

By: Janek

S.B. No. 1597

A BILL TO BE ENTITLED

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 not
12 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 Section 692A.009 from making an anatomical gift of the donor's body
22 or part under Section 692A.005 or Section 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 Section 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 Section 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 Section 692A.008, an anatomical gift
26 of a 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) an adult who exhibited special care and concern
13 for the decedent;

14 (9) the persons who were acting as the guardians of the
15 person of the decedent at the time of death;

16 (10) hospital administrator; and

17 (11) any other person having the authority to dispose
18 of the decedent's body.

19 (b) If there is more than one member of a class listed in
20 Subsection (a)(1), (3), (4), (5), (6), (7), or (9) entitled to make
21 an anatomical gift, an anatomical gift may be made by a member of
22 the class unless that member or a person to which the gift may pass
23 under Section 692A.011 knows of an objection by another member of
24 the class. If an objection is known, the gift may be made only by a
25 majority of the members of the class who are reasonably available.

26 (c) A person may not make an anatomical gift if, at the time
27 of the decedent's death, a person in a prior class under Subsection

1 (a) is reasonably available to make or to object to the making of an
2 anatomical gift.

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

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

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

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

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

26 Sec. 692A.011. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT;
27 PURPOSE OF ANATOMICAL GIFT. (a) An anatomical gift may be made to

1 the following persons named in the document of gift:

2 (1) a hospital, accredited medical school, dental
3 school, college or university, organ procurement organization, or
4 other appropriate person for research or education;

5 (2) subject to Subsection (b), an individual
6 designated by the person making the anatomical gift if the
7 individual is the recipient of the part; or

8 (3) an eye bank or tissue bank.

9 (b) If an anatomical gift to an individual under Subsection
10 (a)(2) cannot be transplanted into the individual, the part passes
11 in accordance with Subsection (g) in the absence of an express,
12 contrary indication by the person making the anatomical gift.

13 (c) If an anatomical gift of one or more specific parts or of
14 all parts is made in a document of gift that does not name a person
15 described in Subsection (a) but identifies the purpose for which an
16 anatomical gift may be used, the following rules apply:

17 (1) if the part is an eye and the gift is for the
18 purpose of transplantation or therapy, the gift passes to the
19 appropriate eye bank;

20 (2) if the part is tissue and the gift is for the
21 purpose of transplantation or therapy, the gift passes to the
22 appropriate tissue bank;

23 (3) if the part is an organ and the gift is for the
24 purpose of transplantation or therapy, the gift passes to the
25 appropriate organ procurement organization as custodian of the
26 organ; and

27 (4) if the part is an organ, an eye, or tissue and the

1 gift is for the purpose of research or education, the gift passes to
2 the appropriate procurement organization.

3 (d) For the purpose of Subsection (c), if there is more than
4 one purpose of an anatomical gift set forth in the document of gift
5 but the purposes are not set forth in any priority, the gift must be
6 used for transplantation or therapy, if suitable. If the gift
7 cannot be used for transplantation or therapy, the gift may be used
8 for research or education.

9 (e) If an anatomical gift of one or more specific parts is
10 made in a document of gift that does not name a person described in
11 Subsection (a) and does not identify the purpose of the gift, the
12 gift may be used only for transplantation or therapy, and the gift
13 passes in accordance with Subsection (g).

14 (f) If a document of gift specifies only a general intent to
15 make an anatomical gift by words such as "donor," "organ donor," or
16 "body donor," or by a symbol or statement of similar import, the
17 gift may be used only for transplantation or therapy, and the gift
18 passes in accordance with Subsection (g).

19 (g) For purposes of Subsections (b), (e), and (f), the
20 following rules apply:

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

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

25 (3) if the part is an organ, the gift passes to the
26 appropriate organ procurement organization as custodian of the
27 organ.

1 (h) An anatomical gift of an organ for transplantation or
2 therapy, other than an anatomical gift under Subsection (a)(2),
3 passes to the organ procurement organization as custodian of the
4 organ.

5 (i) If an anatomical gift does not pass pursuant to
6 Subsections (a) through (h) or the decedent's body or part is not
7 used for transplantation, therapy, research, or education, custody
8 of the body or part passes to the person under obligation to dispose
9 of the body or part.

10 (j) A person may not accept an anatomical gift if the person
11 knows that the gift was not effectively made under Section 692A.005
12 or Section 692A.010 or if the person knows that the decedent made a
13 refusal under Section 692A.007 that was not revoked. For purposes
14 of this subsection, if a person knows that an anatomical gift was
15 made on a document of gift, the person is deemed to know of any
16 amendment or revocation of the gift or any refusal to make an
17 anatomical gift on the same document of gift.

18 (k) Except as otherwise provided in Subsection (a)(2),
19 nothing in this chapter affects the allocation of organs for
20 transplantation or therapy.

21 Sec. 692A.012. SEARCH AND NOTIFICATION. The donor card of a
22 person who is involved in an accident or other trauma shall
23 accompany the person to the hospital or other health care facility.
24 The driver's license or personal identification certificate
25 indicating an affirmative statement of gift of a person who is
26 involved in an accident or other trauma shall accompany the person
27 to the hospital or health care facility if the person does not have

1 a donor card.

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

5 (b) On or after an individual's death, a person in
6 possession of a document of gift or a refusal to make an anatomical
7 gift with respect to the individual shall allow examination and
8 copying of the document of gift or refusal by a person authorized to
9 make or object to the making of an anatomical gift with respect to
10 the individual or by a person to which the gift could pass under
11 Section 692A.011.

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

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

23 (c) When a hospital refers an individual at or near death to
24 a procurement organization, the organization may conduct any
25 reasonable examination necessary to ensure the medical suitability
26 of a part that is or could be the subject of an anatomical gift for
27 transplantation, therapy, research, or education from a donor or a

1 prospective donor. During the examination period, measures
2 necessary to ensure the medical suitability of the part may not be
3 withdrawn unless the hospital or procurement organization knows
4 that the individual expressed a contrary intent.

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

10 (e) Unless prohibited by law other than this chapter, an
11 examination under Subsection (c) or (d) may include an examination
12 of all medical and dental records of the donor or prospective donor.

13 (f) On the death of a minor who was a donor or had signed a
14 refusal, unless a procurement organization knows the minor is
15 emancipated, the procurement organization shall conduct a
16 reasonable search for the parents of the minor and provide the
17 parents with an opportunity to revoke or amend the anatomical gift
18 or revoke the refusal.

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

26 (h) Subject to Sections 692A.011(i) and 692A.023, the
27 rights of the person to which a part passes under Section 692A.011

1 are superior to the rights of all others with respect to the part.
2 The person may accept or reject an anatomical gift wholly or partly.
3 Subject to the terms of the document of gift and this chapter, a
4 person that accepts an anatomical gift of an entire body may allow
5 embalming, burial or cremation, and use of remains in a funeral
6 service. If the gift is of a part, the person to which the part
7 passes under Section 692A.011, on the death of the donor and before
8 embalming, burial, or cremation, shall cause the part to be removed
9 without unnecessary mutilation.

10 (i) The physician who attends the decedent at death or the
11 physician who determines the time of the decedent's death may not
12 participate in the procedures for removing or transplanting a part
13 from the decedent.

14 (j) A physician or technician may remove a donated part from
15 the body of a donor that the physician or technician is qualified to
16 remove.

17 Sec. 692A.015. COORDINATION OF PROCUREMENT AND USE;
18 HOSPITAL PROCEDURES. Each hospital in this state shall enter into
19 agreements or affiliations with procurement organizations for
20 coordination of procurement and use of anatomical gifts. Each
21 hospital must have a protocol that ensures its maintenance of an
22 effective donation system in order to maximize organ and tissue
23 donation. The protocol must:

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

26 (2) establish a procedure for notifying, in a timely
27 manner, an organ procurement organization of individuals whose

1 death is imminent or who have died in the hospital;

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

5 (4) establish procedures to ensure that hospital staff
6 and organ procurement organization staff maintain appropriate
7 medical treatment of potential donors while necessary testing and
8 placement of potential donated organs, tissues, and eyes take
9 place;

10 (5) ensure that all families are provided the
11 opportunity to donate organs and tissues, including vascular organs
12 procured from asystolic donors;

13 (6) provide that the hospital use appropriately
14 trained persons from an organ or tissue procurement organization to
15 make inquiries relating to donations;

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

18 (8) require an organ or tissue procurement
19 organization that makes inquiries relating to donations to develop
20 a protocol for making those inquiries;

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

23 (10) provide that the organ procurement organization
24 determines medical suitability for organ donation and, in the
25 absence of alternative arrangements by the hospital, the organ
26 procurement organization determines medical suitability for tissue
27 and eye donation, using the definition of potential tissue and eye

1 donor and the notification protocol developed in consultation with
2 the tissue and eye banks identified by the hospital for this
3 purpose;

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

7 (12) ensure that the hospital works with the
8 designated organ procurement organization, tissue bank, and eye
9 bank in reviewing death records; and

10 (13) provide for monitoring of donation system
11 effectiveness, including rates of donation, protocols, and
12 policies, as part of the hospital's quality improvement program.

13 Sec. 692A.016. SALE OR PURCHASE OF PARTS PROHIBITED. (a)
14 Except as otherwise provided in Subsection (b), a person commits an
15 offense if the person for valuable consideration knowingly
16 purchases or sells a part for transplantation or therapy if removal
17 of a part from an individual is intended to occur after the
18 individual's death. An offense under this subsection is a Class A
19 misdemeanor.

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

23 Sec. 692A.017. OTHER PROHIBITED ACTS. A person commits an
24 offense if the person, in order to obtain a financial gain,
25 intentionally falsifies, forges, conceals, defaces, or obliterates
26 a document of gift, an amendment or revocation of a document of
27 gift, or a refusal. An offense under this section is a Class A

1 misdemeanor.

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

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

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

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

23 (e) In determining whether an anatomical gift has been made,
24 amended, or revoked under this chapter, a person may rely on
25 representations of an individual listed in Section 692A.009(a)(2),
26 (3), (4), (5), (6), (7), or (8) relating to the individual's
27 relationship to the donor or prospective donor unless the person

1 knows that the representation is untrue.

2 (f) In a civil action brought by a person listed in Section
3 692A.009 who did not object before the removal of tissue or a part
4 specified by Section 693A.023, a medical examiner, justice of the
5 peace, county judge, medical facility, physician acting on
6 permission of a medical examiner, justice of the peace, or county
7 judge, or person assisting a physician is not liable for damages on
8 a theory of civil recovery based on a contention that the
9 plaintiff's consent was required before the part or tissue could be
10 removed.

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

14 (1) this chapter;

15 (2) the laws of the state or country where it was
16 executed; or

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

20 (b) If a document of gift is valid under this section, the
21 law of this state governs the interpretation of the document of
22 gift.

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

26 Sec. 692A.020. DONOR REGISTRY. (a) In consultation with
27 the Department of Public Safety and organ procurement

1 organizations, the department shall establish the Donor Education,
2 Awareness, and Registry Program of Texas.

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

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

22 (d) The contract between the department and the
23 organization selected by the commissioner as provided by Subsection
24 (b) must require the organization to:

25 (1) make information obtained from the Department of
26 Public Safety under Subsection (c) available to qualified organ,
27 tissue, and eye bank organizations;

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

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

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

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

22 (f) The Department of Public Safety, the organization
23 selected by the commissioner under Subsection (b), or the qualified
24 organ, tissue, and eye bank organizations may not use any
25 demographic or specific data provided to the Internet-based
26 registry for any fund-raising activities. Data may only be
27 transmitted from the selected organization to qualified organ,

1 tissue, and eye bank organizations through electronic and
2 telephonic methods using secure, encrypted technology to preserve
3 the integrity of the data and the privacy of the individuals
4 providing information.

5 (g) In each office authorized to issue driver's licenses or
6 personal identification certificates, the Department of Public
7 Safety shall make available educational materials developed by the
8 Texas Organ, Tissue, and Eye Donor Council established under
9 Chapter 113, as added by Chapter 1186, Acts of the 79th Legislature,
10 Regular Session, 2005.

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

21 (1) maintaining, operating, and updating the
22 Internet-based registry and establishing procedures for an
23 individual to be added to the registry; and

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

26 (i) Any additional money over the amount necessary to
27 accomplish the purposes of Subsections (h)(1) and (2) may be used by

1 the department to provide education under this chapter or may be
2 awarded using a competitive grant process to organizations to
3 conduct organ, eye, and tissue donation education activities in
4 this state. A member of the Texas Organ, Tissue, and Eye Donor
5 Council may not receive a grant under this subsection.

6 (j) The department shall require the organization selected
7 under Subsection (b) to submit an annual written report to the
8 department that includes:

9 (1) the number of donors listed on the Internet-based
10 registry;

11 (2) changes in the number of donors listed on the
12 registry; and

13 (3) the demographic characteristics of listed donors,
14 to the extent the characteristics may be determined from
15 information provided on donor registry forms submitted by donors to
16 the organization.

17 (k) To the extent funds are available and as part of the
18 donor registry program, the department shall educate residents
19 about anatomical gifts. The program shall include information
20 about:

21 (1) the laws governing anatomical gifts, including
22 Subchapter Q, Chapter 521, Transportation Code, and Chapter 692;

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

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

26 (l) In developing the program, the department in
27 consultation with the Texas Organ, Tissue, and Eye Donor Council

1 shall solicit broad-based input reflecting recommendations of all
2 interested groups, including representatives of patients,
3 providers, ethnic groups, and geographic regions.

4 (m) In consultation with the Texas Organ, Tissue, and Eye
5 Donor Council, the department may implement a training program for
6 all appropriate Department of Public Safety and Texas Department of
7 Transportation employees on the benefits of organ, tissue, and eye
8 donation and the procedures for individuals to be added to the
9 Internet-based registry. The department shall implement the
10 training program before the date that the registry is operational
11 and shall conduct the training on an ongoing basis for new
12 employees.

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

15 (1) "Advance directive" means a medical power of
16 attorney or a record signed by a prospective donor containing the
17 prospective donor's direction concerning a health-care decision
18 for the prospective donor.

19 (2) "Declaration" means a record signed by a
20 prospective donor specifying the circumstances under which a life
21 support system may be withheld or withdrawn from the prospective
22 donor.

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

25 (b) If a prospective donor has a declaration or an advance
26 directive, measures necessary to ensure the medical suitability of
27 an organ for transplantation or therapy may not be withheld or

1 withdrawn from the prospective donor, unless the directive or
2 declaration expressly provides to the contrary.

3 Sec. 692A.022. COOPERATION BETWEEN MEDICAL EXAMINER AND
4 PROCUREMENT ORGANIZATION. (a) A medical examiner, justice of the
5 peace, county judge, or physician designated by the justice of the
6 peace or county judge shall cooperate with procurement
7 organizations to maximize the opportunity to recover anatomical
8 gifts for the purpose of transplantation, therapy, research, or
9 education.

10 (b) If a medical examiner, justice of the peace, county
11 judge, or physician designated by the justice of the peace or county
12 judge receives notice from a procurement organization that an
13 anatomical gift might be available or was made with respect to a
14 decedent whose body is under the jurisdiction of the medical
15 examiner, justice of the peace, county judge, or physician
16 designated by the justice of the peace or county judge and a
17 postmortem examination is going to be performed, unless the medical
18 examiner, justice of the peace, county judge, or physician
19 designated by the justice of the peace or county judge denies
20 recovery in accordance with Section 692A.023, the medical examiner,
21 justice of the peace, county judge, or physician designated by the
22 justice of the peace or county judge shall conduct a postmortem
23 examination of the body or part in a manner and within a period
24 compatible with preservation for the purposes of the gift.

25 (c) A part may not be removed from the body of a decedent
26 under the jurisdiction of a medical examiner, justice of the peace,
27 county judge, or physician designated by the justice of the peace or

1 county judge for transplantation, therapy, research, or education
2 unless the part is the subject of an anatomical gift. The body of a
3 decedent under the jurisdiction of the medical examiner, justice of
4 the peace, county judge, or physician designated by the justice of
5 the peace or county judge may not be delivered to a person for
6 research or education unless the body is the subject of an
7 anatomical gift. This subsection does not preclude a medical
8 examiner, justice of the peace, county judge, or physician
9 designated by the justice of the peace or county judge from
10 performing the investigation on the body or parts of a decedent
11 under the jurisdiction of the medical examiner, justice of the
12 peace, county judge, or physician designated by the justice of the
13 peace or county judge.

14 Sec. 692A.023. REMOVAL OF BODY PART OR TISSUE FROM DECEDENT
15 WHO DIED UNDER CIRCUMSTANCES REQUIRING AN INQUEST. (a) On a
16 request from a qualified organ procurement organization, as
17 described by Section 692A.002, the medical examiner, justice of the
18 peace, county judge, or physician designated by the justice of the
19 peace or county judge may permit the removal of organs from a
20 decedent who died under circumstances requiring an inquest by the
21 medical examiner, justice of the peace, or county judge if consent
22 is obtained pursuant to Sections 692A.005 through 692A.010 or
23 Section 693.003.

24 (b) If no autopsy is required, the organs to be transplanted
25 shall be released in a timely manner to the qualified organ
26 procurement organization, as defined in Section 692A.002, for
27 removal and transplantation.

1 (c) If an autopsy is required and the medical examiner,
2 justice of the peace, county judge, or designated physician
3 determines that the removal of the organs will not interfere with
4 the subsequent course of an investigation or autopsy, the organs
5 shall be released in a timely manner for removal and
6 transplantation. The autopsy will be performed in a timely manner
7 following the removal of the organs.

8 (d) If the medical examiner is considering withholding one
9 or more organs of a potential donor for any reason, the medical
10 examiner shall be present during the removal of the organs. In such
11 case, the medical examiner may request a biopsy of those organs or
12 deny removal of the anatomical gift. If the medical examiner denies
13 removal of the anatomical gift, the medical examiner shall explain
14 in writing the reasons for the denial. The medical examiner shall
15 provide the explanation to:

16 (1) the qualified organ procurement organization; and
17 (2) any person listed in Section 692A.009 who
18 consented to the removal.

19 (e) If the autopsy is not being performed by a medical
20 examiner and one or more organs may be withheld, the justice of the
21 peace, county judge, or designated physician shall be present
22 during the removal of the organs and may request the biopsy or deny
23 removal of the anatomical gift. If removal of the anatomical gift
24 is denied, the justice of the peace, county judge, or physician
25 shall provide the written explanations required by Subsection (d).

26 (f) If, in performing the duties required by this section,
27 the medical examiner or, in those cases in which an autopsy is not

1 performed by a medical examiner, the justice of the peace, county
2 judge, or designated physician is required to be present at the
3 hospital to examine the decedent prior to removal of the organs or
4 during the procedure to remove the organs, the qualified organ
5 procurement organization shall on request reimburse the county or
6 the entity designated by the county for the actual costs incurred in
7 performing such duties, not to exceed \$1,000. The reimbursements
8 shall be deposited in the general fund of the county. The payment
9 shall be applied to the additional costs incurred by the office of
10 the medical examiner, justice of the peace, or county judge in
11 performing such duties, including the cost of providing coverage
12 beyond regular business hours. The payment shall be used to
13 facilitate the timely procurement of organs in a manner consistent
14 with the preservation of the organs for the purposes of
15 transplantation.

16 (g) At the request of the medical examiner or, in those
17 cases in which an autopsy is not performed by a medical examiner,
18 the justice of the peace, county judge, or designated physician,
19 the health care professional removing organs from a decedent who
20 died under circumstances requiring an inquest shall file with the
21 medical examiner, justice of the peace, or county judge a report
22 detailing the condition of the organs removed and their
23 relationship, if any, to the cause of death.

24 (h) On a request from a qualified tissue bank as described
25 by Section 692A.002, the medical examiner may permit the removal of
26 tissue believed to be clinically usable for transplants or other
27 therapy or treatment from a decedent who died under circumstances

1 requiring an inquest if consent is obtained pursuant to Sections
2 692A.005 through 692A.010. If the medical examiner denies removal
3 of the tissue, the medical examiner shall explain in writing the
4 reasons for the denial. The medical examiner shall provide the
5 explanation to:

6 (1) the qualified tissue bank; and

7 (2) the person listed in Section 692A.009 who
8 consented to the removal.

9 (i) If the autopsy is not being performed by a medical
10 examiner, the justice of the peace, county judge, or designated
11 physician may permit the removal of tissue in the same manner as a
12 medical examiner under Subsection (h). If removal of the
13 anatomical gift is denied, the justice of the peace, county judge,
14 or physician shall provide the written explanations required by
15 Subsection (h).

16 Sec. 692A.024. UNIFORMITY OF APPLICATION AND CONSTRUCTION.
17 In applying and construing this chapter, consideration must be
18 given to the need to promote uniformity of the law with respect to
19 the subject matter of this chapter among states that enact a law
20 substantially similar to this chapter.

21 Sec. 692A.025. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL
22 AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and
23 supersedes the provisions of the Electronic Signatures in Global
24 and National Commerce Act (15 U.S.C. Section 7001 et seq.), but does
25 not modify, limit, or supersede Section 101(a) of that Act (15
26 U.S.C. Section 7001(a)), or authorize electronic delivery of any of
27 the notices described in Section 103 of that Act (15 U.S.C. Section

1 7003(b)).

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

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

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

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

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

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

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

21 (i) quality assessment and improvement
22 activities;

23 (ii) specified insurance functions;

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

26 (iv) competency assurance activities;

27 (4) to a member of the clergy specifically designated

1 by the patient;

2 (5) to a [~~qualified organ or tissue~~] procurement
3 organization or tissue bank as defined in Section 692A.002
4 [~~692.002~~] for the purpose of making inquiries relating to donations
5 according to the protocol referred to in Section 692A.015
6 [~~692.013(d)~~];

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

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

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

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

23 (B) will take appropriate steps to protect the
24 health care information;

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

27 (10) to a hospital that is the successor in interest to

1 the hospital maintaining the health care information;

2 (11) to the American Red Cross for the specific
3 purpose of fulfilling the duties specified under its charter
4 granted as an instrumentality of the United States government;

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

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

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

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

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

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

1 Section 300e et seq.);

2 (18) to satisfy a request for medical records of a
3 deceased or incompetent person pursuant to Section 74.051(e), Civil
4 Practice and Remedies Code;

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

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

10 (A) the Texas Rules of Civil Procedure or Code of
11 Criminal Procedure; or

12 (B) Chapter 121, Civil Practice and Remedies
13 Code.

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

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

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

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

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

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

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

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

19 SECTION 5. Section 693.006, Health and Safety Code, is
20 amended to read as follows:

21 Sec. 693.006. REMOVAL OF CORNEAL TISSUE. On a request from
22 an eye bank, as defined in Section 692A.002 [~~692.002~~], the medical
23 examiner, justice of the peace, county judge, or physician
24 designated by the justice of the peace or county judge may permit
25 the removal of corneal tissue subject to the same provisions that
26 apply to removal of a visceral organ on the request of an organ
27 procurement organization under this subchapter. The provisions of

1 Chapter 692A [~~this subchapter~~] relating to immunity and consent
2 apply to the removal of the corneal tissue.

3 SECTION 6. Sections 521.401(b) and (c), Transportation
4 Code, are amended to read as follows:

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

11 (c) Donor cards shall be provided to the department by
12 [~~qualified~~] organ [~~or tissue~~] procurement organizations, tissue
13 banks, or eye banks, as those terms are defined in Section 692A.002
14 [~~692.002~~], Health and Safety Code, or by the Donor Education,
15 Awareness, and Registry Program of Texas established under Chapter
16 49, Health and Safety Code. The department shall:

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

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

26 (B) an opportunity for the person to consent in
27 writing to the department's provision of the person's name, date of

1 birth, driver's license number, most recent address, and other
2 information needed for identification purposes at the time of
3 donation to the organization selected by the commissioner of state
4 health services under Section 692A.020 [~~Chapter 49~~], Health and
5 Safety Code, for inclusion in the statewide Internet-based registry
6 of organ, tissue, and eye donors and for release to qualified organ,
7 tissue, and eye bank organizations; and

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

11 SECTION 7. Section 651.407(f), Occupations Code, is amended
12 to read as follows:

13 (f) This section does not apply to a dead human body
14 obtained by a school or college of mortuary science under Chapter
15 691 or 692A [~~692~~], Health and Safety Code.

16 SECTION 8. The following provisions are repealed:

- 17 (1) Section 49.002, Health and Safety Code;
- 18 (2) Chapter 692, Health and Safety Code;
- 19 (3) Section 693.002, Health and Safety Code;
- 20 (4) Section 693.004, Health and Safety Code;
- 21 (5) Section 693.005, Health and Safety Code;
- 22 (6) Section 521.403, Transportation Code; and
- 23 (7) Section 521.404, Transportation Code.

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