disregards requirements or procedures or to an individual who wrongfully obtains consent.

A specific fine for breaching the information confidentiality provision has been added and could result in a fine of up to \$50,000.

The fine for buying and selling human tissue or organs has also

been specifically addressed. Since the objective of this prohibited activity is financial gain, a significant fine must be in place to function as a deterrent. This fine will be \$100,000 and/or a term of imprisonment of up to six months.

Regulation-making powers have been added in the anticipation of carrying out the intent of the act. The regulation will provide more details with respect to the designation of donation agencies, establishment of independent assessment committees, and registration of individuals and agencies involved in organ and tissue donation, procurement, and transplantation.

Finally, this bill will repeal the Human Tissue Gift Act and the unproclaimed Human Tissue Donation Procedures Statutes Amendment Act, which was passed to amend the Human Tissue Gift Act. Mr. Speaker, these changes reflect the considerable feedback that has been received about this issue. The new legislation will broaden the scope and modernize current legislation to more accurately reflect and regulate organ and tissue donation as well as transplantation in the province.

With all of that, Mr. Speaker, finally I move second reading of Bill 32. Thank you very much.