

By: Coleman

H.B. No. 987

A BILL TO BE ENTITLED

1 AN ACT

2 relating to removal of human body parts after death; providing a  
3 penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 693.002, Health and Safety Code, is  
6 transferred to Chapter 692, Health and Safety Code, renumbered as  
7 Section 692.0155, and amended to read as follows:

8 Sec. 692.0155 [~~693.002~~]. REMOVAL OF BODY PART OR TISSUE  
9 FROM DECEDENT WHO DIED UNDER CIRCUMSTANCES REQUIRING AN  
10 INQUEST. (a) [~~(1)~~] On a request from a qualified organ  
11 procurement organization [~~, as defined in Section 692.002~~], the  
12 medical examiner may permit the removal of organs from a decedent  
13 who died under circumstances requiring an inquest by the medical  
14 examiner if an applicable gift of the decedent's body is made in  
15 accordance with Section 692.003 or 692.004 [~~consent is obtained~~  
16 ~~pursuant to Section 693.003~~].

17 (b) [~~(2)~~] If no autopsy is required, the organs to be  
18 transplanted shall be released in a timely manner to the qualified  
19 organ procurement organization [~~, as defined in Section 692.002,~~]  
20 for removal and transplantation.

21 (c) [~~(3)~~] If an autopsy is required and the medical examiner  
22 determines that the removal of the organs will not interfere with  
23 the subsequent course of an investigation or autopsy, the organs  
24 shall be released in a timely manner for removal and

1 transplantation. The autopsy will be performed in a timely manner  
2 following the removal of the organs.

3 (d) [~~(4)~~] If the medical examiner is considering  
4 withholding one or more organs of a potential donor for any reason,  
5 the medical examiner shall be present during the removal of the  
6 organs. In such case, the medical examiner may request a biopsy of  
7 those organs or deny removal of the anatomical gift. If the medical  
8 examiner denies removal of the anatomical gift, the medical  
9 examiner shall explain in writing the reasons for the denial and  
10 shall provide the explanation to the qualified organ procurement  
11 organization.

12 (e) [~~(5)~~] If, in performing the duties required by this  
13 subsection, the medical examiner is required to be present at the  
14 hospital to examine the decedent prior to removal of the organs or  
15 during the procedure to remove the organs, the qualified organ  
16 procurement organization shall on request reimburse the county or  
17 the entity designated by the county for the actual costs incurred in  
18 performing such duties, not to exceed \$1,000. Such reimbursements  
19 shall be deposited in the general fund of the county. The payment  
20 shall be applied to the additional costs incurred by the medical  
21 examiner's office in performing such duties, including the cost of  
22 providing coverage beyond the regular business hours of the medical  
23 examiner's office. The payment shall be used to facilitate the  
24 timely procurement of organs in a manner consistent with the  
25 preservation of the organs for the purposes of transplantation.

26 (f) [~~(6)~~] At the medical examiner's request, the health care  
27 professional removing organs from a decedent who died under

1 circumstances requiring an inquest shall file with the medical  
2 examiner a report detailing the condition of the organs removed and  
3 their relationship, if any, to the cause of death.

4 (g) [(b)] On a request from a qualified tissue procurement  
5 organization, [~~as defined in Section 692.002,~~] the medical examiner  
6 may permit the removal of tissue believed to be clinically usable  
7 for transplants or other therapy or treatment from a decedent who  
8 died under circumstances requiring an inquest by the medical  
9 examiner if an applicable gift of the decedent's body is made in  
10 accordance with Section 692.003 or 692.004 [~~consent is obtained~~  
11 ~~pursuant to Section 693.003 or, if consent is not required by that~~  
12 ~~section, no objection by a person listed in Section 693.004 is known~~  
13 ~~by the medical examiner~~].

14 SECTION 2. Chapter 692, Health and Safety Code, is amended  
15 by adding Section 692.017 to read as follows:

16 Sec. 692.017. CRIMINAL PENALTY. (a) A person commits an  
17 offense if the person removes a body part from a decedent knowing  
18 that a gift authorizing the removal has not been made in accordance  
19 with Section 692.003 or 692.004.

20 (b) A person commits an offense if the person is authorized  
21 to accept a gift under Section 692.005 or the person is an agent or  
22 employee of a person authorized to accept a gift under Section  
23 692.005 and the person accepts a body part removed from a decedent  
24 knowing that a gift authorizing the removal has not been made in  
25 accordance with Section 692.003 or 692.004.

26 (c) An offense under this section is a state jail felony.

27 SECTION 3. Section 48.02(d), Penal Code, is amended to read

1 as follows:

2 (d) A violation of this section is a state jail felony  
3 [~~Class A misdemeanor~~].

4 SECTION 4. The chapter heading for Chapter 693, Health and  
5 Safety Code, is amended to read as follows:

6 CHAPTER 693. PROCEDURES FOR EYE ENUCLEATION FOR ANATOMICAL  
7 GIFT [~~REMOVAL OF BODY PARTS, BODY TISSUE, AND CORNEAL TISSUE~~]

8 SECTION 5. The following laws are repealed:

9 (1) Sections 693.001, 693.003, 693.004, and 693.005,  
10 Health and Safety Code; and

11 (2) Subchapter B, Chapter 693, Health and Safety Code.

12 SECTION 6. This Act applies only to a body part removed from  
13 a decedent on or after the effective date of this Act. A body part  
14 removed from a decedent before the effective date of this Act is  
15 governed by the law as it existed immediately before that date, and  
16 that law is continued in effect for this purpose.

17 SECTION 7. (a) The change in law made by this Act to  
18 Section 48.02, Penal Code, applies only to an offense committed on  
19 or after the effective date of this Act. For purposes of this  
20 section, an offense is committed before the effective date of this  
21 Act if any element of the offense occurs before that date.

22 (b) An offense committed before the effective date of this  
23 Act is covered by the law in effect when the offense was committed,  
24 and the former law is continued in effect for that purpose.

25 SECTION 8. This Act takes effect September 1, 2003.