

By: Homer

H.B. No. 2111

A BILL TO BE ENTITLED

AN ACT

relating to presumed consent to human organ donation.

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

SECTION 1. Chapter 692, Health and Safety Code, is amended by adding Sections 692.0035 and 692.0045 to read as follows:

Sec. 692.0035. PRESUMED GIFT OF OWN BODY. (a) A decedent who is 18 years of age or older and dies in this state is presumed to give all or part of the decedent's body to an organization identified in Section 692.005(1).

(b) Notwithstanding any other provision of this chapter, a gift to a person under Sections 692.005(2)-(7) does not take effect unless:

(1) the gift is consistent with the presumed gift under Subsection (a); or

(2) an election to make a gift, other than the presumed gift under Subsection (a), has been recorded in the registry established under Section 692.0045.

Sec. 692.0045. ELECTION TO MAKE OTHER GIFT OR NOT TO MAKE GIFT; REGISTRY. (a) By filing a form with the Texas Department of Health, a person who does not wish to give all or part of the person's body for organ donation in accordance with Section 692.0035 may elect:

(1) to make a gift other than the presumed gift; or

(2) not to make the gift.

1        (b) The Texas Department of Health shall maintain a registry  
2 of persons who make an election under this section.

3        (c) The Texas Board of Health shall adopt rules and develop  
4 the form necessary to implement this section. The board may develop  
5 a registration card to issue to a person who makes an election under  
6 this section and is listed with the registry.

7        SECTION 2. Sections 692.014(a) and (b), Health and Safety  
8 Code, are amended to read as follows:

9        (a) At or near the time of notification of death, if it is  
10 unclear whether the decedent is or is not a donor and the decedent  
11 is 18 years of age or older, the organ or tissue procurement  
12 organization or its designee shall determine if the decedent is  
13 listed with the registry under Section 692.0045. If the decedent is  
14 younger than 18 years of age, the organ or tissue procurement  
15 organization or its designee shall ask the person authorized to  
16 make an anatomical gift on behalf of the decedent under Section  
17 692.004, according to the priority established by that section,  
18 whether the decedent is or is not a donor. The inquiry shall be made  
19 in accordance with the protocol established under Section 692.013  
20 and with the procedures established under Subchapter Q, Chapter  
21 521, Transportation Code.

22        (b) If the decedent is a donor 18 years of age or older and  
23 the decedent is not listed in the registry under Section 692.0045,  
24 the decedent's anatomical gift made under Section 692.003 or  
25 692.0035, including a gift made under Section 521.401,  
26 Transportation Code, shall be honored without obtaining the  
27 approval or consent of any other person.

1           SECTION 3. Section 692.014(d), Health and Safety Code, is  
2 repealed.

3           SECTION 4. (a) Sections 692.0035 and 692.0045, Health and  
4 Safety Code, as added by this Act, and Section 692.014, Health and  
5 Safety Code, as amended by this Act, apply only to the donation of a  
6 body part of a person who dies on or after January 1, 2005.

7           (b) The donation of a body part of a person who dies before  
8 January 1, 2005, is governed by the law in effect immediately before  
9 the effective date of this Act, and that law is continued in effect  
10 for that purpose.

11          SECTION 5. This Act takes effect September 1, 2003.