

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1597
By: Janek
Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As of April 2007, over 96,000 Americans, including over 8,000 Texans, were awaiting life-saving organ transplants. The vast majority of organs available for transplant in the United States come from deceased donors, also called anatomical donors. Each deceased donor may give as many as seven solid organs for transplantation, in addition to eyes and numerous tissues. Anatomical gifts may be made for the purposes of transplantation, therapy, research, or education.

To facilitate organ donation, the Revised Uniform Anatomical Gift Act (2006 UAGA) was constructed in 2006 by the National Conference of Commissioners on Uniform State Law, which was the result of three years of active participation between numerous entities in an effort to create uniformity among state laws regarding organ donation. The 2006 UAGA, which relates only to the recovery of certain parts from deceased donors, strengthens the language expressly barring a person from "making, amending, or revoking" an anatomical gift of the donor's parts if the donor made a gift of those parts. The 2006 UAGA also advocates expansion of the list of individuals who may make an anatomical gift on a donor's behalf both during the donor's life and after and provision for the making of an anatomical gift on a donor registry, in addition to donor cards and driver's license.

C.S.S.B. 1597 amends current law to revise current organ donation statute in accordance with changes suggested by the 2006 UAGA.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 8, Health and Safety Code, by adding Chapter 692A, as follows:

CHAPTER 692A. REVISED UNIFORM ANATOMICAL GIFT ACT

Sec. 692A.001. **SHORT TITLE.** Authorizes the citation of this chapter as the Revised Uniform Anatomical Gift Act.

Sec. 692A.002. **DEFINITIONS.** Defines "adult," "agent," "anatomical gift," "commissioner," "decedent," "department," "disinterested witness," "document of gift," "donor," "donor registry," "driver's license," "eye bank," "guardian," "hospital," "identification card," "imminent death," "know," "minor," "organ procurement organization," "parent," "part" "person," "physician," "procurement organization," "prospective donor," "reasonably available," "recipient," "record," "refusal," "sign," "state," "technician," "timely notification," "tissue," "tissue bank," "transplant hospital," and "visceral organ."

Sec. 692A.003. **APPLICABILITY.** Provides that this chapter applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

Sec. 692A.004. PERSONS AUTHORIZED TO MAKE ANATOMICAL GIFT BEFORE DONOR'S DEATH. Authorizes certain persons, subject to Section 692A.008, to provide an anatomical gift of a donor's body or part during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in Section 692A.005 (other person).

Sec. 692A.005. MANNER OF MAKING ANATOMICAL GIFT BEFORE DONOR'S DEATH. (a) Authorizes a donor to make an anatomical gift by authorizing a statement or symbol indicating that the donor has made an anatomical gift (authorization of indication) to be imprinted on the donor's drivers license or identification card, by writing such intent in a will, during a terminal illness or injury of the donor by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness, or as provided by Subsection (b).

(b) Authorizes a donor or other authorized person to make an anatomical gift under Section 692A.004 (anatomical gift) by a donor card or other record signed by the donor or other person making the gift or by authorizing an indication to be included on a donor registry. Authorizes the signing of a record by another individual at the direction of the donor or other person if the donor or other person is physically unable to sign a record. Sets forth certain required actions and contents for such a record.

(c) Provides that the revocation, suspension, expiration, or cancellation of a driver's license or identification card on which an anatomical gift is indicated does not invalidate the gift.

(d) Provides that an anatomical gift made by will takes effect on the donor's death whether or not the will is probated. Provides that invalidation of the will after the donor's death does not invalidate the gift.

Sec. 692A.006. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE DONOR'S DEATH. (a) Authorizes a donor or other persons authorized to make an anatomical gift to amend or revoke said gift by a record signed by certain persons or a later-executed document of gift that amends or revokes all or part of the previous anatomical gift, either expressly or by inconsistency.

(b) Sets forth certain required actions and contents for the signing of a record by another individual acting at the direction of the donor or the other person if either party is physically unable to sign, as provided under Subsection (a)(1)(C).

(c) Authorizes a donor or other person authorized to make an anatomical gift to revoke said gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent of revocation.

(d) Authorizes a donor to amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(e) Authorizes a donor who makes an anatomical gift in a will to amend or revoke said gift in the manner provided for amendment or revocation of wills or as provided in Subsection (a).

Sec. 692A.007. REFUSAL TO MAKE ANATOMICAL GIFT; EFFECT OF REFUSAL. (a) Authorizes an individual to refuse to make an anatomical gift by certain methods.

(b) Sets forth certain required actions and contents for the signing of a record by another individual acting at the direction of the individual if the individual is physically unable to sign, as provided under Subsection (a)(1)(B).

(c) Authorizes an individual who has made a refusal to amend or revoke the refusal in the manner provided in Subsection (a) for making a refusal, by subsequently making an anatomical gift that is inconsistent with the refusal, or by destroying or canceling the record evidencing the refusal or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(d) Provides that an individual's unrevoked refusal to make an anatomical gift bars all other persons from making an anatomical gift of the individual, except as otherwise provided in Section 692A.008(h) and in the absence of an express, contrary indication by the individual set forth in the refusal.

Sec. 692A.008. PRECLUSIVE EFFECT OF ANATOMICAL GIFT, AMENDMENT, OR REVOCATION. (a) Provides that a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor if the donor made an anatomical gift under Section 692A.005 or an amendment to an anatomical gift of the donor under Section 692A.006, except as otherwise provide in Subsection (g) and subject to Subsection (f), and in the absence of an express, contrary indication by the donor.

(b) Provides that a donor's revocation of an anatomical gift under Section 692A.006 is not a refusal and does not bar another person specified in Sections 692A.004 or 692A.009, from making an anatomical gift of the donor under Section 692.005 or 692A.010.

(c) Prohibits another person from making, amending, or revoking the anatomical gift under Section 692A.010 if a person other than the donor makes an unrevoked anatomical gift under Section 692A.005 or an amendment to an anatomical gift under Section 692A.006.

(d) Provides that a revocation of an anatomical gift under Section 692.006 by a person other than the donor does not bar another person from making an anatomical gift under Section 692A.005 or Section 692A.010.

(e) Provides that an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift at a later time by the donor or another person in the absence of an express, contrary indication by the donor or other person.

(f) Provides that an anatomical gift for one or more of the purposes set forth in Section 692A.004, is not a limitation on the making of an anatomical gift for any of the other purposes by the donor or any other person under Section 692A.005 or 692A.010, in the absence of an express, contrary indication by the donor or other persons.

(g) Authorizes the reasonably available parent of an unemancipated minor, who has died and who is a donor, to revoke or amend an anatomical gift.

(h) Authorizes the reasonably available parent of an unemancipated minor, who has died and who signed a refusal, to revoke the minor's refusal.

Sec. 692A.009. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S BODY OR PART. (a) Authorizes the making of an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education by any member of certain classes of persons who are reasonably available (class) in a certain priority order. Sets forth the classes of persons and the order of priority.

(b) Authorizes decisions regarding an anatomical gift to be made by a member of a class, in which there is more than one person entitled to make an anatomical gift within that class, unless that member or a person to which the gift may pass under Section 692A.011, knows of an objection by another member of the class. Authorizes the gift to be made only by a majority of the members of the class who are reasonably available if an objection is known.

(c) Prohibits a person from making an anatomical gift if, at the time of the decedent's death, a person in a prior class under Subsection (a) is reasonably available to make or to object to the making of an anatomical gift.

Sec. 692A.010. MANNER OF MAKING, AMENDING, OR REVOKING ANATOMICAL GIFT OF DECEDENT'S BODY OR PART. (a) Authorizes a person authorized to make an anatomical gift under Section 692A.009 to make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(b) Authorizes the amendment or revocation of an anatomical gift by a person authorized under Section 692A.009, either orally or in a record by any member of a prior class who is reasonably available. Authorizes the amendment of a gift made by a person authorized under Section 692A.009, only if a majority of the reasonably available members of a prior class agree to the amending of the gift, or to the revocation of the gift if the majority of said members agree or if they are equally divided as to whether to revoke the gift, if more than one member of the prior class is reasonably available.

(c) Provides that a revocation under Subsection (b) is effective only if the procurement organization, transplant hospital, or physician or technician knows of the revocation before an incision has been made to remove a part from the donor's body or before the initiation of invasive procedures to prepare the recipient.

Sec. 692A.011. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT; PURPOSE OF ANATOMICAL GIFT. (a) Authorizes the making of an anatomical gift to a hospital or an organ procurement organization for research or education, to an individual designated as a recipient of an anatomical gift by the person making the gift, subject to Subsection (d), to an eye bank or tissue bank, to a forensic science program at certain institutions, or to the Anatomical Board of the State of Texas (board).

(b) Provides that the board is the donee of a gift of a body or part made for purposes of education or research except for a donation to certain entities. Provides that the gift of the body or part is subject to distribution by the board under Chapter 691 (Anatomical Board of the State of Texas).

(c) Requires a forensic science program that receives a donation to submit a report to the board on a quarterly basis that lists the number of bodies or parts that the program received and the method in which the program used those bodies or parts for education or research purposes.

(d) Provides that an anatomical gift to an individual under Subsection (a)(2) that cannot be transplanted into the individual passes in accordance with Subsection (i) in the absence of a contrary indication by the person making the anatomical gift.

(e) Sets forth certain rules that apply to an anatomical gift of one or more specific parts or of all parts made in a document of gift that does not name a person described in Subsection (a) but that identifies the purpose for which an anatomical gift may be used.

(f) Requires the gift, for purposes of Subsection (e), to be used for transplantation or therapy, if suitable, if there is more than one purpose of the gift set forth in the document of gift but such purposes are not set forth in any priority. Authorizes the gift to be used for research or education if it cannot be used for transplantation or therapy.

(g) Authorizes the use of a gift of one or more specific parts made in a document of gift that does not name a person described in Subsection (a), or a purpose of the

gift, only for transplantation or therapy. Provides that the gift passes in accordance with Subsection (i).

(h) Authorizes the use of a gift for only transplantation or therapy if the document of gift specifies only a general intent to make an anatomical gift by certain words or by a symbol or statement of similar import. Provides that the gift passes in accordance with Subsection (i).

(i) Applies certain rules for purposes of Subsections (d), (g), and (h) regarding specific parts and the entities to which those parts may pass.

(j) Provides that an anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under Subsection (a)(2), passes to the organ procurement organization as the organ's custodian.

(k) Provides that custody of an anatomical gift that does not pass pursuant to Subsections (a) through (j) or the decedent's body or part is not used for transplantation, therapy, research, or education, passes to the person under obligation to dispose of the body or part.

(l) Prohibits a person from accepting an anatomical gift if the person knows that the gift was not effectively made under Sections 692A.005 or 692A.010, Health and Safety Code, or if the person knows that the decedent made a refusal under Section 692A.007, Health and Safety Code, that was not revoked. Provides that a person is deemed to know of any amendment or revocation of the gift, or any refusal to make an anatomical gift on the same document of gift, if a person knows that an anatomical gift was made on said document, for purposes of this subsection.

(m) Provides that this chapter does not affect the allocation of organs for transplantation or therapy, except as otherwise provided in Subsection (a)(2).

(n) Authorizes a donee to accept or reject a gift.

Sec. 692A.012. SEARCH AND NOTIFICATION. Requires the donor card of a person who is involved in an accident or other trauma to accompany the person to the hospital or other health care facility. Requires the person's driver's license or personal identification certificate indicating an affirmative statement of gift of said person to accompany the person to the hospital or health care facility in case the person does not have a donor card.

Sec. 692A.013. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED; RIGHT TO EXAMINE. (a) Provides that a document of gift need not be delivered during the donor's lifetime to be effective.

(b) Requires a person in possession of a document of gift, or a refusal to make an anatomical gift with respect to the individual, to allow examination and copying of said document or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or a person to which the gift could pass under Section 692A.011.

Sec. 692A.014. RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATION AND OTHERS. (a) Requires a hospital that refers an individual at or near death to a procurement organization to make a reasonable search of the records of the Department of Public Safety (DPS) and any donor registry known to the hospital for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(b) Requires a procurement organization to be allowed reasonable access to information in DPS' records to ascertain whether an individual at or near death is a donor.

(c) Authorizes a procurement organization, to which a hospital has referred an individual at or near death, to conduct any reasonable examination necessary to ensure the medical suitability of a part (examination) that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. Prohibits the withdrawal of measures necessary to ensure medical suitability during the examination period unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(d) Authorizes a person to which a part passes under Section 692A.011, to conduct any examination for a body's or part's intended purpose, unless prohibited by law other than this chapter.

(e) Authorizes an examination to include an examination of all medical and dental records of the donor or prospective donor unless prohibited by law other than this chapter.

(f) Requires the procurement organization to conduct a reasonable search for the parents of a minor who has died, and is a donor or has signed a refusal, and to provide the parents with an opportunity to revoke or amend the anatomical gift, or to revoke the refusal, unless the procurement organization knows the minor is emancipated.

(g) Requires a procurement organization, on referral by a hospital under Subsection (a), to make a reasonable search for any person listed in Section 692A.009, having priority to make an anatomical gift on behalf of a prospective donor. Requires the procurement organization that receives information that an anatomical gift to any other person was made, amended, or revoked, to promptly advise the other person of all relevant information.

(h) Provides that the rights of the person to which a part passes under Section 692A.011 are superior to the rights of all others with respect to the part, subject to Sections 692A.011(k) and 693.002. Authorizes the person to accept or reject an anatomical gift wholly or partly. Authorizes a person that accepts an anatomical gift of an entire body to allow for embalming, burial or cremation, and use of the remains at a service, subject to the terms of the document of gift and this chapter. Requires the person to which the part passes under Section 692A.011, to cause the part to be removed without unnecessary mutilation on the death of the donor and before embalming, burial, or cremation.

(i) Prohibits the physician who attends the decedent at death or the physician who determines the time of the decedent's death from participating in the procedures for removal or transplantation of a part from the decedent.

(j) Authorizes a physician or technician to remove a donated part from the body of a donor that the physician or technician is qualified to remove.

Sec. 692A.015. COORDINATION OF PROCUREMENT AND USE; HOSPITAL PROCEDURES. Requires each hospital in this state to enter into agreements or affiliations with procurement organizations for coordination or procurement and use of anatomical gifts. Requires each hospital to have a protocol that ensures its maintenance of an effective donation system in order to maximize organ and tissue donation. Sets forth required provisions for the hospital's protocol.

Sec. 692A.016. SALE OR PURCHASE OF PARTS PROHIBITED. (a) Provides that a person commits an offense by knowingly purchasing or selling a part for transplantation or therapy if removal of a part from the individual is intended to occur after the individual's death, except as otherwise provided in Subsection (b). Provides that an offense under this subsection is a Class A misdemeanor.

(b) Authorizes a person to charge a reasonable amount for the taking of certain actions with a part.

(c) Authorizes the prosecution of an actor, for conduct that constitutes an offense under this section and that also constitutes an offense under another law, under this section, the other law, or both.

Sec. 692A.017. OTHER PROHIBITED ACTS. (a) Provides that a person commits an offense by taking certain actions with a document of gift, an amendment or revocation of a document of gift, or a refusal, in order to obtain a financial gain. Provides that an offense under this section is a Class A misdemeanor.

(b) Authorizes the prosecution of an actor, for conduct that constitutes an offense under this section and that also constitutes an offense under another law, under this section, the other law, or both.

Sec. 692A.018. IMMUNITY. (a) Provides that a person who acts in good faith in accordance with this chapter is not liable for civil damages or subject to criminal prosecutions for the person's action if the prerequisites for an anatomical gift are met under the laws applicable at the time and place the gift is made.

(b) Provides that a person who acts in accordance with this chapter or with the applicable anatomical gift law of another state, or attempts to do so in good faith, is not liable for the act in a civil action, criminal prosecution, or administrative procedure.

(c) Provides that a person who acts in good faith in accordance with this chapter is not liable as a result of the action except in the case of the act or omission that is intentional, otherwise negligent, or done with conscious indifference or reckless disregard. Defines "good faith" for the purpose of this subsection.

(d) Provides that neither a person making an anatomical gift nor the donor's estate is liable for any injury or damage the results from the making or use of a gift.

(e) Authorizes a person, in determining whether an anatomical gift has been made, amended, or revoked, to rely on representations of certain individuals listed in Section 692A.009(a), relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

(f) Provides that certain persons in medical or judicial fields, who may be related to a civil action brought by a person listed in Section 692A.009 who did not object before the removal of tissue or a part specified by Section 693.002 are not liable for damages on a theory of civil recovery based on a contention that the plaintiff's consent was required before the part or tissue could be removed.

Sec. 692A.019. LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF VALIDITY. (a) Provides that a document of gift is valid if executed in accordance with this chapter or the appropriate laws of another state or county.

(b) Provides that the law of this state governs the interpretation of the document of gift if said document is valid under this section.

(c) Authorizes a person to presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

Sec. 692A.020. DONOR REGISTRY. (a) Requires the Department of State Health Services (DSHS), in consultation with DPS and organ procurement organizations, to

establish the Donor Education, Awareness, and Registry Program of Texas (DEAR program).

(b) Requires DSHS to enter into an agreement with an organization selected by the commissioner of state health services (commissioner; selected organization) under a competitive proposal process for the establishment and maintenance of a statewide Internet-based registry of organ, tissue, and eye donors (registry). Provides that the term of the initial agreement is two years, contingent on the continued availability of appropriations under Subsection (h), and is authorized to be renewed for two-year terms thereafter unless terminated in a written notice to the other party by DSHS or the selected organization not later than the 180th day before the last day of a term.

(c) Requires DPS to at least monthly electronically transfer to the selected organization certain relevant information in DPS' possession for any person who indicates on the person's driver's license application under Section 521.401 (Statement of Gift), Transportation Code, that the person would like to make an anatomical gift and consents to the release of said information by DPS to the selected organization for inclusion in the registry.

(d) Requires the contract between DSHS and the organization selected by the commissioner as provided by Subsection (b) to require the organization to take certain actions.

(e) Prohibits DPS, the selected organization, or a procurement organization from selling, renting, or otherwise sharing any information provided to the registry. Authorizes a procurement organization to share any information provided to the registry with an organ procurement organization, or a health care provider or facility providing medical care to a potential donor as necessary to properly identify an individual at the time of donation.

(f) Prohibits DPS, the selected organization, or the procurement organizations, from using any demographic or specific data provided to the registry for fundraising activities. Authorizes the transfer of such data only from the selected organization to procurement organizations through secure, encrypted electronic and telephonic methods for the protection of the data and the privacy of the person providing information.

(g) Requires DPS to make available educational materials developed by the Texas Organ, Tissue, and Eye Donor Council (council) established under Chapter 113 (Texas Health Care Policy Council), as added by Chapter 1186, Acts of the 79th Legislature, Regular Session, 2005, in each office authorized to issue driver's licenses or personal information certificates.

(h) Requires DPS to remit money collected under Sections 521.421(g) (regarding collection of \$1 from actions relating to driver's licenses for the DEAR program) and 521.422(c) (regarding collection of \$1 from actions relating to personal identification certificates for the DEAR program), as provided by those sections, to the comptroller of public accounts (comptroller). Requires the remitted money that is appropriated to DSHS to be spent in accordance with the priorities established by DSHS in consultation with the council to pay certain costs relating to the registry and educational materials for prospective donors.

(i) Authorizes the use of additional money over the amount necessary for the purposes of Subsection (h) to be used by DSHS to provide education under this chapter or to be awarded using a competitive grant process to organizations to conduct donation educational activities in this state. Prohibits a member of the council from receiving said grant.

(j) Requires DSHS to require the selected organization to submit an annual written report to DSHS including the number of donors listed in the registry, the

changes in that number, and the demographic characteristics of listed donors to a certain extent.

(k) Requires DSHS to educate residents about anatomical gifts to the extent funds are available and as part of the DEAR program. Requires the DEAR program to include information about certain laws governing anatomical gifts, the procedures for becoming a donor, and the benefits of donation.

(l) Requires DSHS, in developing the DEAR program in consultation with the council, to solicit broad-based input reflecting recommendations of certain interested groups.

(m) Authorizes DSHS, in consultation with the council, to implement a training program for all appropriate DPS and Texas Department of Transportation employees on the benefits of donation and the procedures for individuals to be added to the registry. Requires DSHS to implement the training program before the date that the registry is operational and to conduct the training on an ongoing basis for new employees.

Sec. 692A.021. EFFECT OF ANATOMICAL GIFT ON ADVANCE DIRECTIVE. (a) Defines "advance directive," "declaration," and "health-care decision."

(b) Requires the prospective donor and the prospective donor's attending physician to confer in order to resolve a conflict between the prospective donor's declaration or advance directive and the measures necessary to ensure the medical suitability of a donor's part for transplantation or therapy regarding the terms of the declaration or directive and the express or implied terms of a potential anatomical gift. Requires an agent acting under the prospective donor's declaration or directive or another person authorized by law other than this chapter to make health-care decisions on behalf of the prospective donor, if the agent is not reasonably available, to act on the prospective donor's behalf to resolve the conflict if the donor is incapable of resolving the conflict. Requires the conflict to be resolved as expeditiously as possible. Authorizes information relevant to the resolution of the conflict to be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under Section 692A.009. Prohibits the withholding or withdrawal of measures necessary to ensure the medical suitability of a part from a prospective donor before resolution of the conflict.

(c) Requires an expedited review of the conflict to be initiated by an ethics or medical committee of the appropriate health care facility if the conflict cannot be resolved.

Sec. 692A.022. UNIFORMITY OF APPLICATION AND CONSTRUCTION. Requires, in applying and construing this chapter, that consideration be given to the need to promote uniformity of the law with respect to the subject matter of this chapter among states that enact a law substantially similar to this chapter.

Sec. 692A.023. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. Provides that this chapter modifies, limits, and supersedes the provisions of the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.), but does not modify, limit, or supersede Section 101(a) (regarding the prohibition on invalidating contracts and transactions with electronic signatures) of that Act (15 U.S.C. Section 7001(a)), or authorize electronic delivery of any of the notices described in Section 103 (Specific Exceptions) of that Act (15 U.S.C. Section 7003(b)).

SECTION 2. Amends Section 241.153, Health and Safety Code, as follows:

Sec. 241.153. DISCLOSURE WITHOUT WRITTEN AUTHORIZATION. Authorizes the disclosure of a patient's health care information without the patient's authorization to a

procurement organization as defined by Section 692A.002, rather than Section 692.002 (Definitions), for the purpose of making inquiries relating to donations according to the protocol referred to in Section 692A.015, rather than 692.013(d). Authorizes the disclosure of a patient's health care information without the patient's authorization to a health care utilization review agent who requires said information for review under Chapter 4201 (Utilization Review Agents), Insurance Code, rather than Article 21.58A (Health Care Utilization Review Agents), Insurance Code - Not Codified.

SECTION 3. Amends Section 691.030(d), Health and Safety Code, to delete existing text referring to Chapter 692 (Texas Anatomical Gift Act) and to add text referring to Chapter 692A, and to delete existing text referring to Section 692.004 (Persons Who May Execute Gift), Health and Safety Code, regarding who may make donations, and replaces with text referring to Section 692A.009.

SECTION 4. Amends Section 693.002(a), Health and Safety Code, by amending Subdivisions (1), (2), and (4), and adding Subdivisions (2-a) and (5-a), as follows:

(1) Authorizes certain entities to permit the removal of organs from a decedent who died under circumstances requiring an inquest if consent is obtained pursuant to Sections 692A.005 through 692A.010 or Section 693.003. Makes conforming changes.

(2) Makes conforming changes.

(2-a) Requires the organ procurement agency to notify the medical examiner, justice of the peace, county judge, or designated physician of any death requiring an inquest that falls under that person's jurisdiction within one hour of the pronouncement of death or within one hour of consent on an asystolic organ donor.

(4) Requires the medical examiner who denies removal of an anatomical gift to provide an explanation regarding said denial to the organ procurement organization and any person listed in Section 692A.009 or 693.004 (Persons Who May Consent or Object to Removal) who consented to the removal.

(5-a) Authorizes the medical examiner or the physician designee of either a justice of the peace or a county judge who will subsequently perform the postmortem examination to restrict designation of cardiac tissue for organ donation purposes without being required to be present at the hospital to examine the decedent before removal of the organs or during the procedure to remove the organs, effective September 1, 2009.

SECTION 5. Amends Section 693.002(b), Health and Safety Code, to make conforming changes.

SECTION 6. Amends Section 693.003, Health and Safety Code, as follows:

Sec. 693.003. New heading: CONSENT NOT REQUIRED IN CERTAIN CIRCUMSTANCES. Deletes existing Subsection (a), prohibiting a medical examiner or a person acting on the authority of the medical examiner to remove an organ unless first obtaining consent of a person listed in Section 693.004, Health and Safety Code. Deletes existing Subsection (b), prohibiting a medical examiner or a person acting on the authority of the medical examiner to remove a nonvisceral organ or tissue without the consent of a person listed under Section 693.004, who is known and available within four hours after the pronouncement of death. Redesignates text from existing Subsection (c). Authorizes the county court or medical examiner to permit the removal of a visceral, rather than nonvisceral, organ or tissue, if the court or examiner determines that a person listed in Section 692A.009 or 693.004 cannot be contacted within 12, rather than four, hours after death is pronounced or that either such a person cannot be identified and contacted during the 12-hour period.

SECTION 7. Amends Section 693.005, Health and Safety Code, to make a conforming change.

SECTION 8. Amends Section 693.006, Health and Safety Code, to delete existing text referring to Subchapter A (Removal of Body Parts or Tissue), Chapter 603, Health and Safety Code, and replaces with text referring to Section 692A.005, Health and Safety Code. Makes conforming changes.

SECTION 9. Amends Section 521.401(b) and (c), Transportation Code, as follows:

(b) Deletes existing text referring to Section 693.003(d) (regarding anatomical gifts made by a document other than a will), Health and Safety Code, and replaces with text referring to Section 692A.005, Health and Safety Code.

(c) Requires donor cards to be provided to TxDOT by organ procurement organizations, tissue banks, or eye banks, rather than by organ procurement organizations or eye banks. Deletes reference to Chapter 49 (Donor Education, Awareness, and Registry Program of Texas), Health and Safety Code, and replaces with text referring to Section 692A.020, Health and Safety Code. Makes conforming changes.

SECTION 10. Amends Section 651.407(f), Occupations Code, to delete existing text referring to Chapter 692 (Texas Anatomical Gift Act) and to replace it with text referring to Chapter 692A, Health and Safety Code.

SECTION 11. Repealer: (1) Section 49.002 (Establishment of Program), Health and Safety Code; (2) Chapter 692 (Texas Anatomical Gift Act), Health and Safety Code; (3) Section 521.403 (Information Provided to Hospital), Transportation Code; and (4) Section 521.404 (Notification to Procurement Organization), Transportation Code.

SECTION 12. Effective date: September 1, 2007.