

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2027
By: Zerwas et al. (Harris)
Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As of January 2009, more than 98,000 Americans, including 8,000 Texans, await life-saving organ transplants. The vast majority of organs available for transplant in the United States come from deceased donors, or anatomical donors. Each deceased donor may give as many as seven solid organs for transplantation in addition to eyes and numerous tissues. Anatomical gifts may be made for the purposes of transplantation, therapy, research, or education.

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

C.S.H.B. 2027 relates to adoption of the 2006 UAGA and provides criminal penalties.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

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

CHAPTER 692A. REVISED UNIFORM ANATOMICAL GIFT ACT

Sec. 692A.001. SHORT TITLE. Authorizes this chapter to be cited as the Revised Uniform Anatomical Gift Act.

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

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

Sec. 692A.004. PERSONS AUTHORIZED TO MAKE ANATOMICAL GIFT BEFORE DONOR'S DEATH. Authorizes an anatomical gift of a donor's body or part, subject to Section 692A.008, to be made during the life of the donor for the purpose of

transplantation, therapy, research, or education in the manner provided in Section 692A.005 by certain individuals.

Sec. 692A.005. MANNER OF MAKING ANATOMICAL GIFT BEFORE DONOR'S DEATH. (a) Authorizes a donor to make an anatomical gift through certain actions.

(b) Authorizes a donor or other person authorized to make an anatomical gift under Section 692A.004 to make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating the donor has made an anatomical gift be included on a donor registry. Authorizes the record, if the donor or other person is physically unable to sign a record, to be signed by another individual at the direction of the donor or other person and is required to be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person, and state that the record has been signed and witnessed as provided by Subdivision (1).

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

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

Sec. 692A.006. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE DONOR'S DEATH. (a) Authorizes a donor or other person authorized to make an anatomical gift under Section 692A.004, subject to Section 692A.008, to amend or revoke an anatomical gift by a record signed by the donor, the other person, or subject to Subsection (b), another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(b) Requires that a record signed pursuant to Subsection (a)(1)(C) (relating to another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person, and state that the record has been signed and witnessed as provided by this subsection.

(c) Authorizes a donor or other person authorized to make an anatomical gift under Section 692A.004, subject to Section 692A.008, to revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

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

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

Sec. 692A.007. REFUSAL TO MAKE ANATOMICAL GIFT; EFFECT OF REFUSAL.

(a) Authorizes an individual to refuse to make an anatomical gift of the individual's body or part by a record signed by the individual, or subject to Subsection (b), another individual acting at the direction of the individual, if the individual is physically unable to sign; the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or any form of communication made by the individual during

the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(b) Requires that a record signed pursuant to Subsection (a)(1)(B) (relating to another individual acting at the direction of the individual if the individual is physically unable to sign) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual, and state that the record has been signed and witnessed as provided in this Subsection.

(c) Authorizes an individual who has made a refusal to amend or revoke the refusal in the manner provided in Subsection (a) for making a refusal; by subsequently making an anatomical gift pursuant to Section 692A.005 that is inconsistent with the refusal; or by destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

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

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

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

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

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

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

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

(g) Authorizes a parent of the donor who is reasonably available to revoke or amend an anatomical gift of the donor's body or part if a donor who is an unemancipated minor dies.

(h) Authorizes a parent of the minor who is reasonably available to revoke the minor's refusal if an unemancipated minor who signed a refusal dies.

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

- (1) an agent of the decedent at the time of death who could have made an anatomical gift under Section 692A.004(2) (relating to an agent of the donor) immediately before the decedent's death;
- (2) the spouse of the decedent;
- (3) adult children of the decedent;
- (4) parents of the decedent;
- (5) adult siblings of the decedent;
- (6) adult grandchildren of the decedent;
- (7) grandparents of the decedent;
- (8) an adult who exhibited special care and concern for the decedent;
- (9) the persons who were acting as the guardians of the person of the decedent at the time of death;
- (10) the hospital administrator; and
- (11) any other person having the authority to dispose of the decedent's body.

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

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

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

(b) Authorizes that an anatomical gift by a person authorized under Section 692A.009, subject to Subsection (c), be amended or revoked orally or in a record

by any member of a prior class who is reasonably available. Authorizes that the gift made by a person authorized under Section 692A.009, if more than one member of the prior class is reasonably available, be amended only if a majority of the reasonably available members agree to the amending of the gift or revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

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

Sec. 692A.011. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT; PURPOSE OF ANATOMICAL GIFT. (a) Authorizes that an anatomical gift be made to the following persons named in the document of gift:

(1) an organ procurement organization to be used for transplantation, therapy, research, or education;

(2) a hospital to be used for research;

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

(4) an eye bank or tissue bank, except that use of a gift of a whole body is required to be coordinated through the Anatomical Board of the State of Texas (board);

(5) a forensic science program at a general academic teaching institution as defined by Section 61.003 (Definitions), Education Code, or a private or independent institution of higher education as defined by Section 61.003, Education Code; or

(6) the board.

(b) Requires the board, except for donations described by Subsections (a)(1) through (5), to be the donee of gifts of bodies or parts of bodies made for the purpose of education or research that are subject to distribution by the board under Chapter 691 (Anatomical Board of the State of Texas).

(c) Requires a forensic science program that receives a donation under Subsection (a)(5) to submit a report to the board on a quarterly basis that lists the number of bodies or parts of bodies that the program received and the method in which the program used the bodies or parts of bodies for education or research.

(d) Provides that if an anatomical gift to an individual under Subsection (a)(3) cannot be transplanted into the individual, the part passes in accordance with Subsection (i) in the absence of an express, contrary indication by the person making the anatomical gift.

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

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

(g) Authorizes that the gift be used only for transplantation or therapy, and the gift passes in accordance with Subsection (i) if an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in Subsection (a) and does not identify the purpose of the gift.

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

(i) Provides that for purposes of Subsections (d), (g), and (h), certain rules apply.

(j) Provides that an anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under Subsection (a)(3), passes to the organ procurement organization as custodian of the organ.

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

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

(m) Provides that except as otherwise provided in Subsection (a)(3), nothing in this chapter affects the allocation of organs for transplantation or therapy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 692A.016. SALE OR PURCHASE OF PARTS PROHIBITED. (a) Provides that except as otherwise provided in Subsection (b), a person commits an offense if the person

for valuable consideration knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death. Provides that an offense under this subsection is a Class A misdemeanor.

(b) Authorizes a person to charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

(c) Authorizes the actor to be prosecuted under this section, the other law, or both this section and the other law if conduct that constitutes an offense under this section also constitutes an offense under other law.

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

(b) Authorizes the actor to be prosecuted under this section, the other law, or both this section and the other law if conduct that constitutes an offense under this section also constitutes an offense under other law.

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

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

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

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

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

Sec. 692A.019. LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF VALIDITY. (a) Provides that a document of gift is valid if executed in accordance with this chapter, the laws of the state or country where it was executed, or the laws of the state or country where the person making the anatomical gift was domiciled, had a place of residence, or was a national at the time the document of gift was executed.

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

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

Sec. 692A.020. GLENDA DAWSON DONATE LIFE-TEXAS REGISTRY; EDUCATION PROGRAM. (a) Defines "registry program."

(b) Requires that any program or component of a program that the Department of State Health Services (DSHS) develops under this chapter be known as the Glenda Dawson Donate Life-Texas Registry (registry program).

(c) Requires DSHS to affiliate with an entity, such as a national or state association concerned with organ donation, to promote the registry program in accordance with this section.

(d) Requires DSHS, in consultation with DPS and organ procurement organizations, to establish the registry program.

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

(f) Requires DPS at least monthly to electronically transfer to the organization selected by the commissioner as provided by Subsection (e) the name, date of birth, driver's license number, most recent address, and any other relevant information in the possession of DPS for any person who indicates on the person's driver's license application under Section 521.401 (Statement of Gift), Transportation Code, that the person would like to make an anatomical gift and consents in writing to the release of the information by DPS to the organization for inclusion in the Internet-based registry.

(g) Requires that the contract between DSHS and the organization selected by the commissioner as provided by Subsection (e) require the organization to:

(1) make information obtained from DPS under Subsection (f) available to procurement organizations;

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

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

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

(h) Prohibits DPS, the organization selected by the commissioner under Subsection (e), or a procurement organization, except as otherwise provided by Subsection (g)(3) or this subsection, from selling, renting, or otherwise sharing any information provided to the Internet-based registry. Authorizes a procurement organization to share any information provided to the registry with an organ procurement organization or a health care provider or facility providing medical care to a potential donor as necessary to properly identify an individual at the time of donation.

(i) Prohibits DPS, the organization selected by the commissioner under Subsection (e), or the procurement organizations from using any demographic or

specific data provided to the Internet-based registry for any fund-raising activities. Authorizes that data only be transmitted from the selected organization to procurement organizations through electronic and telephonic methods using secure, encrypted technology to preserve the integrity of the data and the privacy of the individuals providing information.

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

(k) Requires DPS to remit to the comptroller of public accounts (comptroller) the money collected under Sections 521.421(g) (relating to the collection of a fee for the issuance of a license to pay for certain costs) and 521.422(c) (relating to relating to the collection of a fee for a personal identification certificate to pay for certain costs), Transportation Code, as provided by those subsections. Requires a county assessor-collector to remit to the comptroller any money collected under Section 502.1745 (Voluntary Fee), Transportation Code, as provided by that section. Requires that money remitted to the comptroller in accordance with those sections that is appropriated to DSHS be spent in accordance with the priorities established by DSHS in consultation with the council to pay the costs of:

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

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

(l) Authorizes that any additional money over the amount necessary to accomplish the purposes of Subsections (k)(1) and (2) be used by DSHS to provide education under this chapter or to be awarded using a competitive grant process to organizations to conduct organ, eye, and tissue donation education activities in this state. Prohibits a member of the council from receiving a grant under this subsection.

(m) Requires DSHS to require the organization selected under Subsection (e) to submit an annual written report to DSHS that includes certain information.

(n) Requires DSHS, to the extent funds are available and as part of the donor registry program, to educate residents about anatomical gifts. Requires that the program include certain information.

(o) Requires DSHS in consultation with the council, in developing the registry program, to solicit broad-based input reflecting recommendations of all interested groups, including representatives of patients, providers, ethnic groups, and geographic regions.

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

(q) Requires DSHS to develop a program to educate health care providers and attorneys in this state about anatomical gifts.

(r) Requires DSHS through the program to encourage attorneys to provide organ donation information to clients seeking advice for end-of-life decisions.

(s) Requires DSHS to encourage medical and nursing schools in this state to include mandatory organ donation education in the schools' curricula.

(t) Requires DSHS to encourage medical schools in this state to require a physician in a neurology or neurosurgery residency program to complete an advanced course in organ donation education.

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

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

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

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

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

SECTION 2. Amends Section 241.153, Health and Safety Code, to authorize a patient's health care information to be disclosed without the patient's authorization if the disclosure is certain types of information or to certain persons, including to a procurement organization as defined in Section 692A.002 for the purpose of making inquiries relating to donations according to the protocol referred to in Section 692A.015, rather than a qualified organ or tissue procurement organization as defined in Section 692.002 (Definitions) for the purpose of making inquiries relating to donations according to the protocol referred to in Section 692.013(d) (relating to an organ or tissue procurement organization that makes inquiries); or to a health care utilization review agent who requires the health care information for utilization review of health care under Chapter 4201, rather than Article 21.58A (relating to health care utilization review and agents [*repealed*]), Insurance Code.

SECTION 3. Amends Section 691.030(d), Health and Safety Code, to authorize the board to transport a body or anatomical specimen to an authorized recipient in another state if the board determines that the supply of bodies or anatomical specimens in this state exceeds the need for bodies or anatomical specimens in this state and if the body was donated in compliance with Chapter 692A, rather than Chapter 692 (Texas Anatomical Gift Act), and the person authorized

to make the donation under Section 692A.009, rather than Section 692.004 (Persons Who May Execute Gift), authorized the board to transport the body outside this state.

SECTION 4. Amends Sections 693.002(a)(1), (2), and (4), Health and Safety Code, as follows:

(1) Authorizes the medical examiner, justice of the peace, county judge, or physician designated by the justice of the peace or county judge, on a request from an organ procurement organization, as defined by Section 692A.002, rather than from a qualified organ procurement organization, as defined in Section 692.002, to permit the removal of organs from a decedent who died under circumstances requiring an inquest by the medical examiner, justice of the peace, or county judge if consent is obtained pursuant to Sections 692A.005 through 692.010 or Section 693.003.

(2) Makes conforming changes.

(4) Requires the medical examiner, if denying the removal of the anatomical gift, to provide the explanation to the organ procurement organization and any person listed in Section 692A.009, rather than Section 693.004 (Persons Who May Consent or Object to Removal), who consented to the removal. Makes a conforming change.

SECTION 5. Amends Section 693.002(b), Health and Safety Code, as follows:

(b) Authorizes the medical examiner, on a request from a tissue bank, rather than a qualified tissue procurement organization, as defined by Section 692.002, to permit the removal of tissue believed to be clinically usable for transplants or other therapy or treatment from a decedent who died under circumstances requiring an inquest if consent is obtained pursuant to Sections 692A.005 through 692.010 or Section 693.003 or, if consent is not required by those sections, no objection by a person listed in Section 692A.009 is known by the medical examiner. Makes conforming and nonsubstantive changes.

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

Sec. 693.003. New heading: CONSENT NOT REQUIRED IN CERTAIN CIRCUMSTANCES. Authorizes the county court, rather than the medical examiner, to permit the removal of a nonvisceral organ or tissue if a person listed in Section 692.009 cannot be identified and contacted within four hours after death is pronounced and the county court determines that no reasonable likelihood exists that a person can be identified and contacted during the four-hour period. Deletes existing Subsection (a) prohibiting a medical examiner or a person acting on the authority of a medical examiner from removing a visceral organ unless the medical examiner or person obtains the consent of a person listed in Section 693.004. Deletes existing Subsection (b) prohibiting a medical examiner or person acting on the authority of a medical examiner from removing a nonvisceral organ or tissue unless the medical examiner or person obtains that person's consent if a person listed in Section 693.004 is known and available within four hours after death is pronounced. Makes conforming changes and a nonsubstantive change.

SECTION 7. Amends Section 693.005, Health and Safety Code, to provide that in a civil action brought by a person listed in Section 692A.009, rather than 693.004, who did not object before the removal of tissue of a body part specified by Section 693.002, a medical examiner, justice of the peace, county judge, medical facility, physician acting on permission of a medical examiner, justice of the peace, or county judge, or person assisting a physician is not liable for damages that the plaintiff's consent was required before the body part or tissue could be removed.

SECTION 8. Amends Section 693.006, Health and Safety Code, as follows:

Sec. 693.006. REMOVAL OF CORNEAL TISSUE. Authorizes the medical examiner, justice of the peace, county judge, or physician designated by the justice of the peace or county judge, on a request from an eye bank, as defined in Section 692A.002, to permit the removal of a visceral organ on the request of a procurement organization under this

subchapter. Provides that the provisions of Chapter 692A, rather than this subchapter, relating to immunity and consent apply to the removal of the corneal tissue. Makes conforming changes.

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

(b) Requires that a donor card signed by the donor be given effect as if executed pursuant to Section 692A.005, rather than Section 692.003(d) (relating to requirements of a gift made by a document other than a will), Health and Safety Code.

(c) Requires that donor cards be provided to DPS by organ procurement organizations, tissue banks, or eye banks, as those terms are defined in Section 692A.002, Health and Safety Code, or by the registry program, rather than the Donor Education, Awareness, and Registry Program of Texas, established under Chapter 692A, rather than Chapter 49 (Donor Education, Awareness, and Registry Program of Texas), Health and Safety Code. Requires DPS to 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 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, Health and Safety Code, and 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 under Section 692A.020, Health and Safety Code, for inclusion in the statewide Internet-based registry of organ, tissue, and eye donors and for release to procurement organizations, rather than qualified organ, tissue, and eye bank organizations; and provide a means to distribute donor cards to interested individuals in each office authorized to issue driver's licenses or personal identification certificates. Makes conforming changes.

SECTION 10. Amends Section 651.407(f), Occupations Code, to provide that this section does not apply to a dead human body obtained by a school or college of mortuary science under Chapter 691 or 692A, rather than 692, Health and Safety Code.

SECTION 11. Repealer: Chapter 49 (Donor Education, Awareness, and Registry Program of Texas), Health and Safety Code.

Repealer: Chapter 692 (Texas Anatomical Gift Act), Health and Safety Code.

Repealer: Section 693.004 (Persons Who May Consent or Object to Removal), Health and Safety Code.

Repealer: Section 521.403 (Information Provided to Hospital), Transportation Code.

Repealer: Section 521.404 (Notification to Procurement Organization), Transportation Code.

SECTION 12. Provides that notwithstanding the repeal of Chapter 49, Health and Safety Code, by this Act, the registry program described by that chapter is continued in effect in accordance with Chapter 692A, Health and Safety Code, as added by this Act.

SECTION 13. Effective date: September 1, 2009.