

By: Janek

S.B. No. 1597

A BILL TO BE ENTITLED

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AN ACT

relating to adoption of the Revised Uniform Anatomical Gift Act;  
providing criminal penalties.

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

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

CHAPTER 692A. REVISED UNIFORM ANATOMICAL GIFT ACT

Sec. 692A.001. SHORT TITLE. This chapter may be cited as  
the Revised Uniform Anatomical Gift Act.

Sec. 692A.002. DEFINITIONS. In this chapter:

(1) "Adult" means an individual who is at least 18  
years of age.

(2) "Agent" means an individual:

(A) authorized to make health care decisions on  
the principal's behalf by a medical power of attorney; or

(B) expressly authorized to make an anatomical  
gift on the principal's behalf by any other record signed by the  
principal.

(3) "Anatomical gift" means a donation of all or part  
of a human body to take effect after the donor's death for the  
purpose of transplantation, therapy, research, or education.

(4) "Commissioner" means the commissioner of state  
health services.

(5) "Decedent" means a deceased individual whose body

1 or part is or may be the source of an anatomical gift. The term  
2 includes a stillborn infant and, subject to restrictions imposed by  
3 law other than this chapter, a fetus.

4 (6) "Department" means the Department of State Health  
5 Services.

6 (7) "Disinterested witness" means a witness other than  
7 the spouse, child, parent, sibling, grandchild, grandparent, or  
8 guardian of the individual who makes, amends, revokes, or refuses  
9 to make an anatomical gift, or another adult who exhibited special  
10 care and concern for the individual. The term does not include a  
11 person to which an anatomical gift could pass under Section  
12 692A.011.

13 (8) "Document of gift" means a donor card or other  
14 record used to make an anatomical gift. The term includes a  
15 statement or symbol on a driver's license, identification card, or  
16 donor registry.

17 (9) "Donor" means an individual whose body or part is  
18 the subject of an anatomical gift.

19 (10) "Donor registry" means a database that contains  
20 records of anatomical gifts and amendments to or revocations of  
21 anatomical gifts.

22 (11) "Driver's license" means a license or permit  
23 issued by the Department of Public Safety to operate a vehicle,  
24 whether or not conditions are attached to the license or permit.

25 (12) "Eye bank" means a person that is licensed,  
26 accredited, or regulated under federal or state law to engage in the  
27 recovery, screening, testing, processing, storage, or distribution

1 of human eyes or portions of human eyes.

2 (13) "Guardian" means a person appointed by a court to  
3 make decisions regarding the support, care, education, health, or  
4 welfare of an individual. The term does not include a guardian ad  
5 litem.

6 (14) "Hospital" means a facility licensed as a  
7 hospital under the law of any state or a facility operated as a  
8 hospital by the United States, a state, or a subdivision of a state.

9 (15) "Identification card" means an identification  
10 card issued by the Department of Public Safety.

11 (16) "Imminent death" means a patient who requires  
12 mechanical ventilation, has a severe neurologic injury, and meets  
13 certain clinical criteria indicating that neurologic death is near  
14 or a patient for whom withdrawal of ventilatory support is being  
15 considered.

16 (17) "Know" means to have actual knowledge.

17 (18) "Minor" means an individual who is under 18 years  
18 of age.

19 (19) "Organ procurement organization" means a person  
20 designated by the secretary of the United States Department of  
21 Health and Human Services as an organ procurement organization.

22 (20) "Parent" means a parent whose parental rights  
23 have not been terminated.

24 (21) "Part" means an organ, an eye, or tissue of a  
25 human being. The term does not include the whole body.

26 (22) "Person" means an individual, corporation,  
27 business trust, estate, trust, partnership, limited liability

1 company, association, joint venture, public corporation,  
2 government or governmental subdivision, agency, or  
3 instrumentality, or any other legal or commercial entity.

4 (23) "Physician" means an individual authorized to  
5 practice medicine or osteopathy under the law of any state.

6 (24) "Procurement organization" means an eye bank,  
7 organ procurement organization, or tissue bank.

8 (25) "Prospective donor" means an individual who is  
9 dead or near death and has been determined by a procurement  
10 organization to have a part that could be medically suitable for  
11 transplantation, therapy, research, or education. The term does  
12 not include an individual who has made a refusal.

13 (26) "Reasonably available" means able to be contacted  
14 by a procurement organization without undue effort and willing and  
15 able to act in a timely manner consistent with existing medical  
16 criteria necessary for the making of an anatomical gift.

17 (27) "Recipient" means an individual into whose body a  
18 decedent's part has been or is intended to be transplanted.

19 (28) "Record" means information that is inscribed on a  
20 tangible medium or that is stored in an electronic or other medium  
21 and is retrievable in perceivable form.

22 (29) "Refusal" means a record created under Section  
23 692A.007 that expressly states an intent to bar other persons from  
24 making an anatomical gift of an individual's body or part.

25 (30) "Sign" means, with the present intent to  
26 authenticate or adopt a record:

27 (A) to execute or adopt a tangible symbol; or

1                   (B) to attach to or logically associate with the  
2 record an electronic symbol, sound, or process.

3                   (31) "State" means a state of the United States, the  
4 District of Columbia, Puerto Rico, the United States Virgin  
5 Islands, or any territory or insular possession subject to the  
6 jurisdiction of the United States.

7                   (32) "Technician" means an individual determined to be  
8 qualified to remove or process parts by an appropriate organization  
9 that is licensed, accredited, or regulated under federal or state  
10 law. The term includes an enucleator.

11                   (33) "Timely notification" means notification of an  
12 imminent death to the organ procurement organization within one  
13 hour of the patient's meeting the criteria for imminent death and  
14 before the withdrawal of any life-sustaining therapies. With  
15 respect to cardiac death, timely notification means notification to  
16 the organ procurement organization within one hour of the cardiac  
17 death.

18                   (34) "Tissue" means a portion of the human body other  
19 than an organ or an eye. The term does not include blood unless the  
20 blood is donated for the purpose of research or education.

21                   (35) "Tissue bank" means a person licensed,  
22 accredited, or regulated under federal or state law to engage in the  
23 recovery, screening, testing, processing, storage, or distribution  
24 of tissue.

25                   (36) "Transplant hospital" means a hospital that  
26 furnishes organ transplants and other medical and surgical  
27 specialty services required for the care of transplant patients.

1           (37) "Visceral organ" means the heart, kidney, or  
2 liver or another organ or tissue that requires a patient support  
3 system to maintain the viability of the organ or tissue.

4           Sec. 692A.003. APPLICABILITY. This chapter applies to an  
5 anatomical gift or amendment to, revocation of, or refusal to make  
6 an anatomical gift, whenever made.

7           Sec. 692A.004. PERSONS AUTHORIZED TO MAKE ANATOMICAL GIFT  
8 BEFORE DONOR'S DEATH. Subject to Section 692A.008, an anatomical  
9 gift of a donor's body or part may be made during the life of the  
10 donor for the purpose of transplantation, therapy, research, or  
11 education in the manner provided in Section 692A.005 by:

12           (1) the donor, if the donor is an adult or if the donor  
13 is a minor and is:

14                   (A) emancipated; or

15                   (B) authorized under state law to apply for a  
16 driver's license because the donor is at least 16 years of age;

17           (2) an agent of the donor, unless the medical power of  
18 attorney or other record prohibits the agent from making an  
19 anatomical gift;

20           (3) a parent of the donor, if the donor is an  
21 unemancipated minor; or

22           (4) the donor's guardian.

23           Sec. 692A.005. MANNER OF MAKING ANATOMICAL GIFT BEFORE  
24 DONOR'S DEATH. (a) A donor may make an anatomical gift:

25           (1) by authorizing a statement or symbol indicating  
26 that the donor has made an anatomical gift to be imprinted on the  
27 donor's driver's license or identification card;

1           (2) in a will;

2           (3) during a terminal illness or injury of the donor,  
3 by any form of communication addressed to at least two adults, at  
4 least one of whom is a disinterested witness; or

5           (4) as provided in Subsection (b).

6           (b) A donor or other person authorized to make an anatomical  
7 gift under Section 692A.004 may make a gift by a donor card or other  
8 record signed by the donor or other person making the gift or by  
9 authorizing that a statement or symbol indicating the donor has  
10 made an anatomical gift be included on a donor registry. If the  
11 donor or other person is physically unable to sign a record, the  
12 record may be signed by another individual at the direction of the  
13 donor or other person and must:

14           (1) be witnessed by at least two adults, at least one  
15 of whom is a disinterested witness, who have signed at the request  
16 of the donor or the other person; and

17           (2) state that the record has been signed and  
18 witnessed as provided in Subdivision (1).

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

22           (d) An anatomical gift made by will takes effect on the  
23 donor's death whether or not the will is probated. Invalidation of  
24 the will after the donor's death does not invalidate the gift.

25           Sec. 692A.006. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE  
26 DONOR'S DEATH. (a) Subject to Section 692A.008, a donor or other  
27 person authorized to make an anatomical gift under Section 692A.004

1 may amend or revoke an anatomical gift by:

2 (1) a record signed by:

3 (A) the donor;

4 (B) the other person; or

5 (C) subject to Subsection (b), another  
6 individual acting at the direction of the donor or the other person  
7 if the donor or other person is physically unable to sign; or

8 (2) a later-executed document of gift that amends or  
9 revokes a previous anatomical gift or portion of an anatomical  
10 gift, either expressly or by inconsistency.

11 (b) A record signed pursuant to Subsection (a)(1)(C) must:

12 (1) be witnessed by at least two adults, at least one  
13 of whom is a disinterested witness, who have signed at the request  
14 of the donor or the other person; and

15 (2) state that the record has been signed and  
16 witnessed as provided in Subdivision (1).

17 (c) Subject to Section 692A.008, a donor or other person  
18 authorized to make an anatomical gift under Section 692A.004 may  
19 revoke an anatomical gift by the destruction or cancellation of the  
20 document of gift, or the portion of the document of gift used to  
21 make the gift, with the intent to revoke the gift.

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

26 (e) A donor who makes an anatomical gift in a will may amend  
27 or revoke the gift in the manner provided for amendment or



1 revocation of wills or as provided in Subsection (a).

2 Sec. 692A.007. REFUSAL TO MAKE ANATOMICAL GIFT; EFFECT OF  
3 REFUSAL. (a) An individual may refuse to make an anatomical gift  
4 of the individual's body or part by:

5 (1) a record signed by:

6 (A) the individual; or

7 (B) subject to Subsection (b), another  
8 individual acting at the direction of the individual if the  
9 individual is physically unable to sign;

10 (2) the individual's will, whether or not the will is  
11 admitted to probate or invalidated after the individual's death; or

12 (3) any form of communication made by the individual  
13 during the individual's terminal illness or injury addressed to at  
14 least two adults, at least one of whom is a disinterested witness.

15 (b) A record signed pursuant to Subsection (a)(1)(B) must:

16 (1) be witnessed by at least two adults, at least one  
17 of whom is a disinterested witness, who have signed at the request  
18 of the individual; and

19 (2) state that the record has been signed and  
20 witnessed as provided in Subdivision (1).

21 (c) An individual who has made a refusal may amend or revoke  
22 the refusal:

23 (1) in the manner provided in Subsection (a) for  
24 making a refusal;

25 (2) by subsequently making an anatomical gift pursuant  
26 to Section 692A.005 that is inconsistent with the refusal; or

27 (3) by destroying or canceling the record evidencing

1 the refusal, or the portion of the record used to make the refusal,  
2 with the intent to revoke the refusal.

3 (d) Except as otherwise provided in Section 692A.008(h), in  
4 the absence of an express, contrary indication by the individual  
5 set forth in the refusal, an individual's unrevoked refusal to make  
6 an anatomical gift of the individual's body or part bars all other  
7 persons from making an anatomical gift of the individual's body or  
8 part.

9 Sec. 692A.008. PRECLUSIVE EFFECT OF ANATOMICAL GIFT,  
10 AMENDMENT, OR REVOCATION. (a) Except as otherwise provided in  
11 Subsection (g) and subject to Subsection (f), in the absence of an  
12 express, contrary indication by the donor, a person other than the  
13 donor is barred from making, amending, or revoking an anatomical  
14 gift of a donor's body or part if the donor made an anatomical gift  
15 of the donor's body or part under Section 692A.005 or an amendment  
16 to an anatomical gift of the donor's body or part under Section  
17 692A.006.

18 (b) A donor's revocation of an anatomical gift of the  
19 donor's body or part under Section 692A.006 is not a refusal and  
20 does not bar another person specified in Section 692A.004 or  
21 692A.009 from making an anatomical gift of the donor's body or part  
22 under Section 692A.005 or 692A.010.

23 (c) If a person other than the donor makes an unrevoked  
24 anatomical gift of the donor's body or part under Section 692A.005  
25 or an amendment to an anatomical gift of the donor's body or part  
26 under Section 692A.006, another person may not make, amend, or  
27 revoke the gift of the donor's body or part under Section 692A.010.

1       (d) A revocation of an anatomical gift of a donor's body or  
2 part under Section 692A.006 by a person other than the donor does  
3 not bar another person from making an anatomical gift of the body or  
4 part under Section 692A.005 or 692A.010.

5       (e) In the absence of an express, contrary indication by the  
6 donor or other person authorized to make an anatomical gift under  
7 Section 692A.004, an anatomical gift of a part is neither a refusal  
8 to give another part nor a limitation on the making of an anatomical  
9 gift of another part at a later time by the donor or another person.

10       (f) In the absence of an express, contrary indication by the  
11 donor or other person authorized to make an anatomical gift under  
12 Section 692A.004, an anatomical gift of a part for one or more of  
13 the purposes set forth in Section 692A.004 is not a limitation on  
14 the making of an anatomical gift of the part for any of the other  
15 purposes by the donor or any other person under Section 692A.005 or  
16 692A.010.

17       (g) If a donor who is an unemancipated minor dies, a parent  
18 of the donor who is reasonably available may revoke or amend an  
19 anatomical gift of the donor's body or part.

20       (h) If an unemancipated minor who signed a refusal dies, a  
21 parent of the minor who is reasonably available may revoke the  
22 minor's refusal.

23       Sec. 692A.009. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S  
24 BODY OR PART. (a) Subject to Subsections (b) and (c) and unless  
25 barred by Section 692A.007 or 692A.008, an anatomical gift of a  
26 decedent's body or part for the purpose of transplantation,  
27 therapy, research, or education may be made by any member of the

1 following classes of persons who is reasonably available, in the  
2 order of priority listed:

3 (1) an agent of the decedent at the time of death who  
4 could have made an anatomical gift under Section 692A.004(2)  
5 immediately before the decedent's death;

6 (2) the spouse of the decedent;

7 (3) adult children of the decedent;

8 (4) parents of the decedent;

9 (5) adult siblings of the decedent;

10 (6) adult grandchildren of the decedent;

11 (7) grandparents of the decedent;

12 (8) the persons who were acting as the guardians of the  
13 person of the decedent at the time of death;

14 (9) the hospital administrator; and

15 (10) any other person having the authority to dispose  
16 of the decedent's body.

17 (b) If there is more than one member of a class listed in  
18 Subsection (a)(1), (3), (4), (5), (6), (7), or (8) entitled to make  
19 an anatomical gift, an anatomical gift may be made by a member of  
20 the class unless that member or a person to which the gift may pass  
21 under Section 692A.011 knows of an objection by another member of  
22 the class. If an objection is known, the gift may be made only by a  
23 majority of the members of the class who are reasonably available.

24 (c) A person may not make an anatomical gift if, at the time  
25 of the decedent's death, a person in a prior class under Subsection  
26 (a) is reasonably available to make or to object to the making of an  
27 anatomical gift.

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

8       (b) Subject to Subsection (c), an anatomical gift by a  
9 person authorized under Section 692A.009 may be amended or revoked  
10 orally or in a record by any member of a prior class who is  
11 reasonably available. If more than one member of the prior class is  
12 reasonably available, the gift made by a person authorized under  
13 Section 692A.009 may be:

14           (1) amended only if a majority of the reasonably  
15 available members agree to the amending of the gift; or

16           (2) revoked only if a majority of the reasonably  
17 available members agree to the revoking of the gift or if they are  
18 equally divided as to whether to revoke the gift.

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

24       Sec. 692A.011. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT;  
25 PURPOSE OF ANATOMICAL GIFT. (a) An anatomical gift may be made to  
26 the following persons named in the document of gift:

27           (1) a hospital or organ procurement organization for

1 research or education;

2 (2) subject to Subsection (d), an individual  
3 designated by the person making the anatomical gift if the  
4 individual is the recipient of the part;

5 (3) an eye bank or tissue bank;

6 (4) a forensic science program at:

7 (A) a general academic teaching institution, as  
8 defined by Section 61.003(3), Education Code; or

9 (B) a private or independent institution of  
10 higher education, as defined by Section 61.003(15), Education Code;  
11 or

12 (5) the Anatomical Board of the State of Texas.

13 (b) Except for a donation to an organ procurement  
14 organization, eye bank, tissue bank, or forensic science program  
15 made for the purpose of therapy, transplantation, or research, the  
16 Anatomical Board of the State of Texas is the donee of a gift of a  
17 body or part made for purposes of education or research. The gift  
18 of the body or part is subject to distribution by the board under  
19 Chapter 691.

20 (c) A forensic science program that receives a donation  
21 under Subsection (a)(4) must submit a report to the Anatomical  
22 Board of the State of Texas on a quarterly basis that lists:

23 (1) the number of bodies or parts the program  
24 received; and

25 (2) the method in which the program used the bodies or  
26 parts for education or research purposes.

27 (d) If an anatomical gift to an individual under Subsection

1 (a)(2) cannot be transplanted into the individual, the part passes  
2 in accordance with Subsection (i) in the absence of an express,  
3 contrary indication by the person making the anatomical gift.

4 (e) If an anatomical gift of one or more specific parts or of  
5 all parts is made in a document of gift that does not name a person  
6 described in Subsection (a) but identifies the purpose for which an  
7 anatomical gift may be used, the following rules apply:

8 (1) if the part is an eye and the gift is for the  
9 purpose of transplantation or therapy, the gift passes to the  
10 appropriate eye bank;

11 (2) if the part is tissue and the gift is for the  
12 purpose of transplantation or therapy, the gift passes to the  
13 appropriate tissue bank; and

14 (3) if the part is an organ and the gift is for the  
15 purpose of transplantation or therapy, the gift passes to the  
16 appropriate organ procurement organization as custodian of the  
17 organ.

18 (f) For the purpose of Subsection (e), if there is more than  
19 one purpose of an anatomical gift set forth in the document of gift  
20 but the purposes are not set forth in any priority, the gift must be  
21 used for transplantation or therapy, if suitable. If the gift  
22 cannot be used for transplantation or therapy, the gift may be used  
23 for research or education.

24 (g) If an anatomical gift of one or more specific parts is  
25 made in a document of gift that does not name a person described in  
26 Subsection (a) and does not identify the purpose of the gift, the  
27 gift may be used only for transplantation or therapy, and the gift

1 passes in accordance with Subsection (i).

2 (h) If a document of gift specifies only a general intent to  
3 make an anatomical gift by words such as "donor," "organ donor," or  
4 "body donor," or by a symbol or statement of similar import, the  
5 gift may be used only for transplantation or therapy, and the gift  
6 passes in accordance with Subsection (i).

7 (i) For purposes of Subsections (d), (g), and (h), the  
8 following rules apply:

9 (1) if the part is an eye, the gift passes to the  
10 appropriate eye bank;

11 (2) if the part is tissue, the gift passes to the  
12 appropriate tissue bank; and

13 (3) if the part is an organ, the gift passes to the  
14 appropriate organ procurement organization as custodian of the  
15 organ.

16 (j) An anatomical gift of an organ for transplantation or  
17 therapy, other than an anatomical gift under Subsection (a)(2),  
18 passes to the organ procurement organization as custodian of the  
19 organ.

20 (k) If an anatomical gift does not pass pursuant to  
21 Subsections (a)-(j) or the decedent's body or part is not used for  
22 transplantation, therapy, research, or education, custody of the  
23 body or part passes to the person under obligation to dispose of the  
24 body or part.

25 (l) A person may not accept an anatomical gift if the person  
26 knows that the gift was not effectively made under Section 692A.005  
27 or 692A.010 or if the person knows that the decedent made a refusal



1 under Section 692A.007 that was not revoked. For purposes of this  
2 subsection, if a person knows that an anatomical gift was made on a  
3 document of gift, the person is deemed to know of any amendment or  
4 revocation of the gift or any refusal to make an anatomical gift on  
5 the same document of gift.

6 (m) Except as otherwise provided in Subsection (a)(2),  
7 nothing in this chapter affects the allocation of organs for  
8 transplantation or therapy.

9 (n) A donee may accept or reject a gift.

10 Sec. 692A.012. SEARCH AND NOTIFICATION. The donor card of a  
11 person who is involved in an accident or other trauma shall  
12 accompany the person to the hospital or other health care facility.  
13 The driver's license or personal identification certificate  
14 indicating an affirmative statement of gift of a person who is  
15 involved in an accident or other trauma shall accompany the person  
16 to the hospital or health care facility if the person does not have  
17 a donor card.

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

21 (b) On or after an individual's death, a person in  
22 possession of a document of gift or a refusal to make an anatomical  
23 gift with respect to the individual shall allow examination and  
24 copying of the document of gift or refusal by a person authorized to  
25 make or object to the making of an anatomical gift with respect to  
26 the individual or by a person to which the gift could pass under  
27 Section 692A.011.

1           Sec. 692A.014. RIGHTS AND DUTIES OF PROCUREMENT  
2 ORGANIZATION AND OTHERS. (a) When a hospital refers an individual  
3 at or near death to a procurement organization, the organization  
4 shall make a reasonable search of the records of the Department of  
5 Public Safety and any donor registry that it knows exists for the  
6 geographical area in which the individual resides to ascertain  
7 whether the individual has made an anatomical gift.

8           (b) A procurement organization must be allowed reasonable  
9 access to information in the records of the Department of Public  
10 Safety to ascertain whether an individual at or near death is a  
11 donor.

12           (c) When a hospital refers an individual at or near death to  
13 a procurement organization, the organization may conduct any  
14 reasonable examination necessary to ensure the medical suitability  
15 of a part that is or could be the subject of an anatomical gift for  
16 transplantation, therapy, research, or education from a donor or a  
17 prospective donor. During the examination period, measures  
18 necessary to ensure the medical suitability of the part may not be  
19 withdrawn unless the hospital or procurement organization knows  
20 that the individual expressed a contrary intent.

21           (d) Unless prohibited by law other than this chapter, at any  
22 time after a donor's death, the person to which a part passes under  
23 Section 692A.011 may conduct any reasonable examination necessary  
24 to ensure the medical suitability of the body or part for its  
25 intended purpose.

26           (e) Unless prohibited by law other than this chapter, an  
27 examination under Subsection (c) or (d) may include an examination

1 of all medical and dental records of the donor or prospective donor.

2 (f) On the death of a minor who was a donor or had signed a  
3 refusal, unless a procurement organization knows the minor is  
4 emancipated, the procurement organization shall conduct a  
5 reasonable search for the parents of the minor and provide the  
6 parents with an opportunity to revoke or amend the anatomical gift  
7 or revoke the refusal.

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

15 (h) Subject to Sections 692A.011(k) and 693.002, the rights  
16 of the person to which a part passes under Section 692A.011 are  
17 superior to the rights of all others with respect to the part. The  
18 person may accept or reject an anatomical gift wholly or partly.  
19 Subject to the terms of the document of gift and this chapter, a  
20 person that accepts an anatomical gift of an entire body may allow  
21 embalming, burial, or cremation, and use of remains in a funeral  
22 service. If the gift is of a part, the person to which the part  
23 passes under Section 692A.011, on the death of the donor and before  
24 embalming, burial, or cremation, shall cause the part to be removed  
25 without unnecessary mutilation.

26 (i) The physician who attends the decedent at death or the  
27 physician who determines the time of the decedent's death may not

1 participate in the procedures for removing or transplanting a part  
2 from the decedent.

3 (j) A physician or technician may remove a donated part from  
4 the body of a donor that the physician or technician is qualified to  
5 remove.

6 Sec. 692A.015. COORDINATION OF PROCUREMENT AND USE;  
7 HOSPITAL PROCEDURES. Each hospital in this state shall enter into  
8 agreements or affiliations with procurement organizations for  
9 coordination of procurement and use of anatomical gifts. Each  
10 hospital must have a protocol that ensures its maintenance of an  
11 effective donation system in order to maximize organ and tissue  
12 donation. The protocol must:

13 (1) be available to the public during the hospital's  
14 normal business hours;

15 (2) establish a procedure for notifying, in a timely  
16 manner, an organ procurement organization of individuals whose  
17 death is imminent or who have died in the hospital;

18 (3) establish procedures to ensure potential donors  
19 are declared dead by an appropriate practitioner in an acceptable  
20 time frame;

21 (4) establish procedures to ensure that hospital staff  
22 and organ procurement organization staff maintain appropriate  
23 medical treatment of potential donors while necessary testing and  
24 placement of potential donated organs, tissues, and eyes take  
25 place;

26 (5) ensure that all families are provided the  
27 opportunity to donate organs and tissues, including vascular organs

1 procured from asystolic donors;

2 (6) provide that the hospital use appropriately  
3 trained persons from an organ procurement organization, tissue  
4 bank, or eye bank to make inquiries relating to donations;

5 (7) provide for documentation of the inquiry and of  
6 its disposition in the decedent's medical records;

7 (8) require an organ procurement organization, tissue  
8 bank, or eye bank that makes inquiries relating to donations to  
9 develop a protocol for making those inquiries;

10 (9) encourage sensitivity to families' beliefs and  
11 circumstances in all discussions relating to the donations;

12 (10) provide that the organ procurement organization  
13 determines medical suitability for organ donation and, in the  
14 absence of alternative arrangements by the hospital, the organ  
15 procurement organization determines medical suitability for tissue  
16 and eye donation, using the definition of potential tissue and eye  
17 donor and the notification protocol developed in consultation with  
18 the tissue and eye banks identified by the hospital for this  
19 purpose;

20 (11) ensure that the hospital works cooperatively with  
21 the designated organ procurement organization, tissue bank, and eye  
22 bank in educating staff on donation issues;

23 (12) ensure that the hospital works with the  
24 designated organ procurement organization, tissue bank, and eye  
25 bank in reviewing death records; and

26 (13) provide for monitoring of donation system  
27 effectiveness, including rates of donation, protocols, and

1 policies, as part of the hospital's quality improvement program.

2 Sec. 692A.016. SALE OR PURCHASE OF PARTS PROHIBITED.

3 (a) Except as otherwise provided in Subsection (b), a person  
4 commits an offense if the person for valuable consideration  
5 knowingly purchases or sells a part for transplantation or therapy  
6 if removal of a part from an individual is intended to occur after  
7 the individual's death. An offense under this subsection is a Class  
8 A misdemeanor.

9 (b) A person may charge a reasonable amount for the removal,  
10 processing, preservation, quality control, storage,  
11 transportation, implantation, or disposal of a part.

12 (c) If conduct that constitutes an offense under this  
13 section also constitutes an offense under other law, the actor may  
14 be prosecuted under this section, the other law, or both this  
15 section and the other law.

16 Sec. 692A.017. OTHER PROHIBITED ACTS. (a) A person  
17 commits an offense if the person, in order to obtain a financial  
18 gain, intentionally falsifies, forges, conceals, defaces, or  
19 obliterates a document of gift, an amendment or revocation of a  
20 document of gift, or a refusal. An offense under this section is a  
21 Class A misdemeanor.

22 (b) If conduct that constitutes an offense under this  
23 section also constitutes an offense under other law, the actor may  
24 be prosecuted under this section, the other law, or both this  
25 section and the other law.

26 Sec. 692A.018. IMMUNITY. (a) A person who acts in good  
27 faith in accordance with this chapter is not liable for civil

1 damages or subject to criminal prosecution for the person's action  
2 if the prerequisites for an anatomical gift are met under the laws  
3 applicable at the time and place the gift is made.

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

8 (c) A person who acts in good faith in accordance with this  
9 chapter is not liable as a result of the action except in the case of  
10 an act or omission of the person that is intentional, wilfully or  
11 wantonly negligent, or done with conscious indifference or reckless  
12 disregard. For purposes of this subsection, "good faith" in  
13 determining the appropriate person authorized to make a donation  
14 under Section 692A.009 means making a reasonable effort to locate  
15 and contact the member or members of the highest priority class who  
16 are reasonably available at or near the time of death.

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

20 (e) In determining whether an anatomical gift has been made,  
21 amended, or revoked under this chapter, a person may rely on  
22 representations of an individual listed in Section 692A.009(a)(2),  
23 (3), (4), (5), (6), or (7) relating to the individual's  
24 relationship to the donor or prospective donor unless the person  
25 knows that the representation is untrue.

26 (f) In a civil action brought by a person listed in Section  
27 692A.009 who did not object before the removal of tissue or a body

1 part specified by Section 693.002, a medical examiner, justice of  
2 the peace, county judge, medical facility, physician acting on  
3 permission of a medical examiner, justice of the peace, or county  
4 judge, or person assisting a physician is not liable for damages on  
5 a theory of civil recovery based on a contention that the  
6 plaintiff's consent was required before the part or tissue could be  
7 removed.

8 Sec. 692A.019. LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO  
9 EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF VALIDITY. (a) A  
10 document of gift is valid if executed in accordance with:

11 (1) this chapter;

12 (2) the laws of the state or country where it was  
13 executed; or

14 (3) the laws of the state or country where the person  
15 making the anatomical gift was domiciled, has a place of residence,  
16 or was a national at the time the document of gift was executed.

17 (b) If a document of gift is valid under this section, the  
18 law of this state governs the interpretation of the document of  
19 gift.

20 (c) A person may presume that a document of gift or  
21 amendment of an anatomical gift is valid unless that person knows  
22 that it was not validly executed or was revoked.

23 Sec. 692A.020. DONOR REGISTRY. (a) In consultation with  
24 the Department of Public Safety and organ procurement  
25 organizations, the department shall establish the Donor Education,  
26 Awareness, and Registry Program of Texas.

27 (b) The department shall enter into an agreement with an



1 organization selected by the commissioner under a competitive  
2 proposal process for the establishment and maintenance of a  
3 statewide Internet-based registry of organ, tissue, and eye donors.  
4 Contingent on the continued availability of appropriations under  
5 Subsection (h), the term of the initial agreement is two years and  
6 may be renewed for two-year terms thereafter unless terminated in a  
7 written notice to the other party by the department or organization  
8 not later than the 180th day before the last day of a term.

9 (c) The Department of Public Safety at least monthly shall  
10 electronically transfer to the organization selected by the  
11 commissioner as provided by Subsection (b) the name, date of birth,  
12 driver's license number, most recent address, and any other  
13 relevant information in the possession of the Department of Public  
14 Safety for any person who indicates on the person's driver's license  
15 application under Section 521.401, Transportation Code, that the  
16 person would like to make an anatomical gift and consents in writing  
17 to the release of the information by the Department of Public Safety  
18 to the organization for inclusion in the Internet-based registry.

19 (d) The contract between the department and the  
20 organization selected by the commissioner as provided by Subsection  
21 (b) must require the organization to:

22 (1) make information obtained from the Department of  
23 Public Safety under Subsection (c) available to procurement  
24 organizations;

25 (2) allow potential donors to submit information in  
26 writing directly to the organization for inclusion in the  
27 Internet-based registry;

1           (3) maintain the Internet-based registry in a manner  
2 that allows procurement organizations to immediately access organ,  
3 tissue, and eye donation information 24 hours a day, seven days a  
4 week through electronic and telephonic methods; and

5           (4) protect the confidentiality and privacy of the  
6 individuals providing information to the Internet-based registry,  
7 regardless of the manner in which the information is provided.

8           (e) Except as otherwise provided by Subsection (d)(3) or  
9 this subsection, the Department of Public Safety, the organization  
10 selected by the commissioner under Subsection (b), or a procurement  
11 organization may not sell, rent, or otherwise share any information  
12 provided to the Internet-based registry. A procurement  
13 organization may share any information provided to the registry  
14 with an organ procurement organization or a health care provider or  
15 facility providing medical care to a potential donor as necessary  
16 to properly identify an individual at the time of donation.

17           (f) The Department of Public Safety, the organization  
18 selected by the commissioner under Subsection (b), or the  
19 procurement organizations may not use any demographic or specific  
20 data provided to the Internet-based registry for any fund-raising  
21 activities. Data may only be transmitted from the selected  
22 organization to procurement organizations through electronic and  
23 telephonic methods using secure, encrypted technology to preserve  
24 the integrity of the data and the privacy of the individuals  
25 providing information.

26           (g) In each office authorized to issue driver's licenses or  
27 personal identification certificates, the Department of Public

1 Safety shall make available educational materials developed by the  
2 Texas Organ, Tissue, and Eye Donor Council established under  
3 Chapter 113, as added by Chapter 1186, Acts of the 79th Legislature,  
4 Regular Session, 2005.

5 (h) The Department of Public Safety shall remit to the  
6 comptroller the money collected under Sections 521.421(g) and  
7 521.422(c), Transportation Code, as provided by those subsections.  
8 A county assessor-collector shall remit to the comptroller any  
9 money collected under Section 502.1745, Transportation Code, as  
10 provided by that section. Money remitted to the comptroller in  
11 accordance with those sections that is appropriated to the  
12 department must be spent in accordance with the priorities  
13 established by the department in consultation with the Texas Organ,  
14 Tissue, and Eye Donor Council to pay the costs of:

15 (1) maintaining, operating, and updating the  
16 Internet-based registry and establishing procedures for an  
17 individual to be added to the registry; and

18 (2) designing and distributing educational materials  
19 for prospective donors as required under this section.

20 (i) Any additional money over the amount necessary to  
21 accomplish the purposes of Subsections (h)(1) and (2) may be used by  
22 the department to provide education under this chapter or may be  
23 awarded using a competitive grant process to organizations to  
24 conduct organ, eye, and tissue donation education activities in  
25 this state. A member of the Texas Organ, Tissue, and Eye Donor  
26 Council may not receive a grant under this subsection.

27 (j) The department shall require the organization selected

1 under Subsection (b) to submit an annual written report to the  
2 department that includes:

3 (1) the number of donors listed on the Internet-based  
4 registry;

5 (2) changes in the number of donors listed on the  
6 registry; and

7 (3) the demographic characteristics of listed donors,  
8 to the extent the characteristics may be determined from  
9 information provided on donor registry forms submitted by donors to  
10 the organization.

11 (k) To the extent funds are available and as part of the  
12 donor registry program, the department shall educate residents  
13 about anatomical gifts. The program shall include information  
14 about:

15 (1) the laws governing anatomical gifts, including  
16 Subchapter Q, Chapter 521, Transportation Code, and this chapter;

17 (2) the procedures for becoming an organ, eye, or  
18 tissue donor or donee; and

19 (3) the benefits of organ, eye, or tissue donation.

20 (l) In developing the program, the department in  
21 consultation with the Texas Organ, Tissue, and Eye Donor Council  
22 shall solicit broad-based input reflecting recommendations of all  
23 interested groups, including representatives of patients,  
24 providers, ethnic groups, and geographic regions.

25 (m) In consultation with the Texas Organ, Tissue, and Eye  
26 Donor Council, the department may implement a training program for  
27 all appropriate Department of Public Safety and Texas Department of

1 Transportation employees on the benefits of organ, tissue, and eye  
2 donation and the procedures for individuals to be added to the  
3 Internet-based registry. The department shall implement the  
4 training program before the date that the registry is operational  
5 and shall conduct the training on an ongoing basis for new  
6 employees.

7 Sec. 692A.021. EFFECT OF ANATOMICAL GIFT ON ADVANCE  
8 DIRECTIVE. (a) In this section:

9 (1) "Advance directive" means a medical power of  
10 attorney or a record signed or authorized by a prospective donor  
11 containing the prospective donor's direction concerning a  
12 health-care decision for the prospective donor.

13 (2) "Declaration" means a record signed by a  
14 prospective donor specifying the circumstances under which a life  
15 support system may be withheld or withdrawn from the prospective  
16 donor.

17 (3) "Health-care decision" means any decision made  
18 regarding the health care of the prospective donor.

19 (b) If a prospective donor has a declaration or advance  
20 directive and the terms of the declaration or directive and the  
21 express or implied terms of a potential anatomical gift are in  
22 conflict with regard to the administration of measures necessary to  
23 ensure the medical suitability of a part for transplantation or  
24 therapy, the prospective donor's attending physician and  
25 prospective donor shall confer to resolve the conflict. If the  
26 prospective donor is incapable of resolving the conflict, an agent  
27 acting under the prospective donor's declaration or directive, or,

1 if the agent is not reasonably available, another person authorized  
2 by law other than this chapter to make health-care decisions on  
3 behalf of the prospective donor, shall act on the prospective  
4 donor's behalf to resolve the conflict. The conflict must be  
5 resolved as expeditiously as possible. Information relevant to the  
6 resolution of the conflict may be obtained from the appropriate  
7 procurement organization and any other person authorized to make an  
8 anatomical gift for the prospective donor under Section 692A.009.  
9 Before resolution of the conflict, measures necessary to ensure the  
10 medical suitability of the part may not be withheld or withdrawn  
11 from the prospective donor.

12 (c) If the conflict cannot be resolved, an expedited review  
13 of the matter must be initiated by an ethics or medical committee of  
14 the appropriate health care facility.

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

20 Sec. 692A.023. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL  
21 AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and  
22 supersedes the provisions of the Electronic Signatures in Global  
23 and National Commerce Act (15 U.S.C. Section 7001 et seq.), but does  
24 not modify, limit, or supersede Section 101(a) of that Act (15  
25 U.S.C. Section 7001(a)), or authorize electronic delivery of any of  
26 the notices described in Section 103(b) of that Act (15 U.S.C.  
27 Section 7003(b)).

1 SECTION 2. Section 241.153, Health and Safety Code, is  
2 amended to read as follows:

3 Sec. 241.153. DISCLOSURE WITHOUT WRITTEN AUTHORIZATION. A  
4 patient's health care information may be disclosed without the  
5 patient's authorization if the disclosure is:

6 (1) directory information, unless the patient has  
7 instructed the hospital not to make the disclosure or the directory  
8 information is otherwise protected by state or federal law;

9 (2) to a health care provider who is rendering health  
10 care to the patient when the request for the disclosure is made;

11 (3) to a transporting emergency medical services  
12 provider for the purpose of:

13 (A) treatment or payment, as those terms are  
14 defined by the regulations adopted under the Health Insurance  
15 Portability and Accountability Act of 1996 (Pub. L. No. 104-191);  
16 or

17 (B) the following health care operations  
18 described by the regulations adopted under the Health Insurance  
19 Portability and Accountability Act of 1996 (Pub. L. No. 104-191):

20 (i) quality assessment and improvement  
21 activities;

22 (ii) specified insurance functions;

23 (iii) conducting or arranging for medical  
24 reviews; or

25 (iv) competency assurance activities;

26 (4) to a member of the clergy specifically designated  
27 by the patient;

1           (5) to a [~~qualified organ or tissue~~] procurement  
2 organization as defined in Section 692A.002 [~~692.002~~] for the  
3 purpose of making inquiries relating to donations according to the  
4 protocol referred to in Section 692A.015 [~~692.013(d)~~];

5           (6) to a prospective health care provider for the  
6 purpose of securing the services of that health care provider as  
7 part of the patient's continuum of care, as determined by the  
8 patient's attending physician;

9           (7) to a person authorized to consent to medical  
10 treatment under Chapter 313 or to a person in a circumstance  
11 exempted from Chapter 313 to facilitate the adequate provision of  
12 treatment;

13           (8) to an employee or agent of the hospital who  
14 requires health care information for health care education, quality  
15 assurance, or peer review or for assisting the hospital in the  
16 delivery of health care or in complying with statutory, licensing,  
17 accreditation, or certification requirements and if the hospital  
18 takes appropriate action to ensure that the employee or agent:

19                   (A) will not use or disclose the health care  
20 information for any other purpose; and

21                   (B) will take appropriate steps to protect the  
22 health care information;

23           (9) to a federal, state, or local government agency or  
24 authority to the extent authorized or required by law;

25           (10) to a hospital that is the successor in interest to  
26 the hospital maintaining the health care information;

27           (11) to the American Red Cross for the specific



1 purpose of fulfilling the duties specified under its charter  
2 granted as an instrumentality of the United States government;

3 (12) to a regional poison control center, as the term  
4 is used in Chapter 777, to the extent necessary to enable the center  
5 to provide information and education to health professionals  
6 involved in the management of poison and overdose victims,  
7 including information regarding appropriate therapeutic use of  
8 medications, their compatibility and stability, and adverse drug  
9 reactions and interactions;

10 (13) to a health care utilization review agent who  
11 requires the health care information for utilization review of  
12 health care under Chapter 4201 [~~Article 21.58A~~], Insurance Code;

13 (14) for use in a research project authorized by an  
14 institutional review board under federal law;

15 (15) to health care personnel of a penal or other  
16 custodial institution in which the patient is detained if the  
17 disclosure is for the sole purpose of providing health care to the  
18 patient;

19 (16) to facilitate reimbursement to a hospital, other  
20 health care provider, or the patient for medical services or  
21 supplies;

22 (17) to a health maintenance organization for purposes  
23 of maintaining a statistical reporting system as required by a rule  
24 adopted by a state agency or regulations adopted under the federal  
25 Health Maintenance Organization Act of 1973, as amended (42 U.S.C.  
26 Section 300e et seq.);

27 (18) to satisfy a request for medical records of a

1 deceased or incompetent person pursuant to Section 74.051(e), Civil  
2 Practice and Remedies Code;

3 (19) to comply with a court order except as provided by  
4 Subdivision (20); or

5 (20) related to a judicial proceeding in which the  
6 patient is a party and the disclosure is requested under a subpoena  
7 issued under:

8 (A) the Texas Rules of Civil Procedure or Code of  
9 Criminal Procedure; or

10 (B) Chapter 121, Civil Practice and Remedies  
11 Code.

12 SECTION 3. Subsection (d), Section 691.030, Health and  
13 Safety Code, is amended to read as follows:

14 (d) The board may transport a body or anatomical specimen to  
15 an authorized recipient in another state if the board determines  
16 that the supply of bodies or anatomical specimens in this state  
17 exceeds the need for bodies or anatomical specimens in this state  
18 and if:

19 (1) the deceased donated his body in compliance with  
20 Section 691.028 and at the time of the donation authorized the board  
21 to transport the body outside this state; or

22 (2) the body was donated in compliance with Chapter  
23 692A [~~692 (Texas Anatomical Gift Act)~~] and the person authorized to  
24 make the donation under Section 692A.009 [~~692.004~~] authorized the  
25 board to transport the body outside this state.

26 SECTION 4. Subsection (a), Section 693.002, Health and  
27 Safety Code, is amended by amending Subdivisions (1), (2), and (4)

1 and adding Subdivisions (2-a) and (5-a) to read as follows:

2 (1) On a request from an [~~a qualified~~] organ  
3 procurement organization, as defined by [~~in~~] Section 692A.002  
4 [~~692.002~~], the medical examiner, justice of the peace, county  
5 judge, or physician designated by the justice of the peace or county  
6 judge may permit the removal of organs from a decedent who died  
7 under circumstances requiring an inquest by the medical examiner,  
8 justice of the peace, or county judge if consent is obtained  
9 pursuant to Sections 692A.005 through 692A.010 or Section 693.003.

10 (2) If no autopsy is required, the organs to be  
11 transplanted shall be released in a timely manner to the  
12 [~~qualified~~] organ procurement organization, as defined by [~~in~~]  
13 Section 692A.002 [~~692.002~~], for removal and transplantation.

14 (2-a) Within one hour of pronouncement of death, or  
15 within one hour of consent on an asystolic organ donor, the organ  
16 procurement organization shall notify the medical examiner,  
17 justice of the peace, county judge, or designated physician of any  
18 death requiring an inquest that falls under that person's  
19 jurisdiction.

20 (4) If the medical examiner is considering withholding  
21 one or more organs of a potential donor for any reason, the medical  
22 examiner shall be present during the removal of the organs. In such  
23 case, the medical examiner may request a biopsy of those organs or  
24 deny removal of the anatomical gift. If the medical examiner denies  
25 removal of the anatomical gift, the medical examiner shall explain  
26 in writing the reasons for the denial. The medical examiner shall  
27 provide the explanation to:

1 (A) the ~~[qualified]~~ organ procurement  
2 organization; and

3 (B) any person listed in Section 692A.009 or  
4 693.004 who consented to the removal.

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

12 SECTION 5. Subsection (b), Section 693.002, Health and  
13 Safety Code, is amended to read as follows:

14 (b) On a request from a ~~[qualified]~~ tissue bank ~~[procurement~~  
15 ~~organization]~~, as defined by ~~[in]~~ Section 692A.002 ~~[692.002]~~, the  
16 medical examiner may permit the removal of tissue believed to be  
17 clinically usable for transplants or other therapy or treatment  
18 from a decedent who died under circumstances requiring an inquest  
19 if consent is obtained pursuant to Sections 692A.005 through  
20 692A.010 or Section 693.003 or, if consent is not required by those  
21 sections ~~[that section]~~, no objection by a person listed in Section  
22 692A.009 or 693.004 is known by the medical examiner. If the  
23 medical examiner denies removal of the tissue, the medical examiner  
24 shall explain in writing the reasons for the denial. The medical  
25 examiner shall provide the explanation to:

26 (1) the ~~[qualified]~~ tissue bank ~~[procurement~~  
27 ~~organization]~~; and

1           (2) the person listed in Section 692A.009 or 693.004  
2 who consented to the removal.

3           SECTION 6. Section 693.003, Health and Safety Code, is  
4 amended to read as follows:

5           Sec. 693.003. CONSENT NOT REQUIRED IN CERTAIN  
6 CIRCUMSTANCES. [~~(a) A medical examiner or a person acting on the~~  
7 ~~authority of a medical examiner may not remove a visceral organ~~  
8 ~~unless the medical examiner or person obtains the consent of a~~  
9 ~~person listed in Section 693.004.~~

10          [~~(b) If a person listed in Section 693.004 is known and~~  
11 ~~available within four hours after death is pronounced, a medical~~  
12 ~~examiner or a person acting on the authority of a medical examiner~~  
13 ~~may not remove a nonvisceral organ or tissue unless the medical~~  
14 ~~examiner or person obtains that person's consent.~~

15          [~~(c)~~] If a person listed in Section 692A.009 or 693.004  
16 cannot be identified and contacted within 12 [~~four~~] hours after  
17 death is pronounced and either a county court or [~~the~~] medical  
18 examiner determines that no reasonable likelihood exists that a  
19 person can be identified and contacted during the 12-hour  
20 [~~four-hour~~] period, the county court or medical examiner may permit  
21 the removal of a visceral [~~nonvisceral~~] organ or tissue.

22          SECTION 7. Section 693.005, Health and Safety Code, is  
23 amended to read as follows:

24          Sec. 693.005. IMMUNITY FROM DAMAGES IN CIVIL ACTION. In a  
25 civil action brought by a person listed in Section 692A.009 or  
26 693.004 who did not object before the removal of tissue or a body  
27 part specified by Section 693.002, a medical examiner, justice of

1 the peace, county judge, medical facility, physician acting on  
2 permission of a medical examiner, justice of the peace, or county  
3 judge, or person assisting a physician is not liable for damages on  
4 a theory of civil recovery based on a contention that the  
5 plaintiff's consent was required before the body part or tissue  
6 could be removed.

7 SECTION 8. Section 693.006, Health and Safety Code, is  
8 amended to read as follows:

9 Sec. 693.006. REMOVAL OF CORNEAL TISSUE. On a request from  
10 an eye bank, as defined in Section 692A.002 [~~692.002~~], the medical  
11 examiner, justice of the peace, county judge, or physician  
12 designated by the justice of the peace or county judge may permit  
13 the removal of corneal tissue subject to the same provisions that  
14 apply to removal of a visceral organ on the request of a [an organ]  
15 procurement organization under this subchapter. The provisions of  
16 Chapter 692A [~~this subchapter~~] relating to immunity and consent  
17 apply to the removal of the corneal tissue.

18 SECTION 9. Subsections (b) and (c), Section 521.401,  
19 Transportation Code, are amended to read as follows:

20 (b) The statement of gift may be shown on a donor's driver's  
21 license or personal identification certificate or by a card  
22 designed to be carried by the donor to evidence the donor's  
23 intentions with respect to organ, tissue, and eye donation. A donor  
24 card signed by the donor shall be given effect as if executed  
25 pursuant to Section 692A.005 [~~692.003(d)~~], Health and Safety Code.

26 (c) Donor cards shall be provided to the department by  
27 [qualified] organ [or tissue] procurement organizations, tissue

1 banks, or eye banks, as those terms are defined in Section 692A.002  
2 [~~692.002~~], Health and Safety Code, or by the Donor Education,  
3 Awareness, and Registry Program of Texas established under Chapter  
4 49, Health and Safety Code. The department shall:

5 (1) provide to each applicant for the issuance of an  
6 original, renewal, corrected, or duplicate driver's license or  
7 personal identification certificate who applies in person, by mail,  
8 over the Internet, or by other electronic means:

9 (A) the opportunity to indicate on the person's  
10 driver's license or personal identification certificate that the  
11 person is willing to make an anatomical gift, in the event of death,  
12 in accordance with Section 692A.005 [~~692.003~~], Health and Safety  
13 Code; and

14 (B) an opportunity for the person to consent in  
15 writing to the department's provision of the person's name, date of  
16 birth, driver's license number, most recent address, and other  
17 information needed for identification purposes at the time of  
18 donation to the organization selected by the commissioner of state  
19 health services under Section 692A.020 [~~Chapter 49~~], Health and  
20 Safety Code, for inclusion in the statewide Internet-based registry  
21 of organ, tissue, and eye donors and for release to procurement  
22 [~~qualified organ, tissue, and eye bank~~] organizations; and

23 (2) provide a means to distribute donor cards to  
24 interested individuals in each office authorized to issue driver's  
25 licenses or personal identification certificates.

26 SECTION 10. Subsection (f), Section 651.407, Occupations  
27 Code, is amended to read as follows:

1           (f) This section does not apply to a dead human body  
2 obtained by a school or college of mortuary science under Chapter  
3 691 or 692A [~~692~~], Health and Safety Code.

4           SECTION 11. The following provisions are repealed:

- 5                   (1) Section 49.002, Health and Safety Code;
- 6                   (2) Chapter 692, Health and Safety Code;
- 7                   (3) Section 521.403, Transportation Code; and
- 8                   (4) Section 521.404, Transportation Code.

9           SECTION 12. This Act takes effect September 1, 2007.