

1-1 By: Janek S.B. No. 1597
1-2 (In the Senate - Filed March 8, 2007; March 21, 2007, read
1-3 first time and referred to Committee on Health and Human Services;
1-4 May 8, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; May 8, 2007, sent
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1597 By: Janek

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

1-10 relating to adoption of the Revised Uniform Anatomical Gift Act;
1-11 providing criminal penalties.

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

1-13 SECTION 1. Subtitle B, Title 8, Health and Safety Code, is
1-14 amended by adding Chapter 692A to read as follows:

1-15 CHAPTER 692A. REVISED UNIFORM ANATOMICAL GIFT ACT

1-16 Sec. 692A.001. SHORT TITLE. This chapter may be cited as
1-17 the Revised Uniform Anatomical Gift Act.

1-18 Sec. 692A.002. DEFINITIONS. In this chapter:

1-19 (1) "Adult" means an individual who is at least 18
1-20 years of age.

1-21 (2) "Agent" means an individual:

1-22 (A) authorized to make health care decisions on
1-23 the principal's behalf by a medical power of attorney; or

1-24 (B) expressly authorized to make an anatomical
1-25 gift on the principal's behalf by any other record signed by the
1-26 principal.

1-27 (3) "Anatomical gift" means a donation of all or part
1-28 of a human body to take effect after the donor's death for the
1-29 purpose of transplantation, therapy, research, or education.

1-30 (4) "Commissioner" means the commissioner of state
1-31 health services.

1-32 (5) "Decedent" means a deceased individual whose body
1-33 or part is or may be the source of an anatomical gift. The term
1-34 includes a stillborn infant and, subject to restrictions imposed by
1-35 law other than this chapter, a fetus.

1-36 (6) "Department" means the Department of State Health
1-37 Services.

1-38 (7) "Disinterested witness" means a witness other than
1-39 the spouse, child, parent, sibling, grandchild, grandparent, or
1-40 guardian of the individual who makes, amends, revokes, or refuses
1-41 to make an anatomical gift, or another adult who exhibited special
1-42 care and concern for the individual. The term does not include a
1-43 person to which an anatomical gift could pass under Section
1-44 692A.011.

1-45 (8) "Document of gift" means a donor card or other
1-46 record used to make an anatomical gift. The term includes a
1-47 statement or symbol on a driver's license, identification card, or
1-48 donor registry.

1-49 (9) "Donor" means an individual whose body or part is
1-50 the subject of an anatomical gift.

1-51 (10) "Donor registry" means a database that contains
1-52 records of anatomical gifts and amendments to or revocations of
1-53 anatomical gifts.

1-54 (11) "Driver's license" means a license or permit
1-55 issued by the Department of Public Safety to operate a vehicle,
1-56 whether or not conditions are attached to the license or permit.

1-57 (12) "Eye bank" means a person that is licensed,
1-58 accredited, or regulated under federal or state law to engage in the
1-59 recovery, screening, testing, processing, storage, or distribution
1-60 of human eyes or portions of human eyes.

1-61 (13) "Guardian" means a person appointed by a court to
1-62 make decisions regarding the support, care, education, health, or
1-63 welfare of an individual. The term does not include a guardian ad

- 2-1 litem.
- 2-2 (14) "Hospital" means a facility licensed as a
- 2-3 hospital under the law of any state or a facility operated as a
- 2-4 hospital by the United States, a state, or a subdivision of a state.
- 2-5 (15) "Identification card" means an identification
- 2-6 card issued by the Department of Public Safety.
- 2-7 (16) "Imminent death" means a patient who requires
- 2-8 mechanical ventilation, has a severe neurologic injury, and meets
- 2-9 certain clinical criteria indicating that neurologic death is near
- 2-10 or a patient for whom withdrawal of ventilatory support is being
- 2-11 considered.
- 2-12 (17) "Know" means to have actual knowledge.
- 2-13 (18) "Minor" means an individual who is under 18 years
- 2-14 of age.
- 2-15 (19) "Organ procurement organization" means a person
- 2-16 designated by the secretary of the United States Department of
- 2-17 Health and Human Services as an organ procurement organization.
- 2-18 (20) "Parent" means a parent whose parental rights
- 2-19 have not been terminated.
- 2-20 (21) "Part" means an organ, an eye, or tissue of a
- 2-21 human being. The term does not include the whole body.
- 2-22 (22) "Person" means an individual, corporation,
- 2-23 business trust, estate, trust, partnership, limited liability
- 2-24 company, association, joint venture, public corporation,
- 2-25 government or governmental subdivision, agency, or
- 2-26 instrumentality, or any other legal or commercial entity.
- 2-27 (23) "Physician" means an individual authorized to
- 2-28 practice medicine or osteopathy under the law of any state.
- 2-29 (24) "Procurement organization" means an eye bank,
- 2-30 organ procurement organization, or tissue bank.
- 2-31 (25) "Prospective donor" means an individual who is
- 2-32 dead or near death and has been determined by a procurement
- 2-33 organization to have a part that could be medically suitable for
- 2-34 transplantation, therapy, research, or education. The term does
- 2-35 not include an individual who has made a refusal.
- 2-36 (26) "Reasonably available" means able to be contacted
- 2-37 by a procurement organization without undue effort and willing and
- 2-38 able to act in a timely manner consistent with existing medical
- 2-39 criteria necessary for the making of an anatomical gift.
- 2-40 (27) "Recipient" means an individual into whose body a
- 2-41 decedent's part has been or is intended to be transplanted.
- 2-42 (28) "Record" means information that is inscribed on a
- 2-43 tangible medium or that is stored in an electronic or other medium
- 2-44 and is retrievable in perceivable form.
- 2-45 (29) "Refusal" means a record created under Section
- 2-46 692A.007 that expressly states an intent to bar other persons from
- 2-47 making an anatomical gift of an individual's body or part.
- 2-48 (30) "Sign" means, with the present intent to
- 2-49 authenticate or adopt a record:
- 2-50 (A) to execute or adopt a tangible symbol; or
- 2-51 (B) to attach to or logically associate with the
- 2-52 record an electronic symbol, sound, or process.
- 2-53 (31) "State" means a state of the United States, the
- 2-54 District of Columbia, Puerto Rico, the United States Virgin
- 2-55 Islands, or any territory or insular possession subject to the
- 2-56 jurisdiction of the United States.
- 2-57 (32) "Technician" means an individual determined to be
- 2-58 qualified to remove or process parts by an appropriate organization
- 2-59 that is licensed, accredited, or regulated under federal or state
- 2-60 law. The term includes an enucleator.
- 2-61 (33) "Timely notification" means notification of an
- 2-62 imminent death to the organ procurement organization within one
- 2-63 hour of the patient's meeting the criteria for imminent death and
- 2-64 before the withdrawal of any life-sustaining therapies. With
- 2-65 respect to cardiac death, timely notification means notification to
- 2-66 the organ procurement organization within one hour of the cardiac
- 2-67 death.
- 2-68 (34) "Tissue" means a portion of the human body other
- 2-69 than an organ or an eye. The term does not include blood unless the

3-1 blood is donated for the purpose of research or education.

3-2 (35) "Tissue bank" means a person licensed,
 3-3 accredited, or regulated under federal or state law to engage in the
 3-4 recovery, screening, testing, processing, storage, or distribution
 3-5 of tissue.

3-6 (36) "Transplant hospital" means a hospital that
 3-7 furnishes organ transplants and other medical and surgical
 3-8 specialty services required for the care of transplant patients.

3-9 (37) "Visceral organ" means the heart, kidney, or
 3-10 liver or another organ or tissue that requires a patient support
 3-11 system to maintain the viability of the organ or tissue.

3-12 Sec. 692A.003. APPLICABILITY. This chapter applies to an
 3-13 anatomical gift or amendment to, revocation of, or refusal to make
 3-14 an anatomical gift, whenever made.

3-15 Sec. 692A.004. PERSONS AUTHORIZED TO MAKE ANATOMICAL GIFT
 3-16 BEFORE DONOR'S DEATH. Subject to Section 692A.008, an anatomical
 3-17 gift of a donor's body or part may be made during the life of the
 3-18 donor for the purpose of transplantation, therapy, research, or
 3-19 education in the manner provided in Section 692A.005 by:

3-20 (1) the donor, if the donor is an adult or if the donor
 3-21 is a minor and is:

3-22 (A) emancipated; or

3-23 (B) authorized under state law to apply for a
 3-24 driver's license because the donor is at least 16 years of age;

3-25 (2) an agent of the donor, unless the medical power of
 3-26 attorney or other record prohibits the agent from making an
 3-27 anatomical gift;

3-28 (3) a parent of the donor, if the donor is an
 3-29 unemancipated minor; or

3-30 (4) the donor's guardian.

3-31 Sec. 692A.005. MANNER OF MAKING ANATOMICAL GIFT BEFORE
 3-32 DONOR'S DEATH. (a) A donor may make an anatomical gift:

3-33 (1) by authorizing a statement or symbol indicating
 3-34 that the donor has made an anatomical gift to be imprinted on the
 3-35 donor's driver's license or identification card;

3-36 (2) in a will;

3-37 (3) during a terminal illness or injury of the donor,
 3-38 by any form of communication addressed to at least two adults, at
 3-39 least one of whom is a disinterested witness; or

3-40 (4) as provided in Subsection (b).

3-41 (b) A donor or other person authorized to make an anatomical
 3-42 gift under Section 692A.004 may make a gift by a donor card or other
 3-43 record signed by the donor or other person making the gift or by
 3-44 authorizing that a statement or symbol indicating the donor has
 3-45 made an anatomical gift be included on a donor registry. If the
 3-46 donor or other person is physically unable to sign a record, the
 3-47 record may be signed by another individual at the direction of the
 3-48 donor or other person and must:

3-49 (1) be witnessed by at least two adults, at least one
 3-50 of whom is a disinterested witness, who have signed at the request
 3-51 of the donor or the other person; and

3-52 (2) state that the record has been signed and
 3-53 witnessed as provided in Subdivision (1).

3-54 (c) Revocation, suspension, expiration, or cancellation of
 3-55 a driver's license or identification card on which an anatomical
 3-56 gift is indicated does not invalidate the gift.

3-57 (d) An anatomical gift made by will takes effect on the
 3-58 donor's death whether or not the will is probated. Invalidation of
 3-59 the will after the donor's death does not invalidate the gift.

3-60 Sec. 692A.006. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE
 3-61 DONOR'S DEATH. (a) Subject to Section 692A.008, a donor or other
 3-62 person authorized to make an anatomical gift under Section 692A.004
 3-63 may amend or revoke an anatomical gift by:

3-64 (1) a record signed by:

3-65 (A) the donor;

3-66 (B) the other person; or

3-67 (C) subject to Subsection (b), another
 3-68 individual acting at the direction of the donor or the other person
 3-69 if the donor or other person is physically unable to sign; or

4-1 (2) a later-executed document of gift that amends or
4-2 revokes a previous anatomical gift or portion of an anatomical
4-3 gift, either expressly or by inconsistency.

4-4 (b) A record signed pursuant to Subsection (a)(1)(C) must:
4-5 (1) be witnessed by at least two adults, at least one
4-6 of whom is a disinterested witness, who have signed at the request
4-7 of the donor or the other person; and

4-8 (2) state that the record has been signed and
4-9 witnessed as provided in Subdivision (1).

4-10 (c) Subject to Section 692A.008, a donor or other person
4-11 authorized to make an anatomical gift under Section 692A.004 may
4-12 revoke an anatomical gift by the destruction or cancellation of the
4-13 document of gift, or the portion of the document of gift used to
4-14 make the gift, with the intent to revoke the gift.

4-15 (d) A donor may amend or revoke an anatomical gift that was
4-16 not made in a will by any form of communication during a terminal
4-17 illness or injury addressed to at least two adults, at least one of
4-18 whom is a disinterested witness.

4-19 (e) A donor who makes an anatomical gift in a will may amend
4-20 or revoke the gift in the manner provided for amendment or
4-21 revocation of wills or as provided in Subsection (a).

4-22 Sec. 692A.007. REFUSAL TO MAKE ANATOMICAL GIFT; EFFECT OF
4-23 REFUSAL. (a) An individual may refuse to make an anatomical gift
4-24 of the individual's body or part by:

4-25 (1) a record signed by:
4-26 (A) the individual; or
4-27 (B) subject to Subsection (b), another
4-28 individual acting at the direction of the individual if the
4-29 individual is physically unable to sign;

4-30 (2) the individual's will, whether or not the will is
4-31 admitted to probate or invalidated after the individual's death; or

4-32 (3) any form of communication made by the individual
4-33 during the individual's terminal illness or injury addressed to at
4-34 least two adults, at least one of whom is a disinterested witness.

4-35 (b) A record signed pursuant to Subsection (a)(1)(B) must:
4-36 (1) be witnessed by at least two adults, at least one
4-37 of whom is a disinterested witness, who have signed at the request
4-38 of the individual; and

4-39 (2) state that the record has been signed and
4-40 witnessed as provided in Subdivision (1).

4-41 (c) An individual who has made a refusal may amend or revoke
4-42 the refusal:

4-43 (1) in the manner provided in Subsection (a) for
4-44 making a refusal;

4-45 (2) by subsequently making an anatomical gift pursuant
4-46 to Section 692A.005 that is inconsistent with the refusal; or

4-47 (3) by destroying or canceling the record evidencing
4-48 the refusal, or the portion of the record used to make the refusal,
4-49 with the intent to revoke the refusal.

4-50 (d) Except as otherwise provided in Section 692A.008(h), in
4-51 the absence of an express, contrary indication by the individual
4-52 set forth in the refusal, an individual's unrevoked refusal to make
4-53 an anatomical gift of the individual's body or part bars all other
4-54 persons from making an anatomical gift of the individual's body or
4-55 part.

4-56 Sec. 692A.008. PRECLUSIVE EFFECT OF ANATOMICAL GIFT,
4-57 AMENDMENT, OR REVOCATION. (a) Except as otherwise provided in
4-58 Subsection (g) and subject to Subsection (f), in the absence of an
4-59 express, contrary indication by the donor, a person other than the
4-60 donor is barred from making, amending, or revoking an anatomical
4-61 gift of a donor's body or part if the donor made an anatomical gift
4-62 of the donor's body or part under Section 692A.005 or an amendment
4-63 to an anatomical gift of the donor's body or part under Section
4-64 692A.006.

4-65 (b) A donor's revocation of an anatomical gift of the
4-66 donor's body or part under Section 692A.006 is not a refusal and
4-67 does not bar another person specified in Section 692A.004 or
4-68 692A.009 from making an anatomical gift of the donor's body or part
4-69 under Section 692A.005 or 692A.010.

5-1 (c) If a person other than the donor makes an unrevoked
 5-2 anatomical gift of the donor's body or part under Section 692A.005
 5-3 or an amendment to an anatomical gift of the donor's body or part
 5-4 under Section 692A.006, another person may not make, amend, or
 5-5 revoke the gift of the donor's body or part under Section 692A.010.

5-6 (d) A revocation of an anatomical gift of a donor's body or
 5-7 part under Section 692A.006 by a person other than the donor does
 5-8 not bar another person from making an anatomical gift of the body or
 5-9 part under Section 692A.005 or 692A.010.

5-10 (e) In the absence of an express, contrary indication by the
 5-11 donor or other person authorized to make an anatomical gift under
 5-12 Section 692A.004, an anatomical gift of a part is neither a refusal
 5-13 to give another part nor a limitation on the making of an anatomical
 5-14 gift of another part at a later time by the donor or another person.

5-15 (f) In the absence of an express, contrary indication by the
 5-16 donor or other person authorized to make an anatomical gift under
 5-17 Section 692A.004, an anatomical gift of a part for one or more of
 5-18 the purposes set forth in Section 692A.004 is not a limitation on
 5-19 the making of an anatomical gift of the part for any of the other
 5-20 purposes by the donor or any other person under Section 692A.005 or
 5-21 692A.010.

5-22 (g) If a donor who is an unemancipated minor dies, a parent
 5-23 of the donor who is reasonably available may revoke or amend an
 5-24 anatomical gift of the donor's body or part.

5-25 (h) If an unemancipated minor who signed a refusal dies, a
 5-26 parent of the minor who is reasonably available may revoke the
 5-27 minor's refusal.

5-28 Sec. 692A.009. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S
 5-29 BODY OR PART. (a) Subject to Subsections (b) and (c) and unless
 5-30 barred by Section 692A.007 or 692A.008, an anatomical gift of a
 5-31 decedent's body or part for the purpose of transplantation,
 5-32 therapy, research, or education may be made by any member of the
 5-33 following classes of persons who is reasonably available, in the
 5-34 order of priority listed:

5-35 (1) an agent of the decedent at the time of death who
 5-36 could have made an anatomical gift under Section 692A.004(2)
 5-37 immediately before the decedent's death;

5-38 (2) the spouse of the decedent;

5-39 (3) adult children of the decedent;

5-40 (4) parents of the decedent;

5-41 (5) adult siblings of the decedent;

5-42 (6) adult grandchildren of the decedent;

5-43 (7) grandparents of the decedent;

5-44 (8) the persons who were acting as the guardians of the
 5-45 person of the decedent at the time of death;

5-46 (9) the hospital administrator; and

5-47 (10) any other person having the authority to dispose
 5-48 of the decedent's body.

5-49 (b) If there is more than one member of a class listed in
 5-50 Subsection (a)(1), (3), (4), (5), (6), (7), or (8) entitled to make
 5-51 an anatomical gift, an anatomical gift may be made by a member of
 5-52 the class unless that member or a person to which the gift may pass
 5-53 under Section 692A.011 knows of an objection by another member of
 5-54 the class. If an objection is known, the gift may be made only by a
 5-55 majority of the members of the class who are reasonably available.

5-56 (c) A person may not make an anatomical gift if, at the time
 5-57 of the decedent's death, a person in a prior class under Subsection
 5-58 (a) is reasonably available to make or to object to the making of an
 5-59 anatomical gift.

5-60 Sec. 692A.010. MANNER OF MAKING, AMENDING, OR REVOKING
 5-61 ANATOMICAL GIFT OF DECEDENT'S BODY OR PART. (a) A person
 5-62 authorized to make an anatomical gift under Section 692A.009 may
 5-63 make an anatomical gift by a document of gift signed by the person
 5-64 making the gift or by that person's oral communication that is
 5-65 electronically recorded or is contemporaneously reduced to a record
 5-66 and signed by the individual receiving the oral communication.

5-67 (b) Subject to Subsection (c), an anatomical gift by a
 5-68 person authorized under Section 692A.009 may be amended or revoked
 5-69 orally or in a record by any member of a prior class who is

6-1 reasonably available. If more than one member of the prior class is
6-2 reasonably available, the gift made by a person authorized under
6-3 Section 692A.009 may be:

6-4 (1) amended only if a majority of the reasonably
6-5 available members agree to the amending of the gift; or

6-6 (2) revoked only if a majority of the reasonably
6-7 available members agree to the revoking of the gift or if they are
6-8 equally divided as to whether to revoke the gift.

6-9 (c) A revocation under Subsection (b) is effective only if,
6-10 before an incision has been made to remove a part from the donor's
6-11 body or before the initiation of invasive procedures to prepare the
6-12 recipient, the procurement organization, transplant hospital, or
6-13 physician or technician knows of the revocation.

6-14 Sec. 692A.011. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT;
6-15 PURPOSE OF ANATOMICAL GIFT. (a) An anatomical gift may be made to
6-16 the following persons named in the document of gift:

6-17 (1) a hospital or organ procurement organization for
6-18 research or education;

6-19 (2) subject to Subsection (d), an individual
6-20 designated by the person making the anatomical gift if the
6-21 individual is the recipient of the part;

6-22 (3) an eye bank or tissue bank;

6-23 (4) a forensic science program at:

6-24 (A) a general academic teaching institution, as
6-25 defined by Section 61.003(3), Education Code; or

6-26 (B) a private or independent institution of
6-27 higher education, as defined by Section 61.003(15), Education Code;
6-28 or

6-29 (5) the Anatomical Board of the State of Texas.

6-30 (b) Except for a donation to an organ procurement
6-31 organization, eye bank, tissue bank, or forensic science program
6-32 made for the purpose of therapy, transplantation, or research, the
6-33 Anatomical Board of the State of Texas is the donee of a gift of a
6-34 body or part made for purposes of education or research. The gift
6-35 of the body or part is subject to distribution by the board under
6-36 Chapter 691.

6-37 (c) A forensic science program that receives a donation
6-38 under Subsection (a)(4) must submit a report to the Anatomical
6-39 Board of the State of Texas on a quarterly basis that lists:

6-40 (1) the number of bodies or parts the program
6-41 received; and

6-42 (2) the method in which the program used the bodies or
6-43 parts for education or research purposes.

6-44 (d) If an anatomical gift to an individual under Subsection
6-45 (a)(2) cannot be transplanted into the individual, the part passes
6-46 in accordance with Subsection (i) in the absence of an express,
6-47 contrary indication by the person making the anatomical gift.

6-48 (e) If an anatomical gift of one or more specific parts or of
6-49 all parts is made in a document of gift that does not name a person
6-50 described in Subsection (a) but identifies the purpose for which an
6-51 anatomical gift may be used, the following rules apply:

6-52 (1) if the part is an eye and the gift is for the
6-53 purpose of transplantation or therapy, the gift passes to the
6-54 appropriate eye bank;

6-55 (2) if the part is tissue and the gift is for the
6-56 purpose of transplantation or therapy, the gift passes to the
6-57 appropriate tissue bank; and

6-58 (3) if the part is an organ and the gift is for the
6-59 purpose of transplantation or therapy, the gift passes to the
6-60 appropriate organ procurement organization as custodian of the
6-61 organ.

6-62 (f) For the purpose of Subsection (e), if there is more than
6-63 one purpose of an anatomical gift set forth in the document of gift
6-64 but the purposes are not set forth in any priority, the gift must be
6-65 used for transplantation or therapy, if suitable. If the gift
6-66 cannot be used for transplantation or therapy, the gift may be used
6-67 for research or education.

6-68 (g) If an anatomical gift of one or more specific parts is
6-69 made in a document of gift that does not name a person described in

7-1 Subsection (a) and does not identify the purpose of the gift, the
7-2 gift may be used only for transplantation or therapy, and the gift
7-3 passes in accordance with Subsection (i).

7-4 (h) If a document of gift specifies only a general intent to
7-5 make an anatomical gift by words such as "donor," "organ donor," or
7-6 "body donor," or by a symbol or statement of similar import, the
7-7 gift may be used only for transplantation or therapy, and the gift
7-8 passes in accordance with Subsection (i).

7-9 (i) For purposes of Subsections (d), (g), and (h), the
7-10 following rules apply:

7-11 (1) if the part is an eye, the gift passes to the
7-12 appropriate eye bank;

7-13 (2) if the part is tissue, the gift passes to the
7-14 appropriate tissue bank; and

7-15 (3) if the part is an organ, the gift passes to the
7-16 appropriate organ procurement organization as custodian of the
7-17 organ.

7-18 (j) An anatomical gift of an organ for transplantation or
7-19 therapy, other than an anatomical gift under Subsection (a)(2),
7-20 passes to the organ procurement organization as custodian of the
7-21 organ.

7-22 (k) If an anatomical gift does not pass pursuant to
7-23 Subsections (a)-(j) or the decedent's body or part is not used for
7-24 transplantation, therapy, research, or education, custody of the
7-25 body or part passes to the person under obligation to dispose of the
7-26 body or part.

7-27 (l) A person may not accept an anatomical gift if the person
7-28 knows that the gift was not effectively made under Section 692A.005
7-29 or 692A.010 or if the person knows that the decedent made a refusal
7-30 under Section 692A.007 that was not revoked. For purposes of this
7-31 subsection, if a person knows that an anatomical gift was made on a
7-32 document of gift, the person is deemed to know of any amendment or
7-33 revocation of the gift or any refusal to make an anatomical gift on
7-34 the same document of gift.

7-35 (m) Except as otherwise provided in Subsection (a)(2),
7-36 nothing in this chapter affects the allocation of organs for
7-37 transplantation or therapy.

7-38 (n) A donee may accept or reject a gift.

7-39 Sec. 692A.012. SEARCH AND NOTIFICATION. The donor card of a
7-40 person who is involved in an accident or other trauma shall
7-41 accompany the person to the hospital or other health care facility.
7-42 The driver's license or personal identification certificate
7-43 indicating an affirmative statement of gift of a person who is
7-44 involved in an accident or other trauma shall accompany the person
7-45 to the hospital or health care facility if the person does not have
7-46 a donor card.

7-47 Sec. 692A.013. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED;
7-48 RIGHT TO EXAMINE. (a) A document of gift need not be delivered
7-49 during the donor's lifetime to be effective.

7-50 (b) On or after an individual's death, a person in
7-51 possession of a document of gift or a refusal to make an anatomical
7-52 gift with respect to the individual shall allow examination and
7-53 copying of the document of gift or refusal by a person authorized to
7-54 make or object to the making of an anatomical gift with respect to
7-55 the individual or by a person to which the gift could pass under
7-56 Section 692A.011.

7-57 Sec. 692A.014. RIGHTS AND DUTIES OF PROCUREMENT
7-58 ORGANIZATION AND OTHERS. (a) When a hospital refers an individual
7-59 at or near death to a procurement organization, the organization
7-60 shall make a reasonable search of the records of the Department of
7-61 Public Safety and any donor registry that it knows exists for the
7-62 geographical area in which the individual resides to ascertain
7-63 whether the individual has made an anatomical gift.

7-64 (b) A procurement organization must be allowed reasonable
7-65 access to information in the records of the Department of Public
7-66 Safety to ascertain whether an individual at or near death is a
7-67 donor.

7-68 (c) When a hospital refers an individual at or near death to
7-69 a procurement organization, the organization may conduct any

8-1 reasonable examination necessary to ensure the medical suitability
 8-2 of a part that is or could be the subject of an anatomical gift for
 8-3 transplantation, therapy, research, or education from a donor or a
 8-4 prospective donor. During the examination period, measures
 8-5 necessary to ensure the medical suitability of the part may not be
 8-6 withdrawn unless the hospital or procurement organization knows
 8-7 that the individual expressed a contrary intent.

8-8 (d) Unless prohibited by law other than this chapter, at any
 8-9 time after a donor's death, the person to which a part passes under
 8-10 Section 692A.011 may conduct any reasonable examination necessary
 8-11 to ensure the medical suitability of the body or part for its
 8-12 intended purpose.

8-13 (e) Unless prohibited by law other than this chapter, an
 8-14 examination under Subsection (c) or (d) may include an examination
 8-15 of all medical and dental records of the donor or prospective donor.

8-16 (f) On the death of a minor who was a donor or had signed a
 8-17 refusal, unless a procurement organization knows the minor is
 8-18 emancipated, the procurement organization shall conduct a
 8-19 reasonable search for the parents of the minor and provide the
 8-20 parents with an opportunity to revoke or amend the anatomical gift
 8-21 or revoke the refusal.

8-22 (g) On referral by a hospital under Subsection (a), a
 8-23 procurement organization shall make a reasonable search for any
 8-24 person listed in Section 692A.009 having priority to make an
 8-25 anatomical gift on behalf of a prospective donor. If a procurement
 8-26 organization receives information that an anatomical gift to any
 8-27 other person was made, amended, or revoked, it shall promptly
 8-28 advise the other person of all relevant information.

8-29 (h) Subject to Sections 692A.011(k) and 693.002, the rights
 8-30 of the person to which a part passes under Section 692A.011 are
 8-31 superior to the rights of all others with respect to the part. The
 8-32 person may accept or reject an anatomical gift wholly or partly.
 8-33 Subject to the terms of the document of gift and this chapter, a
 8-34 person that accepts an anatomical gift of an entire body may allow
 8-35 embalming, burial, or cremation, and use of remains in a funeral
 8-36 service. If the gift is of a part, the person to which the part
 8-37 passes under Section 692A.011, on the death of the donor and before
 8-38 embalming, burial, or cremation, shall cause the part to be removed
 8-39 without unnecessary mutilation.

8-40 (i) The physician who attends the decedent at death or the
 8-41 physician who determines the time of the decedent's death may not
 8-42 participate in the procedures for removing or transplanting a part
 8-43 from the decedent.

8-44 (j) A physician or technician may remove a donated part from
 8-45 the body of a donor that the physician or technician is qualified to
 8-46 remove.

8-47 Sec. 692A.015. COORDINATION OF PROCUREMENT AND USE;
 8-48 HOSPITAL PROCEDURES. Each hospital in this state shall enter into
 8-49 agreements or affiliations with procurement organizations for
 8-50 coordination of procurement and use of anatomical gifts. Each
 8-51 hospital must have a protocol that ensures its maintenance of an
 8-52 effective donation system in order to maximize organ and tissue
 8-53 donation. The protocol must:

8-54 (1) be available to the public during the hospital's
 8-55 normal business hours;

8-56 (2) establish a procedure for notifying, in a timely
 8-57 manner, an organ procurement organization of individuals whose
 8-58 death is imminent or who have died in the hospital;

8-59 (3) establish procedures to ensure potential donors
 8-60 are declared dead by an appropriate practitioner in an acceptable
 8-61 time frame;

8-62 (4) establish procedures to ensure that hospital staff
 8-63 and organ procurement organization staff maintain appropriate
 8-64 medical treatment of potential donors while necessary testing and
 8-65 placement of potential donated organs, tissues, and eyes take
 8-66 place;

8-67 (5) ensure that all families are provided the
 8-68 opportunity to donate organs and tissues, including vascular organs
 8-69 procured from asystolic donors;

9-1 (6) provide that the hospital use appropriately
9-2 trained persons from an organ procurement organization, tissue
9-3 bank, or eye bank to make inquiries relating to donations;

9-4 (7) provide for documentation of the inquiry and of
9-5 its disposition in the decedent's medical records;

9-6 (8) require an organ procurement organization, tissue
9-7 bank, or eye bank that makes inquiries relating to donations to
9-8 develop a protocol for making those inquiries;

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

9-11 (10) provide that the organ procurement organization
9-12 determines medical suitability for organ donation and, in the
9-13 absence of alternative arrangements by the hospital, the organ
9-14 procurement organization determines medical suitability for tissue
9-15 and eye donation, using the definition of potential tissue and eye
9-16 donor and the notification protocol developed in consultation with
9-17 the tissue and eye banks identified by the hospital for this
9-18 purpose;

9-19 (11) ensure that the hospital works cooperatively with
9-20 the designated organ procurement organization, tissue bank, and eye
9-21 bank in educating staff on donation issues;

9-22 (12) ensure that the hospital works with the
9-23 designated organ procurement organization, tissue bank, and eye
9-24 bank in reviewing death records; and

9-25 (13) provide for monitoring of donation system
9-26 effectiveness, including rates of donation, protocols, and
9-27 policies, as part of the hospital's quality improvement program.

9-28 Sec. 692A.016. SALE OR PURCHASE OF PARTS PROHIBITED.

9-29 (a) Except as otherwise provided in Subsection (b), a person
9-30 commits an offense if the person for valuable consideration
9-31 knowingly purchases or sells a part for transplantation or therapy
9-32 if removal of a part from an individual is intended to occur after
9-33 the individual's death. An offense under this subsection is a Class
9-34 A misdemeanor.

9-35 (b) A person may charge a reasonable amount for the removal,
9-36 processing, preservation, quality control, storage,
9-37 transportation, implantation, or disposal of a part.

9-38 (c) If conduct that constitutes an offense under this
9-39 section also constitutes an offense under other law, the actor may
9-40 be prosecuted under this section, the other law, or both this
9-41 section and the other law.

9-42 Sec. 692A.017. OTHER PROHIBITED ACTS.

9-43 (a) A person
9-44 commits an offense if the person, in order to obtain a financial
9-45 gain, intentionally falsifies, forges, conceals, defaces, or
9-46 obliterates a document of gift, an amendment or revocation of a
9-47 document of gift, or a refusal. An offense under this section is a
9-48 Class A misdemeanor.

9-49 (b) If conduct that constitutes an offense under this
9-50 section also constitutes an offense under other law, the actor may
9-51 be prosecuted under this section, the other law, or both this
9-52 section and the other law.

9-53 Sec. 692A.018. IMMUNITY. (a) A person who acts in good
9-54 faith in accordance with this chapter is not liable for civil
9-55 damages or subject to criminal prosecution for the person's action
9-56 if the prerequisites for an anatomical gift are met under the laws
9-57 applicable at the time and place the gift is made.

9-58 (b) A person that acts in accordance with this chapter or
9-59 with the applicable anatomical gift law of another state, or
9-60 attempts in good faith to do so, is not liable for the act in a civil
9-61 action, criminal prosecution, or administrative proceeding.

9-62 (c) A person who acts in good faith in accordance with this
9-63 chapter is not liable as a result of the action except in the case of
9-64 an act or omission of the person that is intentional, wilfully or
9-65 wantonly negligent, or done with conscious indifference or reckless
9-66 disregard. For purposes of this subsection, "good faith" in
9-67 determining the appropriate person authorized to make a donation
9-68 under Section 692A.009 means making a reasonable effort to locate
9-69 and contact the member or members of the highest priority class who
are reasonably available at or near the time of death.

10-1 (d) Neither a person making an anatomical gift nor the
 10-2 donor's estate is liable for any injury or damage that results from
 10-3 the making or use of the gift.

10-4 (e) In determining whether an anatomical gift has been made,
 10-5 amended, or revoked under this chapter, a person may rely on
 10-6 representations of an individual listed in Section 692A.009(a)(2),
 10-7 (3), (4), (5), (6), or (7) relating to the individual's
 10-8 relationship to the donor or prospective donor unless the person
 10-9 knows that the representation is untrue.

10-10 (f) In a civil action brought by a person listed in Section
 10-11 692A.009 who did not object before the removal of tissue or a body
 10-12 part specified by Section 693.002, a medical examiner, justice of
 10-13 the peace, county judge, medical facility, physician acting on
 10-14 permission of a medical examiner, justice of the peace, or county
 10-15 judge, or person assisting a physician is not liable for damages on
 10-16 a theory of civil recovery based on a contention that the
 10-17 plaintiff's consent was required before the part or tissue could be
 10-18 removed.

10-19 Sec. 692A.019. LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO
 10-20 EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF VALIDITY. (a) A
 10-21 document of gift is valid if executed in accordance with:

10-22 (1) this chapter;
 10-23 (2) the laws of the state or country where it was
 10-24 executed; or

10-25 (3) the laws of the state or country where the person
 10-26 making the anatomical gift was domiciled, has a place of residence,
 10-27 or was a national at the time the document of gift was executed.

10-28 (b) If a document of gift is valid under this section, the
 10-29 law of this state governs the interpretation of the document of
 10-30 gift.

10-31 (c) A person may presume that a document of gift or
 10-32 amendment of an anatomical gift is valid unless that person knows
 10-33 that it was not validly executed or was revoked.

10-34 Sec. 692A.020. DONOR REGISTRY. (a) In consultation with
 10-35 the Department of Public Safety and organ procurement
 10-36 organizations, the department shall establish the Donor Education,
 10-37 Awareness, and Registry Program of Texas.

10-38 (b) The department shall enter into an agreement with an
 10-39 organization selected by the commissioner under a competitive
 10-40 proposal process for the establishment and maintenance of a
 10-41 statewide Internet-based registry of organ, tissue, and eye donors.
 10-42 Contingent on the continued availability of appropriations under
 10-43 Subsection (h), the term of the initial agreement is two years and
 10-44 may be renewed for two-year terms thereafter unless terminated in a
 10-45 written notice to the other party by the department or organization
 10-46 not later than the 180th day before the last day of a term.

10-47 (c) The Department of Public Safety at least monthly shall
 10-48 electronically transfer to the organization selected by the
 10-49 commissioner as provided by Subsection (b) the name, date of birth,
 10-50 driver's license number, most recent address, and any other
 10-51 relevant information in the possession of the Department of Public
 10-52 Safety for any person who indicates on the person's driver's license
 10-53 application under Section 521.401, Transportation Code, that the
 10-54 person would like to make an anatomical gift and consents in writing
 10-55 to the release of the information by the Department of Public Safety
 10-56 to the organization for inclusion in the Internet-based registry.

10-57 (d) The contract between the department and the
 10-58 organization selected by the commissioner as provided by Subsection
 10-59 (b) must require the organization to:

10-60 (1) make information obtained from the Department of
 10-61 Public Safety under Subsection (c) available to procurement
 10-62 organizations;

10-63 (2) allow potential donors to submit information in
 10-64 writing directly to the organization for inclusion in the
 10-65 Internet-based registry;

10-66 (3) maintain the Internet-based registry in a manner
 10-67 that allows procurement organizations to immediately access organ,
 10-68 tissue, and eye donation information 24 hours a day, seven days a
 10-69 week through electronic and telephonic methods; and

11-1 (4) protect the confidentiality and privacy of the
 11-2 individuals providing information to the Internet-based registry,
 11-3 regardless of the manner in which the information is provided.

11-4 (e) Except as otherwise provided by Subsection (d)(3) or
 11-5 this subsection, the Department of Public Safety, the organization
 11-6 selected by the commissioner under Subsection (b), or a procurement
 11-7 organization may not sell, rent, or otherwise share any information
 11-8 provided to the Internet-based registry. A procurement
 11-9 organization may share any information provided to the registry
 11-10 with an organ procurement organization or a health care provider or
 11-11 facility providing medical care to a potential donor as necessary
 11-12 to properly identify an individual at the time of donation.

11-13 (f) The Department of Public Safety, the organization
 11-14 selected by the commissioner under Subsection (b), or the
 11-15 procurement organizations may not use any demographic or specific
 11-16 data provided to the Internet-based registry for any fund-raising
 11-17 activities. Data may only be transmitted from the selected
 11-18 organization to procurement organizations through electronic and
 11-19 telephonic methods using secure, encrypted technology to preserve
 11-20 the integrity of the data and the privacy of the individuals
 11-21 providing information.

11-22 (g) In each office authorized to issue driver's licenses or
 11-23 personal identification certificates, the Department of Public
 11-24 Safety shall make available educational materials developed by the
 11-25 Texas Organ, Tissue, and Eye Donor Council established under
 11-26 Chapter 113, as added by Chapter 1186, Acts of the 79th Legislature,
 11-27 Regular Session, 2005.

11-28 (h) The Department of Public Safety shall remit to the
 11-29 comptroller the money collected under Sections 521.421(g) and
 11-30 521.422(c), Transportation Code, as provided by those subsections.
 11-31 A county assessor-collector shall remit to the comptroller any
 11-32 money collected under Section 502.1745, Transportation Code, as
 11-33 provided by that section. Money remitted to the comptroller in
 11-34 accordance with those sections that is appropriated to the
 11-35 department must be spent in accordance with the priorities
 11-36 established by the department in consultation with the Texas Organ,
 11-37 Tissue, and Eye Donor Council to pay the costs of:

11-38 (1) maintaining, operating, and updating the
 11-39 Internet-based registry and establishing procedures for an
 11-40 individual to be added to the registry; and

11-41 (2) designing and distributing educational materials
 11-42 for prospective donors as required under this section.

11-43 (i) Any additional money over the amount necessary to
 11-44 accomplish the purposes of Subsections (h)(1) and (2) may be used by
 11-45 the department to provide education under this chapter or may be
 11-46 awarded using a competitive grant process to organizations to
 11-47 conduct organ, eye, and tissue donation education activities in
 11-48 this state. A member of the Texas Organ, Tissue, and Eye Donor
 11-49 Council may not receive a grant under this subsection.

11-50 (j) The department shall require the organization selected
 11-51 under Subsection (b) to submit an annual written report to the
 11-52 department that includes:

11-53 (1) the number of donors listed on the Internet-based
 11-54 registry;

11-55 (2) changes in the number of donors listed on the
 11-56 registry; and

11-57 (3) the demographic characteristics of listed donors,
 11-58 to the extent the characteristics may be determined from
 11-59 information provided on donor registry forms submitted by donors to
 11-60 the organization.

11-61 (k) To the extent funds are available and as part of the
 11-62 donor registry program, the department shall educate residents
 11-63 about anatomical gifts. The program shall include information
 11-64 about:

11-65 (1) the laws governing anatomical gifts, including
 11-66 Subchapter Q, Chapter 521, Transportation Code, and this chapter;

11-67 (2) the procedures for becoming an organ, eye, or
 11-68 tissue donor or donee; and

11-69 (3) the benefits of organ, eye, or tissue donation.

12-1 (1) In developing the program, the department in
12-2 consultation with the Texas Organ, Tissue, and Eye Donor Council
12-3 shall solicit broad-based input reflecting recommendations of all
12-4 interested groups, including representatives of patients,
12-5 providers, ethnic groups, and geographic regions.

12-6 (m) In consultation with the Texas Organ, Tissue, and Eye
12-7 Donor Council, the department may implement a training program for
12-8 all appropriate Department of Public Safety and Texas Department of
12-9 Transportation employees on the benefits of organ, tissue, and eye
12-10 donation and the procedures for individuals to be added to the
12-11 Internet-based registry. The department shall implement the
12-12 training program before the date that the registry is operational
12-13 and shall conduct the training on an ongoing basis for new
12-14 employees.

12-15 Sec. 692A.021. EFFECT OF ANATOMICAL GIFT ON ADVANCE
12-16 DIRECTIVE. (a) In this section:

12-17 (1) "Advance directive" means a medical power of
12-18 attorney or a record signed or authorized by a prospective donor
12-19 containing the prospective donor's direction concerning a
12-20 health-care decision for the prospective donor.

12-21 (2) "Declaration" means a record signed by a
12-22 prospective donor specifying the circumstances under which a life
12-23 support system may be withheld or withdrawn from the prospective
12-24 donor.

12-25 (3) "Health-care decision" means any decision made
12-26 regarding the health care of the prospective donor.

12-27 (b) If a prospective donor has a declaration or advance
12-28 directive and the terms of the declaration or directive and the
12-29 express or implied terms of a potential anatomical gift are in
12-30 conflict with regard to the administration of measures necessary to
12-31 ensure the medical suitability of a part for transplantation or
12-32 therapy, the prospective donor's attending physician and
12-33 prospective donor shall confer to resolve the conflict. If the
12-34 prospective donor is incapable of resolving the conflict, an agent
12-35 acting under the prospective donor's declaration or directive, or,
12-36 if the agent is not reasonably available, another person authorized
12-37 by law other than this chapter to make health-care decisions on
12-38 behalf of the prospective donor, shall act on the prospective
12-39 donor's behalf to resolve the conflict. The conflict must be
12-40 resolved as expeditiously as possible. Information relevant to the
12-41 resolution of the conflict may be obtained from the appropriate
12-42 procurement organization and any other person authorized to make an
12-43 anatomical gift for the prospective donor under Section 692A.009.
12-44 Before resolution of the conflict, measures necessary to ensure the
12-45 medical suitability of the part may not be withheld or withdrawn
12-46 from the prospective donor.

12-47 (c) If the conflict cannot be resolved, an expedited review
12-48 of the matter must be initiated by an ethics or medical committee of
12-49 the appropriate health care facility.

12-50 Sec. 692A.022. UNIFORMITY OF APPLICATION AND CONSTRUCTION.
12-51 In applying and construing this chapter, consideration must be
12-52 given to the need to promote uniformity of the law with respect to
12-53 the subject matter of this chapter among states that enact a law
12-54 substantially similar to this chapter.

12-55 Sec. 692A.023. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL
12-56 AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and
12-57 supersedes the provisions of the Electronic Signatures in Global
12-58 and National Commerce Act (15 U.S.C. Section 7001 et seq.), but does
12-59 not modify, limit, or supersede Section 101(a) of that Act (15
12-60 U.S.C. Section 7001(a)), or authorize electronic delivery of any of
12-61 the notices described in Section 103(b) of that Act (15 U.S.C.
12-62 Section 7003(b)).

12-63 SECTION 2. Section 241.153, Health and Safety Code, is
12-64 amended to read as follows:

12-65 Sec. 241.153. DISCLOSURE WITHOUT WRITTEN AUTHORIZATION. A
12-66 patient's health care information may be disclosed without the
12-67 patient's authorization if the disclosure is:

12-68 (1) directory information, unless the patient has
12-69 instructed the hospital not to make the disclosure or the directory

- 13-1 information is otherwise protected by state or federal law;
- 13-2 (2) to a health care provider who is rendering health
- 13-3 care to the patient when the request for the disclosure is made;
- 13-4 (3) to a transporting emergency medical services
- 13-5 provider for the purpose of:
- 13-6 (A) treatment or payment, as those terms are
- 13-7 defined by the regulations adopted under the Health Insurance
- 13-8 Portability and Accountability Act of 1996 (Pub. L. No. 104-191);
- 13-9 or
- 13-10 (B) the following health care operations
- 13-11 described by the regulations adopted under the Health Insurance
- 13-12 Portability and Accountability Act of 1996 (Pub. L. No. 104-191):
- 13-13 (i) quality assessment and improvement
- 13-14 activities;
- 13-15 (ii) specified insurance functions;
- 13-16 (iii) conducting or arranging for medical
- 13-17 reviews; or
- 13-18 (iv) competency assurance activities;
- 13-19 (4) to a member of the clergy specifically designated
- 13-20 by the patient;
- 13-21 (5) to a [~~qualified organ or tissue~~] procurement
- 13-22 organization as defined in Section 692A.002 [~~692.002~~] for the
- 13-23 purpose of making inquiries relating to donations according to the
- 13-24 protocol referred to in Section 692A.015 [~~692.013(d)~~];
- 13-25 (6) to a prospective health care provider for the
- 13-26 purpose of securing the services of that health care provider as
- 13-27 part of the patient's continuum of care, as determined by the
- 13-28 patient's attending physician;
- 13-29 (7) to a person authorized to consent to medical
- 13-30 treatment under Chapter 313 or to a person in a circumstance
- 13-31 exempted from Chapter 313 to facilitate the adequate provision of
- 13-32 treatment;
- 13-33 (8) to an employee or agent of the hospital who
- 13-34 requires health care information for health care education, quality
- 13-35 assurance, or peer review or for assisting the hospital in the
- 13-36 delivery of health care or in complying with statutory, licensing,
- 13-37 accreditation, or certification requirements and if the hospital
- 13-38 takes appropriate action to ensure that the employee or agent:
- 13-39 (A) will not use or disclose the health care
- 13-40 information for any other purpose; and
- 13-41 (B) will take appropriate steps to protect the
- 13-42 health care information;
- 13-43 (9) to a federal, state, or local government agency or
- 13-44 authority to the extent authorized or required by law;
- 13-45 (10) to a hospital that is the successor in interest to
- 13-46 the hospital maintaining the health care information;
- 13-47 (11) to the American Red Cross for the specific
- 13-48 purpose of fulfilling the duties specified under its charter
- 13-49 granted as an instrumentality of the United States government;
- 13-50 (12) to a regional poison control center, as the term
- 13-51 is used in Chapter 777, to the extent necessary to enable the center
- 13-52 to provide information and education to health professionals
- 13-53 involved in the management of poison and overdose victims,
- 13-54 including information regarding appropriate therapeutic use of
- 13-55 medications, their compatibility and stability, and adverse drug
- 13-56 reactions and interactions;
- 13-57 (13) to a health care utilization review agent who
- 13-58 requires the health care information for utilization review of
- 13-59 health care under Chapter 4201 [~~Article 21.58A~~], Insurance Code;
- 13-60 (14) for use in a research project authorized by an
- 13-61 institutional review board under federal law;
- 13-62 (15) to health care personnel of a penal or other
- 13-63 custodial institution in which the patient is detained if the
- 13-64 disclosure is for the sole purpose of providing health care to the
- 13-65 patient;
- 13-66 (16) to facilitate reimbursement to a hospital, other
- 13-67 health care provider, or the patient for medical services or
- 13-68 supplies;
- 13-69 (17) to a health maintenance organization for purposes

14-1 of maintaining a statistical reporting system as required by a rule
14-2 adopted by a state agency or regulations adopted under the federal
14-3 Health Maintenance Organization Act of 1973, as amended (42 U.S.C.
14-4 Section 300e et seq.);

14-5 (18) to satisfy a request for medical records of a
14-6 deceased or incompetent person pursuant to Section 74.051(e), Civil
14-7 Practice and Remedies Code;

14-8 (19) to comply with a court order except as provided by
14-9 Subdivision (20); or

14-10 (20) related to a judicial proceeding in which the
14-11 patient is a party and the disclosure is requested under a subpoena
14-12 issued under:

14-13 (A) the Texas Rules of Civil Procedure or Code of
14-14 Criminal Procedure; or

14-15 (B) Chapter 121, Civil Practice and Remedies
14-16 Code.

14-17 SECTION 3. Subsection (d), Section 691.030, Health and
14-18 Safety Code, is amended to read as follows:

14-19 (d) The board may transport a body or anatomical specimen to
14-20 an authorized recipient in another state if the board determines
14-21 that the supply of bodies or anatomical specimens in this state
14-22 exceeds the need for bodies or anatomical specimens in this state
14-23 and if:

14-24 (1) the deceased donated his body in compliance with
14-25 Section 691.028 and at the time of the donation authorized the board
14-26 to transport the body outside this state; or

14-27 (2) the body was donated in compliance with Chapter
14-28 692A [~~692 (Texas Anatomical Gift Act)~~] and the person authorized to
14-29 make the donation under Section 692A.009 [~~692.004~~] authorized the
14-30 board to transport the body outside this state.

14-31 SECTION 4. Subsection (a), Section 693.002, Health and
14-32 Safety Code, is amended by amending Subdivisions (1), (2), and (4)
14-33 and adding Subdivisions (2-a) and (5-a) to read as follows:

14-34 (1) On a request from an [a qualified] organ
14-35 procurement organization, as defined by [in] Section 692A.002
14-36 [~~692.002~~], the medical examiner, justice of the peace, county
14-37 judge, or physician designated by the justice of the peace or county
14-38 judge may permit the removal of organs from a decedent who died
14-39 under circumstances requiring an inquest by the medical examiner,
14-40 justice of the peace, or county judge if consent is obtained
14-41 pursuant to Sections 692A.005 through 692A.010 or Section 693.003.

14-42 (2) If no autopsy is required, the organs to be
14-43 transplanted shall be released in a timely manner to the
14-44 [qualified] organ procurement organization, as defined by [in]
14-45 Section 692A.002 [~~692.002~~], for removal and transplantation.

14-46 (2-a) Within one hour of pronouncement of death, or
14-47 within one hour of consent on an asystolic organ donor, the organ
14-48 procurement organization shall notify the medical examiner,
14-49 justice of the peace, county judge, or designated physician of any
14-50 death requiring an inquest that falls under that person's
14-51 jurisdiction.

14-52 (4) If the medical examiner is considering withholding
14-53 one or more organs of a potential donor for any reason, the medical
14-54 examiner shall be present during the removal of the organs. In such
14-55 case, the medical examiner may request a biopsy of those organs or
14-56 deny removal of the anatomical gift. If the medical examiner denies
14-57 removal of the anatomical gift, the medical examiner shall explain
14-58 in writing the reasons for the denial. The medical examiner shall
14-59 provide the explanation to:

14-60 (A) the [qualified] organ procurement
14-61 organization; and

14-62 (B) any person listed in Section 692A.009 or
14-63 693.004 who consented to the removal.

14-64 (5-a) Effective September 1, 2009, the medical
14-65 examiner, or physician designee of a justice of the peace, or
14-66 physician designee of a county judge, who will subsequently perform
14-67 the postmortem examination may restrict designation of cardiac
14-68 tissue for organ donation purposes without being required to be
14-69 present at the hospital to examine the decedent before removal of

15-1 the organs or during the procedure to remove the organs.

15-2 SECTION 5. Subsection (b), Section 693.002, Health and
15-3 Safety Code, is amended to read as follows:

15-4 (b) On a request from a ~~[qualified]~~ tissue bank ~~[procurement~~
15-5 ~~organization]~~, as defined by ~~[in]~~ Section 692A.002 ~~[692.002]~~, the
15-6 medical examiner may permit the removal of tissue believed to be
15-7 clinically usable for transplants or other therapy or treatment
15-8 from a decedent who died under circumstances requiring an inquest
15-9 if consent is obtained pursuant to Sections 692A.005 through
15-10 692A.010 or Section 693.003 or, if consent is not required by those
15-11 sections ~~[that section]~~, no objection by a person listed in Section
15-12 692A.009 or 693.004 is known by the medical examiner. If the
15-13 medical examiner denies removal of the tissue, the medical examiner
15-14 shall explain in writing the reasons for the denial. The medical
15-15 examiner shall provide the explanation to:

15-16 (1) the ~~[qualified]~~ tissue bank ~~[procurement~~
15-17 ~~organization]~~; and

15-18 (2) the person listed in Section 692A.009 or 693.004
15-19 who consented to the removal.

15-20 SECTION 6. Section 693.003, Health and Safety Code, is
15-21 amended to read as follows:

15-22 Sec. 693.003. CONSENT NOT REQUIRED IN CERTAIN
15-23 CIRCUMSTANCES. ~~[(a) A medical examiner or a person acting on the~~
15-24 ~~authority of a medical examiner may not remove a visceral organ~~
15-25 ~~unless the medical examiner or person obtains the consent of a~~
15-26 ~~person listed in Section 693.004.~~

15-27 ~~[(b) If a person listed in Section 693.004 is known and~~
15-28 ~~available within four hours after death is pronounced, a medical~~
15-29 ~~examiner or a person acting on the authority of a medical examiner~~
15-30 ~~may not remove a nonvisceral organ or tissue unless the medical~~
15-31 ~~examiner or person obtains that person's consent.~~

15-32 ~~[(c)]~~ If a person listed in Section 692A.009 or 693.004
15-33 cannot be identified and contacted within 12 ~~[four]~~ hours after
15-34 death is pronounced and either a county court or ~~[the]~~ medical
15-35 examiner determines that no reasonable likelihood exists that a
15-36 person can be identified and contacted during the 12-hour
15-37 ~~[four-hour]~~ period, the county court or medical examiner may permit
15-38 the removal of a visceral ~~[nonvisceral]~~ organ or tissue.

15-39 SECTION 7. Section 693.005, Health and Safety Code, is
15-40 amended to read as follows:

15-41 Sec. 693.005. IMMUNITY FROM DAMAGES IN CIVIL ACTION. In a
15-42 civil action brought by a person listed in Section 692A.009 or
15-43 693.004 who did not object before the removal of tissue or a body
15-44 part specified by Section 693.002, a medical examiner, justice of
15-45 the peace, county judge, medical facility, physician acting on
15-46 permission of a medical examiner, justice of the peace, or county
15-47 judge, or person assisting a physician is not liable for damages on
15-48 a theory of civil recovery based on a contention that the
15-49 plaintiff's consent was required before the body part or tissue
15-50 could be removed.

15-51 SECTION 8. Section 693.006, Health and Safety Code, is
15-52 amended to read as follows:

15-53 Sec. 693.006. REMOVAL OF CORNEAL TISSUE. On a request from
15-54 an eye bank, as defined in Section 692A.002 ~~[692.002]~~, the medical
15-55 examiner, justice of the peace, county judge, or physician
15-56 designated by the justice of the peace or county judge may permit
15-57 the removal of corneal tissue subject to the same provisions that
15-58 apply to removal of a visceral organ on the request of a ~~[an organ]~~
15-59 procurement organization under this subchapter. The provisions of
15-60 Chapter 692A ~~[this subchapter]~~ relating to immunity and consent
15-61 apply to the removal of the corneal tissue.

15-62 SECTION 9. Subsections (b) and (c), Section 521.401,
15-63 Transportation Code, are amended to read as follows:

15-64 (b) The statement of gift may be shown on a donor's driver's
15-65 license or personal identification certificate or by a card
15-66 designed to be carried by the donor to evidence the donor's
15-67 intentions with respect to organ, tissue, and eye donation. A donor
15-68 card signed by the donor shall be given effect as if executed
15-69 pursuant to Section 692A.005 ~~[692.003(d)]~~, Health and Safety Code.

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

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

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

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

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

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

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

SECTION 11. The following provisions are repealed:

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

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

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