



# Amendments to the *Transplantation and Anatomy Act 1979*

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**Citizens Against Road Slaughter Ltd**

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*Submission by:*

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Chief Administrator  
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May, 1999

# Citizens Against Road Slaughter Ltd

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## Victim Advocacy (All Crimes)

## Lobbyists For Victim Justice

Mr Gary Fenlon MLA  
Chairman  
Legal, Constitutional, and Administrative Review Committee  
Parliament House  
Alice Street  
BRISBANE QLD 4000

Dear Chairman,

Thank you for the opportunity to contribute to the Private Members Bill concerning amendments to the "Transplantation and Anatomy Act 1979". As a road victim support group this is a subject, sometimes a bone of contention, that arises during our support of bereaved families.

But first I must state quite clearly that the following suggestions and comments are mine alone and do not pretend to represent those of the entire membership of Citizens Against Road Slaughter Ltd.

At the outset I have some concerns that the committee could be swayed by the volume, rather than the value, of opinions from groups or individuals who have a professional or vested interest in this matter which, ultimately, could have the potential to ignore the humane considerations it deserves. This goes right down to the language used in the framing of the Bill and terms such as "organ database" should *never* be used. This is all very modern and hip with today's jargon but could be most off-putting to potential donors and/or their closest relatives. I suggest it be replaced with "donor register".

I also doubt that the emotional argument of "you could save a life" will build the register of donors to the required numbers. People are not so gullible that they would be persuaded by this, knowing full well that it is only in the event of their own death that their "gift of life" can be passed on.

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"Oh, God! that bread should be so dear. And flesh and blood so cheap."

Donations of \$2 or more are tax deductible under the Income Tax Assessment Act 1936

Having made myself familiar with the Act, studied the tick-and-flick section of application for a driver's licence and taken the many aspects of both into consideration, I truly believe that "legalising" a driver's consent would be a callous affront to the loved ones who are left to grieve. Citizens Against Road Slaughter Ltd has a slogan which is, "The true way to mourn the dead is to take care of the living who belong to them". While this cannot be the sole consideration of the Bill, it *must*, at the very least, be an equal part of the points considered.

I strongly suspect that successful litigation could be taken against any act of overriding the wishes of the next of kin. There are several scenarios which could trigger a law suit - probably against the medical team or hospital that carried out the procedure.

#### SCENARIO 1

A young driver could tick the box of consent in a dare-devil gesture, believing as most people do that "It can never happen to me". He/she does not tell his/her parents and, in the event of the driver's death, the parents have no legal redress to counter what appears to be their child's absolute consent.

#### SCENARIO 2

A driver, in good conscience, ticks the box in keeping with their circumstances at the time of doing so, but as time goes by, those circumstances could change inasmuch as he/she would then have to consider the opinions and wishes of others - but has not thought to revoke his/her consent i.e. he/she could have been young and single at the time but has since married and had children, all of whom need to have input in the decision making.

#### SCENARIO 3

Next of kin could rightly claim that their deceased relative was not fully informed of the implications of registering as a donor and might not have ticked the box if they had.

#### SCENARIO 4

Next of kin could put forward objections on religious grounds, they being of a different belief to the deceased (this happens in today's religiously fragmented society). This could lead to a further exacerbation of the grief to hold that the deceased's soul would be cursed etc etc.....

There are several other at-risk scenarios that cannot be ignored. But before going on to suggest solutions there is one point to be made perfectly clear: It is wrong, *very wrong*, to say that relatives rescind permission simply because they are distraught and emotional immediately following the death of a loved one. There is far more to it than that, particularly in the case of a sudden death due to a car smash. The shock of a sudden and unexpected death is far more traumatic than a death following a long illness where death is the expected outcome of the illness.

When sudden death takes the life of a relative the family's first reaction is one of absolute disbelief; "No, he can't be dead. I spoke to him only this morning." It is cruel in the extreme to expect the family to make any kind of important decision when they have not yet come to terms with the fact of the death. Acceptance of the death is a long way off and will take many weeks, perhaps months, for relatives to absorb the shock.

Compare with the expected death of the sick or the aged. Families have experienced much of their grief long before life expires and have had time to make important decisions among themselves. Perhaps the deceased has even discussed organ donation with their next of kin and made their wishes known to them.

It would seem to me, from the information provided, that the major impediment to organ donations is objections from the next of kin. This is despite permission indicated by the deceased while still living and presumed to be of sound mind at the time of giving consent. Therefore I suggest:

1. That, before a driver ticks the box, he/she be provided with literature (in simple terms) explaining in some detail the pros and cons of being an organ/tissue donor.
2. Other questions must be included in this literature and every effort made to solicit the answers:
  - (a) Do you understand the full implications of becoming an organ/tissue donor?
  - (b) Have you discussed your decision with your next of kin, partner or adult children?
  - (c) Do you and/or your family need counselling to assist with the decision you are about to make?

I doubt that the standard signature which is required on *all* applications for a driver's licence is sufficiently binding on a simple tick placed in the box provided elsewhere on the form. Perhaps some form of a statutory declaration could be part of the literature as suggested above.

Perhaps too the Coroner should be more involved with this Act inasmuch as he/she could make an order to restrain pathologists from performing an autopsy any further than the "need to know" the cause of death.

EXAMPLE: A 13-month-old child was killed by a drunk driver. The child died of a broken neck, and yet, the parents were left to read an autopsy report detailing the colour, size and weight of the child's heart, lungs, brain, kidneys and other body parts. Relatives are left with the belief that all body parts are replaced from where they are taken. Not so! An incision is made in the abdomen to form a pouch for the extracted organs. Perhaps the "pouch" would not be necessary if pathologists were to confine the autopsy to "need to know" cause of death.

One final point: Simply "legalising" the tick in the box is to ignore any contrary wishes of the next of kin who would then have good reason to claim that the government has descended to a form of body-snatching.

Should the committee desire any further explanation on the enclosed, please make contact with me between 8 am and 4 pm any week day on 3857 5634.

With respect,



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Phyl den Ronden  
Chief Administrator