

1-1 By: Nelson S.B. No. 1225
1-2 (In the Senate - Filed March 12, 2003; March 19, 2003, read
1-3 first time and referred to Committee on Health and Human Services;
1-4 April 14, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 14, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1225 By: Nelson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the removal of a body part or tissue from a decedent who
1-11 died under circumstances requiring an inquest.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Sections 693.002 and 693.005, Health and Safety
1-14 Code, are amended to read as follows:

1-15 Sec. 693.002. REMOVAL OF BODY PART OR TISSUE FROM DECEDENT
1-16 WHO DIED UNDER CIRCUMSTANCES REQUIRING AN INQUEST. (a)(1) On a
1-17 request from a qualified organ procurement organization, as defined
1-18 in Section 692.002, the medical examiner, justice of the peace,
1-19 county judge, or physician designated by the justice of the peace or
1-20 county judge may permit the removal of organs from a decedent who
1-21 died under circumstances requiring an inquest by the medical
1-22 examiner, justice of the peace, or county judge if consent is
1-23 obtained pursuant to Section 693.003.

1-24 (2) If no autopsy is required, the organs to be
1-25 transplanted shall be released in a timely manner to the qualified
1-26 organ procurement organization, as defined in Section 692.002, for
1-27 removal and transplantation.

1-28 (3) If an autopsy is required and the medical
1-29 examiner, justice of the peace, county judge, or designated
1-30 physician determines that the removal of the organs will not
1-31 interfere with the subsequent course of an investigation or
1-32 autopsy, the organs shall be released in a timely manner for removal
1-33 and transplantation. The autopsy will be performed in a timely
1-34 manner following the removal of the organs.

1-35 (4) If the medical examiner is considering withholding
1-36 one or more organs of a potential donor for any reason, the medical
1-37 examiner shall be present during the removal of the organs. In such
1-38 case, the medical examiner may request a biopsy of those organs or
1-39 deny removal of the anatomical gift. If the medical examiner denies
1-40 removal of the anatomical gift, the medical examiner shall explain
1-41 in writing the reasons for the denial. The medical examiner [and]
1-42 shall provide the explanation to:

1-43 (A) the qualified organ procurement
1-44 organization; and

1-45 (B) any person listed in Section 693.004 who
1-46 consented to the removal.

1-47 (5) If the autopsy is not being performed by a medical
1-48 examiner and one or more organs may be withheld, the justice of the
1-49 peace, county judge, or designated physician shall be present
1-50 during the removal of the organs and may request the biopsy or deny
1-51 removal of the anatomical gift. If removal of the anatomical gift
1-52 is denied, the justice of the peace, county judge, or physician
1-53 shall provide the written explanation required by Subdivisions
1-54 (4)(A) and (B).

1-55 (6) If, in performing the duties required by this
1-56 subsection, the medical examiner or, in those cases in which an
1-57 autopsy is not performed by a medical examiner, the justice of the
1-58 peace, county judge, or designated physician is required to be
1-59 present at the hospital to examine the decedent prior to removal of
1-60 the organs or during the procedure to remove the organs, the
1-61 qualified organ procurement organization shall on request
1-62 reimburse the county or the entity designated by the county for the
1-63 actual costs incurred in performing such duties, not to exceed

2-1 \$1,000. Such reimbursements shall be deposited in the general fund
2-2 of the county. The payment shall be applied to the additional costs
2-3 incurred by the office of the medical examiner, justice of the
2-4 peace, or county judge [~~examiner's office~~] in performing such
2-5 duties, including the cost of providing coverage beyond [~~the~~]
2-6 regular business hours [~~of the medical examiner's office~~]. The
2-7 payment shall be used to facilitate the timely procurement of the
2-8 organs in a manner consistent with the preservation of the organs
2-9 for the purposes of transplantation.

2-10 (7) [~~(6)~~] At the request of the medical examiner or,
2-11 in those cases in which an autopsy is not performed by a medical
2-12 examiner, the justice of the peace, county judge, or designated
2-13 physician [~~examiner's request~~], the health care professional
2-14 removing organs from a decedent who died under circumstances
2-15 requiring an inquest shall file with the medical examiner, justice
2-16 of the peace, or county judge a report detailing the condition of
2-17 the organs removed and their relationship, if any, to the cause of
2-18 death.

2-19 (b) On a request from a qualified tissue procurement
2-20 organization, as defined in Section 692.002, the medical examiner
2-21 may permit the removal of tissue believed to be clinically usable
2-22 for transplants or other therapy or treatment from a decedent who
2-23 died under circumstances requiring an inquest [~~by the medical~~
2-24 ~~examiner~~] if consent is obtained pursuant to Section 693.003 or, if
2-25 consent is not required by that section, no objection by a person
2-26 listed in Section 693.004 is known by the medical examiner. If the
2-27 medical examiner denies removal of the tissue, the medical examiner
2-28 shall explain in writing the reasons for the denial. The medical
2-29 examiner shall provide the explanation to:

- 2-30 (1) the qualified tissue procurement organization;
- 2-31 and
- 2-32 (2) the person listed in Section 693.004 who consented
2-33 to the removal.

2-34 (c) If the autopsy is not being performed by a medical
2-35 examiner, the justice of the peace, county judge, or designated
2-36 physician may permit the removal of tissue in the same manner as a
2-37 medical examiner under Subsection (b). If removal of the
2-38 anatomical gift is denied, the justice of the peace, county judge,
2-39 or physician shall provide the written explanation required by
2-40 Subsections (b)(1) and (2).

2-41 Sec. 693.005. IMMUNITY FROM DAMAGES IN CIVIL ACTION. In a
2-42 civil action brought by a person listed in Section 693.004 who did
2-43 not object before the removal of tissue or a body part specified by
2-44 Section 693.002, a medical examiner, justice of the peace, county
2-45 judge, medical facility, physician acting on permission of a
2-46 medical examiner, justice of the peace, or county judge, or person
2-47 assisting a physician is not liable for damages on a theory of civil
2-48 recovery based on a contention that the plaintiff's consent was
2-49 required before the body part or tissue could be removed.

2-50 SECTION 2. This Act applies to an inquest conducted on or
2-51 after the effective date of this Act. An inquest conducted before
2-52 the effective date of this Act is governed by the law as it existed
2-53 immediately before the effective date of this Act, and that law is
2-54 continued in effect for this purpose.

2-55 SECTION 3. This Act takes effect July 1, 2003, if it
2-56 receives a vote of two-thirds of all the members elected to each
2-57 house, as provided by Section 39, Article III, Texas Constitution.
2-58 If this Act does not receive the vote necessary for effect on that
2-59 date, this Act takes effect September 1, 2003.

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