



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

July 31, 1974

The Honorable Elmo F. Parsons, Jr.  
County Attorney  
Falls County  
Marlin, Texas 76661

Opinion No. H- 361

Re: Effect of Article 5923b,  
V. T. C. S., the 18 year-old  
bill, on Article 4447j, V. T.  
C. S., having to do with  
blood transfusions.

Dear Mr. Parsons:

You have asked our opinion of the effect, if any, of Article 5923b, V. T. C. S., (Acts 1973, 63rd Leg., ch. 626, p. 1723) upon Article 4447j, V. T. C. S., enacted by the 62nd Legislature in 1971.

Article 4447j, in its entirety, provides:

Any person 18 years or older has the capacity to donate his blood to the American Red Cross, a blood bank operating under the supervision of a licensed physician or a hospital licensed under the provisions of the Texas Hospital Licensing Law provided, however, that any such donee (sic) between the age of 18 and 21 shall receive no remuneration or compensation for blood so donated. (Emphasis added)

We must assume that "donee" as used in Article 4447j was intended to mean "donor." See Attorney General Opinion M-1094 (1972).

This statute was enacted at a time when unmarried persons less than 21 years of age were considered minors and when there was serious question as to the authority of anyone to perform any sort of medical

procedure upon a minor without the consent of a parent or some other person authorized to give consent. See, for example, Article 4447h, V. T. C. S. (Acts 1969, 61st Leg., ch. 742, p. 2138, repealed by Sec. 3 of Acts 1973, 63rd Leg., ch. 543, p. 1458.) And compare Sections 35.01, 35.02 and 35.03, Texas Family Code, V. T. C. S. (Acts 1973, 63rd. Leg., ch. 543, p. 1411).

The apparent purpose of Article 4447j, supra, was to establish that minors 18 to 21 were capable of consenting to the taking of their blood. However, to make certain that those falling in the stated age group did not abuse their bodies, the last portion of the article was added, prohibiting their being compensated for their blood. Attorney General Opinion M-1094 (1972).

Article 5923b, supra, in its Section 2, provides, in part:

. . . [A] person who is at least 18 years of age has all the rights, privileges, and obligations of a person who is 21 years of age. A law, rule, regulation, or ordinance which extends a right, privilege, or obligation to a person on the basis of a minimum age of 21, 20 or 19 years shall be interpreted as prescribing a minimum age of 18 years.

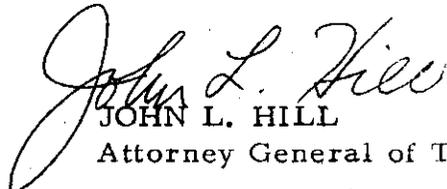
It is our opinion that Article 5923b does not affect Article 4447j. It does provide that, insofar as those over 21 are entitled to be compensated for blood donations, those 18, 19 and 21 are entitled to the same privilege. See Attorney General Opinions H-82, H-83, H-84 and H-85 (1973).

#### SUMMARY

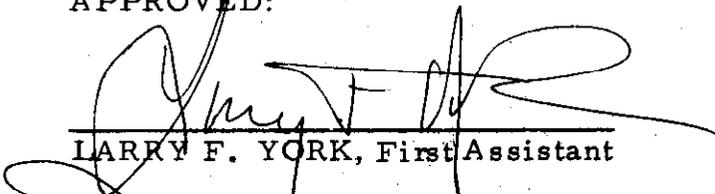
Despite the express language of Art. 4447j, V. T. C. S., that blood donors between 18 and 21

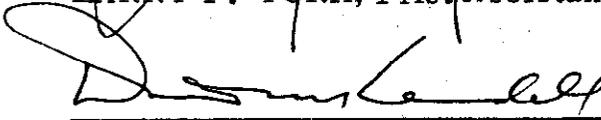
shall receive no compensation, under Art. 5923b, V. T. C.S., those over 18 are entitled to the same privileges as those over 21 and are entitled to compensation.

Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
LARRY F. YORK, First Assistant

  
DAVID M. KENDALL, Chairman  
Opinion Committee