

By: Nelson

S.B. No. 1225

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the removal of a body part or tissue from decedent who  
3 died under circumstances requiring an inquest.

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

5 SECTION 1. Sections 693.002, 693.003, and 693.005, Health  
6 and Safety Code, are amended to read as follows:

7 Sec. 693.002. REMOVAL OF BODY PART OR TISSUE FROM DECEDENT  
8 WHO DIED UNDER CIRCUMSTANCES REQUIRING AN INQUEST. (a)(1) On a  
9 request from a qualified organ procurement organization, as defined  
10 in Section 692.002, the medical examiner or justice of the peace may  
11 permit the removal of organs from a decedent who died under  
12 circumstances requiring an inquest by the medical examiner or  
13 justice of the peace if consent is obtained pursuant to Section  
14 693.003.

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

19 (3) If an autopsy is required and the medical examiner  
20 or justice of the peace determines that the removal of the organs  
21 will not interfere with the subsequent course of an investigation  
22 or autopsy, the organs shall be released in a timely manner for  
23 removal and transplantation. The autopsy will be performed in a  
24 timely manner following the removal of the organs.

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

11                   (A) the qualified organ procurement  
12 organization; and

13                   (B) any person listed in Section 693.004 who is  
14 actually known to the medical examiner or justice of the peace.

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

1 facilitate the timely procurement of organs in a manner consistent  
2 with the preservation of the organs for the purposes of  
3 transplantation.

4 (6) At the medical examiner's or justice of the peace's  
5 request, the health care professional removing organs from a  
6 decedent who died under circumstances requiring an inquest shall  
7 file with the medical examiner or justice of the peace a report  
8 detailing the condition of the organs removed and their  
9 relationship, if any, to the cause of death.

10 (b) On a request from a qualified tissue procurement  
11 organization, as defined in Section 692.002, the medical examiner  
12 or justice of the peace may permit the removal of tissue believed  
13 to be clinically usable for transplants or other therapy or  
14 treatment from a decedent who died under circumstances requiring an  
15 inquest by the medical examiner or justice of the peace if consent  
16 is obtained pursuant to Section 693.003 or, if consent is not  
17 required by that section, no objection by a person listed in Section  
18 693.004 is known by the medical examiner or justice of the peace. If  
19 the medical examiner or justice of the peace denies removal of the  
20 tissue, the medical examiner or justice of the peace shall explain  
21 in writing the reasons for the denial. The medical examiner or  
22 justice of the peace shall provide the explanation to:

- 23 (1) the qualified organ procurement organization; and  
24 (2) any person listed in Section 693.004 who is  
25 actually known to the medical examiner or justice of the peace.

26 Sec. 693.003. CONSENT REQUIRED IN CERTAIN CIRCUMSTANCES.

27 (a) A medical examiner or a person acting on the authority of a

1 medical examiner or a justice of the peace may not remove a visceral  
2 organ unless the medical examiner, justice of the peace, or person  
3 obtains the consent of a person listed in Section 693.004.

4 (b) If a person listed in Section 693.004 is known and  
5 available within four hours after death is pronounced, a medical  
6 examiner or a person acting on the authority of a medical examiner  
7 or a justice of the peace may not remove a nonvisceral organ or  
8 tissue unless the medical examiner, justice of the peace, or person  
9 obtains that person's consent.

10 (c) If a person listed in Section 693.004 cannot be  
11 identified and contacted within four hours after death is  
12 pronounced and the medical examiner or justice of the peace  
13 determines that no reasonable likelihood exists that a person can  
14 be identified and contacted during the four-hour period, the  
15 medical examiner or justice of the peace may permit the removal of  
16 a nonvisceral organ or tissue.

17 Sec. 693.005. IMMUNITY FROM DAMAGES IN CIVIL ACTION. In a  
18 civil action brought by a person listed in Section 693.004 who did  
19 not object before the removal of tissue or a body part specified by  
20 Section 693.002, a medical examiner, justice of the peace, medical  
21 facility, physician acting on permission of a medical examiner or  
22 justice of the peace, or person assisting a physician is not liable  
23 for damages on a theory of civil recovery based on a contention that  
24 the plaintiff's consent was required before the body part or tissue  
25 could be removed.

26 SECTION 2. This Act applies to an inquest conducted on or  
27 after the effective date of this Act. An inquest conducted before

1 the effective date of this Act is governed by the law as it existed  
2 immediately before the effective date of this Act, and that law is  
3 continued in effect for this purpose.

4 SECTION 3. This Act takes effect July 1, 2003, if it  
5 receives a vote of two-thirds of all the members elected to each  
6 house, as provided by Section 39, Article III, Texas Constitution.  
7 If this Act does not receive the vote necessary for effect on that  
8 date, this Act takes effect September 1, 2003.