

1-1 By: Zerwas, et al. (Senate Sponsor - Harris) H.B. No. 2027
1-2 (In the Senate - Received from the House April 24, 2009;
1-3 April 24, 2009, read first time and referred to Committee on Health
1-4 and Human Services; May 8, 2009, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 9, Nays
1-6 0; May 8, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2027 By: Nelson

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 not
- 2-35 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 and:
3-25 (i) circumstances allow the donation to be
3-26 actualized prior to 18 years of age; and
3-27 (ii) an organ procurement organization
3-28 obtains signed written consent from the minor's parent, guardian,
3-29 or custodian as in Subdivision (3);
3-30 (2) an agent of the donor, unless the medical power of
3-31 attorney or other record prohibits the agent from making an
3-32 anatomical gift;
3-33 (3) a parent of the donor, if the donor is an
3-34 unemancipated minor; or
3-35 (4) the donor's guardian.
3-36 Sec. 692A.005. MANNER OF MAKING ANATOMICAL GIFT BEFORE
3-37 DONOR'S DEATH. (a) A donor may make an anatomical gift:
3-38 (1) by authorizing a statement or symbol indicating
3-39 that the donor has made an anatomical gift to be imprinted on the
3-40 donor's driver's license or identification card;
3-41 (2) in a will;
3-42 (3) during a terminal illness or injury of the donor,
3-43 by any form of communication addressed to at least two adults, at
3-44 least one of whom is a disinterested witness; or
3-45 (4) as provided in Subsection (b).
3-46 (b) A donor or other person authorized to make an anatomical
3-47 gift under Section 692A.004 may make a gift by a donor card or other
3-48 record signed by the donor or other person making the gift or by
3-49 authorizing that a statement or symbol indicating the donor has
3-50 made an anatomical gift be included on a donor registry. If the
3-51 donor or other person is physically unable to sign a record, the
3-52 record may be signed by another individual at the direction of the
3-53 donor or other person and must:
3-54 (1) be witnessed by at least two adults, at least one
3-55 of whom is a disinterested witness, who have signed at the request
3-56 of the donor or the other person; and
3-57 (2) state that the record has been signed and
3-58 witnessed as provided in Subdivision (1).
3-59 (c) Revocation, suspension, expiration, or cancellation of
3-60 a driver's license or identification card on which an anatomical
3-61 gift is indicated does not invalidate the gift.
3-62 (d) An anatomical gift made by will takes effect on the
3-63 donor's death whether or not the will is probated. Invalidation of
3-64 the will after the donor's death does not invalidate the gift.
3-65 Sec. 692A.006. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE
3-66 DONOR'S DEATH. (a) Subject to Section 692A.008, a donor or other
3-67 person authorized to make an anatomical gift under Section 692A.004
3-68 may amend or revoke an anatomical gift by:
3-69 (1) a record signed by:

4-1 (A) the donor;

4-2 (B) the other person; or

4-3 (C) subject to Subsection (b), another
4-4 individual acting at the direction of the donor or the other person
4-5 if the donor or other person is physically unable to sign; or

4-6 (2) a later-executed document of gift that amends or
4-7 revokes a previous anatomical gift or portion of an anatomical
4-8 gift, either expressly or by inconsistency.

4-9 (b) A record signed pursuant to Subsection (a)(1)(C) must:

4-10 (1) be witnessed by at least two adults, at least one
4-11 of whom is a disinterested witness, who have signed at the request
4-12 of the donor or the other person; and

4-13 (2) state that the record has been signed and
4-14 witnessed as provided in Subdivision (1).

4-15 (c) Subject to Section 692A.008, a donor or other person
4-16 authorized to make an anatomical gift under Section 692A.004 may
4-17 revoke an anatomical gift by the destruction or cancellation of the
4-18 document of gift, or the portion of the document of gift used to
4-19 make the gift, with the intent to revoke the gift.

4-20 (d) A donor may amend or revoke an anatomical gift that was
4-21 not made in a will by any form of communication during a terminal
4-22 illness or injury addressed to at least two adults, at least one of
4-23 whom is a disinterested witness.

4-24 (e) A donor who makes an anatomical gift in a will may amend
4-25 or revoke the gift in the manner provided for amendment or
4-26 revocation of wills or as provided in Subsection (a).

4-27 Sec. 692A.007. REFUSAL TO MAKE ANATOMICAL GIFT; EFFECT OF
4-28 REFUSAL. (a) An individual may refuse to make an anatomical gift
4-29 of the individual's body or part by:

4-30 (1) a record signed by:

4-31 (A) the individual; or

4-32 (B) subject to Subsection (b), another
4-33 individual acting at the direction of the individual if the
4-34 individual is physically unable to sign;

4-35 (2) the individual's will, whether or not the will is
4-36 admitted to probate or invalidated after the individual's death; or

4-37 (3) any form of communication made by the individual
4-38 during the individual's terminal illness or injury addressed to at
4-39 least two adults, at least one of whom is a disinterested witness.

4-40 (b) A record signed pursuant to Subsection (a)(1)(B) must:

4-41 (1) be witnessed by at least two adults, at least one
4-42 of whom is a disinterested witness, who have signed at the request
4-43 of the individual; and

4-44 (2) state that the record has been signed and
4-45 witnessed as provided in Subdivision (1).

4-46 (c) An individual who has made a refusal may amend or revoke
4-47 the refusal:

4-48 (1) in the manner provided in Subsection (a) for
4-49 making a refusal;

4-50 (2) by subsequently making an anatomical gift pursuant
4-51 to Section 692A.005 that is inconsistent with the refusal; or

4-52 (3) by destroying or canceling the record evidencing
4-53 the refusal, or the portion of the record used to make the refusal,
4-54 with the intent to revoke the refusal.

4-55 (d) Except as otherwise provided in Section 692A.008(h), in
4-56 the absence of an express, contrary indication by the individual
4-57 set forth in the refusal, an individual's unrevoked refusal to make
4-58 an anatomical gift of the individual's body or part bars all other
4-59 persons from making an anatomical gift of the individual's body or
4-60 part.

4-61 Sec. 692A.008. PRECLUSIVE EFFECT OF ANATOMICAL GIFT,
4-62 AMENDMENT, OR REVOCATION. (a) Except as otherwise provided in
4-63 Subsection (g) and subject to Subsection (f), in the absence of an
4-64 express, contrary indication by the donor, a person other than the
4-65 donor is barred from making, amending, or revoking an anatomical
4-66 gift of a donor's body or part if the donor made an anatomical gift
4-67 of the donor's body or part under Section 692A.005 or an amendment
4-68 to an anatomical gift of the donor's body or part under Section
4-69 692A.006.

5-1 (b) A donor's revocation of an anatomical gift of the
5-2 donor's body or part under Section 692A.006 is not a refusal and
5-3 does not bar another person specified in Section 692A.004 or
5-4 Section 692A.009 from making an anatomical gift of the donor's body
5-5 or part under Section 692A.005 or Section 692A.010.

5-6 (c) If a person other than the donor makes an unrevoked
5-7 anatomical gift of the donor's body or part under Section 692A.005
5-8 or an amendment to an anatomical gift of the donor's body or part
5-9 under Section 692A.006, another person may not make, amend, or
5-10 revoke the gift of the donor's body or part under Section 692A.010.

5-11 (d) A revocation of an anatomical gift of a donor's body or
5-12 part under Section 692A.006 by a person other than the donor does
5-13 not bar another person from making an anatomical gift of the body or
5-14 part under Section 692A.005 or Section 692A.010.

5-15 (e) 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 is neither a refusal
5-18 to give another part nor a limitation on the making of an anatomical
5-19 gift of another part at a later time by the donor or another person.

5-20 (f) In the absence of an express, contrary indication by the
5-21 donor or other person authorized to make an anatomical gift under
5-22 Section 692A.004, an anatomical gift of a part for one or more of
5-23 the purposes set forth in Section 692A.004 is not a limitation on
5-24 the making of an anatomical gift of the part for any of the other
5-25 purposes by the donor or any other person under Section 692A.005 or
5-26 Section 692A.010.

5-27 (g) If a donor who is an unemancipated minor dies, a parent
5-28 of the donor who is reasonably available may revoke or amend an
5-29 anatomical gift of the donor's body or part.

5-30 (h) If an unemancipated minor who signed a refusal dies, a
5-31 parent of the minor who is reasonably available may revoke the
5-32 minor's refusal.

5-33 Sec. 692A.009. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S
5-34 BODY OR PART. (a) Subject to Subsections (b) and (c) and unless
5-35 barred by Section 692A.007 or Section 692A.008, an anatomical gift
5-36 of a decedent's body or part for the purpose of transplantation,
5-37 therapy, research, or education may be made by any member of the
5-38 following classes of persons who is reasonably available, in the
5-39 order of priority listed:

5-40 (1) an agent of the decedent at the time of death who
5-41 could have made an anatomical gift under Section 692A.004(2)
5-42 immediately before the decedent's death;

5-43 (2) the spouse of the decedent;

5-44 (3) adult children of the decedent;

5-45 (4) parents of the decedent;

5-46 (5) adult siblings of the decedent;

5-47 (6) adult grandchildren of the decedent;

5-48 (7) grandparents of the decedent;

5-49 (8) an adult who exhibited special care and concern
5-50 for the decedent;

5-51 (9) the persons who were acting as the guardians of the
5-52 person of the decedent at the time of death;

5-53 (10) the hospital administrator; and

5-54 (11) any other person having the authority to dispose
5-55 of the decedent's body.

5-56 (b) If there is more than one member of a class listed in
5-57 Subsection (a)(1), (3), (4), (5), (6), (7), or (9) entitled to make
5-58 an anatomical gift, an anatomical gift may be made by a member of
5-59 the class unless that member or a person to which the gift may pass
5-60 under Section 692A.011 knows of an objection by another member of
5-61 the class. If an objection is known, the gift may be made only by a
5-62 majority of the members of the class who are reasonably available.

5-63 (c) A person may not make an anatomical gift if, at the time
5-64 of the decedent's death, a person in a prior class under Subsection
5-65 (a) is reasonably available to make or to object to the making of an
5-66 anatomical gift.

5-67 Sec. 692A.010. MANNER OF MAKING, AMENDING, OR REVOKING
5-68 ANATOMICAL GIFT OF DECEDENT'S BODY OR PART. (a) A person
5-69 authorized to make an anatomical gift under Section 692A.009 may

6-1 make an anatomical gift by a document of gift signed by the person
6-2 making the gift or by that person's oral communication that is
6-3 electronically recorded or is contemporaneously reduced to a record
6-4 and signed by the individual receiving the oral communication.

6-5 (b) Subject to Subsection (c), an anatomical gift by a
6-6 person authorized under Section 692A.009 may be amended or revoked
6-7 orally or in a record by any member of a prior class who is
6-8 reasonably available. If more than one member of the prior class is
6-9 reasonably available, the gift made by a person authorized under
6-10 Section 692A.009 may be:

6-11 (1) amended only if a majority of the reasonably
6-12 available members agree to the amending of the gift; or

6-13 (2) revoked only if a majority of the reasonably
6-14 available members agree to the revoking of the gift or if they are
6-15 equally divided as to whether to revoke the gift.

6-16 (c) A revocation under Subsection (b) is effective only if,
6-17 before an incision has been made to remove a part from the donor's
6-18 body or before the initiation of invasive procedures to prepare the
6-19 recipient, the procurement organization, transplant hospital, or
6-20 physician or technician knows of the revocation.

6-21 Sec. 692A.011. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT;
6-22 PURPOSE OF ANATOMICAL GIFT. (a) An anatomical gift may be made to
6-23 the following persons named in the document of gift:

6-24 (1) an organ procurement organization to be used for
6-25 transplantation, therapy, research, or education;

6-26 (2) a hospital to be used for research;

6-27 (3) subject to Subsection (d), an individual
6-28 designated by the person making the anatomical gift if the
6-29 individual is the recipient of the part;

6-30 (4) an eye bank or tissue bank, except that use of a
6-31 gift of a whole body must be coordinated through the Anatomical
6-32 Board of the State of Texas;

6-33 (5) a forensic science program at:

6-34 (A) a general academic teaching institution as
6-35 defined by Section 61.003, Education Code; or

6-36 (B) a private or independent institution of
6-37 higher education as defined by Section 61.003, Education Code; or

6-38 (6) the Anatomical Board of the State of Texas.

6-39 (b) Except for donations described by Subsections (a)(1)
6-40 through (5), the Anatomical Board of the State of Texas shall be the
6-41 donee of gifts of bodies or parts of bodies made for the purpose of
6-42 education or research that are subject to distribution by the board
6-43 under Chapter 691.

6-44 (c) A forensic science program that receives a donation
6-45 under Subsection (a)(5) must submit a report to the Anatomical
6-46 Board of the State of Texas on a quarterly basis that lists:

6-47 (1) the number of bodies or parts of bodies that the
6-48 program received; and

6-49 (2) the method in which the program used the bodies or
6-50 parts of bodies for education or research.

6-51 (d) If an anatomical gift to an individual under Subsection
6-52 (a)(3) cannot be transplanted into the individual, the part passes
6-53 in accordance with Subsection (i) in the absence of an express,
6-54 contrary indication by the person making the anatomical gift.

6-55 (e) If an anatomical gift of one or more specific parts or of
6-56 all parts is made in a document of gift that does not name a person
6-57 described in Subsection (a) but identifies the purpose for which an
6-58 anatomical gift may be used, the following rules apply:

6-59 (1) if the part is an eye and the gift is for the
6-60 purpose of transplantation or therapy, the gift passes to the
6-61 appropriate eye bank;

6-62 (2) if the part is tissue and the gift is for the
6-63 purpose of transplantation or therapy, the gift passes to the
6-64 appropriate tissue bank;

6-65 (3) if the part is an organ and the gift is for the
6-66 purpose of transplantation or therapy, the gift passes to the
6-67 appropriate organ procurement organization as custodian of the
6-68 organ; and

6-69 (4) if the part is an organ, an eye, or tissue and the

7-1 gift is for the purpose of research or education, the gift passes to
 7-2 the appropriate procurement organization.

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

7-9 (g) If an anatomical gift of one or more specific parts is
 7-10 made in a document of gift that does not name a person described in
 7-11 Subsection (a) and does not identify the purpose of the gift, the
 7-12 gift may be used only for transplantation or therapy, and the gift
 7-13 passes in accordance with Subsection (i).

7-14 (h) If a document of gift specifies only a general intent to
 7-15 make an anatomical gift by words such as "donor," "organ donor," or
 7-16 "body donor," or by a symbol or statement of similar import, the
 7-17 gift may be used only for transplantation or therapy, and the gift
 7-18 passes in accordance with Subsection (i).

7-19 (i) For purposes of Subsections (d), (g), and (h), the
 7-20 following rules apply:

7-21 (1) if the part is an eye, the gift passes to the
 7-22 appropriate eye bank;

7-23 (2) if the part is tissue, the gift passes to the
 7-24 appropriate tissue bank; and

7-25 (3) if the part is an organ, the gift passes to the
 7-26 appropriate organ procurement organization as custodian of the
 7-27 organ.

7-28 (j) An anatomical gift of an organ for transplantation or
 7-29 therapy, other than an anatomical gift under Subsection (a)(3),
 7-30 passes to the organ procurement organization as custodian of the
 7-31 organ.

7-32 (k) If an anatomical gift does not pass pursuant to
 7-33 Subsections (a) through (j) or the decedent's body or part is not
 7-34 used for transplantation, therapy, research, or education, custody
 7-35 of the body or part passes to the person under obligation to dispose
 7-36 of the body or part.

7-37 (l) A person may not accept an anatomical gift if the person
 7-38 knows that the gift was not effectively made under Section 692A.005
 7-39 or Section 692A.010 or if the person knows that the decedent made a
 7-40 refusal under Section 692A.007 that was not revoked. For purposes
 7-41 of this subsection, if a person knows that an anatomical gift was
 7-42 made on a document of gift, the person is deemed to know of any
 7-43 amendment or revocation of the gift or any refusal to make an
 7-44 anatomical gift on the same document of gift.

7-45 (m) Except as otherwise provided in Subsection (a)(3),
 7-46 nothing in this chapter affects the allocation of organs for
 7-47 transplantation or therapy.

7-48 (n) A donee may accept or reject a gift.

7-49 Sec. 692A.012. SEARCH AND NOTIFICATION. The donor card of a
 7-50 person who is involved in an accident or other trauma shall
 7-51 accompany the person to the hospital or other health care facility.
 7-52 The driver's license or personal identification certificate
 7-53 indicating an affirmative statement of gift of a person who is
 7-54 involved in an accident or other trauma shall accompany the person
 7-55 to the hospital or health care facility if the person does not have
 7-56 a donor card.

7-57 Sec. 692A.013. DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED;
 7-58 RIGHT TO EXAMINE. (a) A document of gift need not be delivered
 7-59 during the donor's lifetime to be effective.

7-60 (b) On or after an individual's death, a person in
 7-61 possession of a document of gift or a refusal to make an anatomical
 7-62 gift with respect to the individual shall allow examination and
 7-63 copying of the document of gift or refusal by a person authorized to
 7-64 make or object to the making of an anatomical gift with respect to
 7-65 the individual or by a person to which the gift could pass under
 7-66 Section 692A.011.

7-67 Sec. 692A.014. RIGHTS AND DUTIES OF PROCUREMENT
 7-68 ORGANIZATION AND OTHERS. (a) When a hospital refers an individual
 7-69 at or near death to a procurement organization, the organization

8-1 shall make a reasonable search of the records of the Department of
 8-2 Public Safety and any donor registry that it knows exists for the
 8-3 geographical area in which the individual resides to ascertain
 8-4 whether the individual has made an anatomical gift.

8-5 (b) A procurement organization must be allowed reasonable
 8-6 access to information in the records of the Department of Public
 8-7 Safety to ascertain whether an individual at or near death is a
 8-8 donor.

8-9 (c) When a hospital refers an individual at or near death to
 8-10 a procurement organization, the organization may conduct any
 8-11 reasonable examination necessary to ensure the medical suitability
 8-12 of a part that is or could be the subject of an anatomical gift for
 8-13 transplantation, therapy, research, or education from a donor or a
 8-14 prospective donor. During the examination period, measures
 8-15 necessary to ensure the medical suitability of the part may not be
 8-16 withdrawn unless the hospital or procurement organization knows
 8-17 that the individual expressed a contrary intent.

8-18 (d) Unless prohibited by law other than this chapter, at any
 8-19 time after a donor's death, the person to which a part passes under
 8-20 Section 692A.011 may conduct any reasonable examination necessary
 8-21 to ensure the medical suitability of the body or part for its
 8-22 intended purpose.

8-23 (e) Unless prohibited by law other than this chapter, an
 8-24 examination under Subsection (c) or (d) may include an examination
 8-25 of all medical and dental records of the donor or prospective donor.

8-26 (f) On the death of a minor who was a donor or had signed a
 8-27 refusal, unless a procurement organization knows the minor is
 8-28 emancipated, the procurement organization shall conduct a
 8-29 reasonable search for the parents of the minor and provide the
 8-30 parents with an opportunity to revoke or amend the anatomical gift
 8-31 or revoke the refusal.

8-32 (g) On referral by a hospital under Subsection (a), a
 8-33 procurement organization shall make a reasonable search for any
 8-34 person listed in Section 692A.009 having priority to make an
 8-35 anatomical gift on behalf of a prospective donor. If a procurement
 8-36 organization receives information that an anatomical gift to any
 8-37 other person was made, amended, or revoked, it shall promptly
 8-38 advise the other person of all relevant information.

8-39 (h) Subject to Sections 692A.011(k) and 693.002, the rights
 8-40 of the person to which a part passes under Section 692A.011 are
 8-41 superior to the rights of all others with respect to the part. The
 8-42 person may accept or reject an anatomical gift wholly or partly.
 8-43 Subject to the terms of the document of gift and this chapter, a
 8-44 person that accepts an anatomical gift of an entire body may allow
 8-45 embalming, burial, or cremation, and use of remains in a funeral
 8-46 service. If the gift is of a part, the person to which the part
 8-47 passes under Section 692A.011, on the death of the donor and before
 8-48 embalming, burial, or cremation, shall cause the part to be removed
 8-49 without unnecessary mutilation.

8-50 (i) The physician who attends the decedent at death or the
 8-51 physician who determines the time of the decedent's death may not
 8-52 participate in the procedures for removing or transplanting a part
 8-53 from the decedent.

8-54 (j) A physician or technician may remove a donated part from
 8-55 the body of a donor that the physician or technician is qualified to
 8-56 remove.

8-57 Sec. 692A.015. COORDINATION OF PROCUREMENT AND USE;
 8-58 HOSPITAL PROCEDURES. Each hospital in this state shall enter into
 8-59 agreements or affiliations with procurement organizations for
 8-60 coordination of procurement and use of anatomical gifts. Each
 8-61 hospital must have a protocol that ensures its maintenance of an
 8-62 effective donation system in order to maximize organ, tissue, and
 8-63 eye donation. The protocol must:

8-64 (1) be available to the public during the hospital's
 8-65 normal business hours;

8-66 (2) establish a procedure for the timely notification
 8-67 to an organ procurement organization of individuals whose death is
 8-68 imminent or who have died in the hospital;

8-69 (3) establish procedures to ensure potential donors

9-1 are declared dead by an appropriate practitioner in an acceptable
9-2 time frame;
9-3 (4) establish procedures to ensure that hospital staff
9-4 and organ procurement organization staff maintain appropriate
9-5 medical treatment of potential donors while necessary testing and
9-6 placement of potential donated organs, tissues, and eyes take
9-7 place;
9-8 (5) ensure that all families are provided the
9-9 opportunity to donate organs, tissues, and eyes, including vascular
9-10 organs procured from asystolic donors;
9-11 (6) provide that the hospital use appropriately
9-12 trained persons from an organ procurement organization, tissue
9-13 bank, or eye bank to make inquiries relating to donations;
9-14 (7) provide for documentation of the inquiry and of
9-15 its disposition in the decedent's medical records;
9-16 (8) require an organ procurement organization, tissue
9-17 bank, or eye bank that makes inquiries relating to donations to
9-18 develop a protocol for making those inquiries;
9-19 (9) encourage sensitivity to families' beliefs and
9-20 circumstances in all discussions relating to the donations;
9-21 (10) provide that the organ procurement organization
9-22 determines medical suitability for organ donation and, in the
9-23 absence of alternative arrangements by the hospital, the organ
9-24 procurement organization determines medical suitability for tissue
9-25 and eye donation, using the definition of potential tissue and eye
9-26 donor and the notification protocol developed in consultation with
9-27 the tissue and eye banks identified by the hospital for this
9-28 purpose;
9-29 (11) ensure that the hospital works cooperatively with
9-30 the designated organ procurement organization, tissue bank, and eye
9-31 bank in educating staff on donation issues;
9-32 (12) ensure that the hospital works with the
9-33 designated organ procurement organization, tissue bank, and eye
9-34 bank in reviewing death records; and
9-35 (13) provide for monitoring of donation system
9-36 effectiveness, including rates of donation, protocols, and
9-37 policies, as part of the hospital's quality improvement program.
9-38 Sec. 692A.016. SALE OR PURCHASE OF PARTS PROHIBITED. (a)
9-39 Except as otherwise provided in Subsection (b), a person commits an
9-40 offense if the person for valuable consideration knowingly
9-41 purchases or sells a part for transplantation or therapy if removal
9-42 of a part from an individual is intended to occur after the
9-43 individual's death. An offense under this subsection is a Class A
9-44 misdemeanor.
9-45 (b) A person may charge a reasonable amount for the removal,
9-46 processing, preservation, quality control, storage,
9-47 transportation, implantation, or disposal of a part.
9-48 (c) If conduct that constitutes an offense under this
9-49 section also constitutes an offense under other law, the actor may
9-50 be prosecuted under this section, the other law, or both this
9-51 section and the other law.
9-52 Sec. 692A.017. OTHER PROHIBITED ACTS. (a) A person
9-53 commits an offense if the person, in order to obtain a financial
9-54 gain, intentionally falsifies, forges, conceals, defaces, or
9-55 obliterates a document of gift, an amendment or revocation of a
9-56 document of gift, or a refusal. An offense under this section is a
9-57 Class A misdemeanor.
9-58 (b) If conduct that constitutes an offense under this
9-59 section also constitutes an offense under other law, the actor may
9-60 be prosecuted under this section, the other law, or both this
9-61 section and the other law.
9-62 Sec. 692A.018. IMMUNITY. (a) A person who acts in good
9-63 faith in accordance with this chapter is not liable for civil
9-64 damages or subject to criminal prosecution for the person's action
9-65 if the prerequisites for an anatomical gift are met under the laws
9-66 applicable at the time and place the gift is made.
9-67 (b) A person that acts in accordance with this chapter or
9-68 with the applicable anatomical gift law of another state, or
9-69 attempts in good faith to do so, is not liable for the act in a civil

10-1 action, criminal prosecution, or administrative proceeding.

10-2 (c) A person who acts in good faith in accordance with this
 10-3 chapter is not liable as a result of the action except in the case of
 10-4 an act or omission of the person that is intentional, wilfully or
 10-5 wantonly negligent, or done with conscious indifference or reckless
 10-6 disregard. For purposes of this subsection, "good faith" in
 10-7 determining the appropriate person authorized to make a donation
 10-8 under Section 692A.009 means making a reasonable effort to locate
 10-9 and contact the member or members of the highest priority class who
 10-10 are reasonably available at or near the time of death.

10-11 (d) Neither a person making an anatomical gift nor the
 10-12 donor's estate is liable for any injury or damage that results from
 10-13 the making or use of the gift.

10-14 (e) In determining whether an anatomical gift has been made,
 10-15 amended, or revoked under this chapter, a person may rely on
 10-16 representations of an individual listed in Section 692A.009(a)(2),
 10-17 (3), (4), (5), (6), (7), or (8) relating to the individual's
 10-18 relationship to the donor or prospective donor unless the person
 10-19 knows that the representation is untrue.

10-20 Sec. 692A.019. LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO
 10-21 EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF VALIDITY. (a) A
 10-22 document of gift is valid if executed in accordance with:

10-23 (1) this chapter;
 10-24 (2) the laws of the state or country where it was
 10-25 executed; or

10-26 (3) the laws of the state or country where the person
 10-27 making the anatomical gift was domiciled, had a place of residence,
 10-28 or was a national at the time the document of gift was executed.

10-29 (b) If a document of gift is valid under this section, the
 10-30 law of this state governs the interpretation of the document of
 10-31 gift.

10-32 (c) A person may presume that a document of gift or
 10-33 amendment of an anatomical gift is valid unless that person knows
 10-34 that it was not validly executed or was revoked.

10-35 Sec. 692A.020. GLENDA DAWSON DONATE LIFE-TEXAS REGISTRY;
 10-36 EDUCATION PROGRAM. (a) In this section, "registry program" means
 10-37 the donor education, awareness, and registry program established
 10-38 under this section and known as the Glenda Dawson Donate Life-Texas
 10-39 Registry.

10-40 (b) Any program or component of a program that the
 10-41 department develops under this chapter shall be known as the Glenda
 10-42 Dawson Donate Life-Texas Registry.

10-43 (c) The department shall affiliate with an entity, such as a
 10-44 national or state association concerned with organ donation, to
 10-45 promote the registry program in accordance with this section.

10-46 (d) In consultation with the Department of Public Safety and
 10-47 organ procurement organizations, the department shall establish
 10-48 the Glenda Dawson Donate Life-Texas Registry.

10-49 (e) The department shall enter into an agreement with an
 10-50 organization selected by the commissioner under a competitive
 10-51 proposal process for the establishment and maintenance of a
 10-52 statewide Internet-based registry of organ, tissue, and eye donors.
 10-53 Contingent on the continued availability of appropriations under
 10-54 Subsection (k), the term of the initial agreement is two years and
 10-55 may be renewed for two-year terms thereafter unless terminated in a
 10-56 written notice to the other party by the department or organization
 10-57 not later than the 180th day before the last day of a term.

10-58 (f) The Department of Public Safety at least monthly shall
 10-59 electronically transfer to the organization selected by the
 10-60 commissioner as provided by Subsection (e) the name, date of birth,
 10-61 driver's license number, most recent address, and any other
 10-62 relevant information in the possession of the Department of Public
 10-63 Safety for any person who indicates on the person's driver's license
 10-64 application under Section 521.401, Transportation Code, that the
 10-65 person would like to make an anatomical gift and consents in writing
 10-66 to the release of the information by the Department of Public Safety
 10-67 to the organization for inclusion in the Internet-based registry.

10-68 (g) The contract between the department and the
 10-69 organization selected by the commissioner as provided by Subsection

11-1 (e) must require the organization to:

11-2 (1) make information obtained from the Department of
11-3 Public Safety under Subsection (f) available to procurement
11-4 organizations;

11-5 (2) allow potential donors to submit information in
11-6 writing directly to the organization for inclusion in the
11-7 Internet-based registry;

11-8 (3) maintain the Internet-based registry in a manner
11-9 that allows procurement organizations to immediately access organ,
11-10 tissue, and eye donation information 24 hours a day, seven days a
11-11 week through electronic and telephonic methods; and

11-12 (4) protect the confidentiality and privacy of the
11-13 individuals providing information to the Internet-based registry,
11-14 regardless of the manner in which the information is provided.

11-15 (h) Except as otherwise provided by Subsection (g)(3) or
11-16 this subsection, the Department of Public Safety, the organization
11-17 selected by the commissioner under Subsection (e), or a procurement
11-18 organization may not sell, rent, or otherwise share any information
11-19 provided to the Internet-based registry. A procurement
11-20 organization may share any information provided to the registry
11-21 with an organ procurement organization or a health care provider or
11-22 facility providing medical care to a potential donor as necessary
11-23 to properly identify an individual at the time of donation.

11-24 (i) The Department of Public Safety, the organization
11-25 selected by the commissioner under Subsection (e), or the
11-26 procurement organizations may not use any demographic or specific
11-27 data provided to the Internet-based registry for any fund-raising
11-28 activities. Data may only be transmitted from the selected
11-29 organization to procurement organizations through electronic and
11-30 telephonic methods using secure, encrypted technology to preserve
11-31 the integrity of the data and the privacy of the individuals
11-32 providing information.

11-33 (j) In each office authorized to issue driver's licenses or
11-34 personal identification certificates, the Department of Public
11-35 Safety shall make available educational materials developed by the
11-36 Texas Organ, Tissue, and Eye Donor Council established under
11-37 Chapter 113, as added by Chapter 1186, Acts of the 79th Legislature,
11-38 Regular Session, 2005.

11-39 (k) The Department of Public Safety shall remit to the
11-40 comptroller the money collected under Sections 521.421(g) and
11-41 521.422(c), Transportation Code, as provided by those subsections.
11-42 A county assessor-collector shall remit to the comptroller any
11-43 money collected under Section 502.1745, Transportation Code, as
11-44 provided by that section. Money remitted to the comptroller in
11-45 accordance with those sections that is appropriated to the
11-46 department must be spent in accordance with the priorities
11-47 established by the department in consultation with the Texas Organ,
11-48 Tissue, and Eye Donor Council to pay the costs of:

11-49 (1) maintaining, operating, and updating the
11-50 Internet-based registry and establishing procedures for an
11-51 individual to be added to the registry; and

11-52 (2) designing and distributing educational materials
11-53 for prospective donors as required under this section.

11-54 (l) Any additional money over the amount necessary to
11-55 accomplish the purposes of Subsections (k)(1) and (2) may be used by
11-56 the department to provide education under this chapter or may be
11-57 awarded using a competitive grant process to organizations to
11-58 conduct organ, eye, and tissue donation education activities in
11-59 this state. A member of the Texas Organ, Tissue, and Eye Donor
11-60 Council may not receive a grant under this subsection.

11-61 (m) The department shall require the organization selected
11-62 under Subsection (e) to submit an annual written report to the
11-63 department that includes:

11-64 (1) the number of donors listed on the Internet-based
11-65 registry;

11-66 (2) changes in the number of donors listed on the
11-67 registry; and

11-68 (3) the demographic characteristics of listed donors,
11-69 to the extent the characteristics may be determined from

12-1 information provided on donor registry forms submitted by donors to
 12-2 the organization.

12-3 (n) To the extent funds are available and as part of the
 12-4 donor registry program, the department shall educate residents
 12-5 about anatomical gifts. The program shall include information
 12-6 about:

12-7 (1) the laws governing anatomical gifts, including
 12-8 Subchapter Q, Chapter 521, Transportation Code, Chapter 693, and
 12-9 this chapter;

12-10 (2) the procedures for becoming an organ, eye, or
 12-11 tissue donor or donee; and

12-12 (3) the benefits of organ, eye, or tissue donation.

12-13 (o) In developing the registry program, the department in
 12-14 consultation with the Texas Organ, Tissue, and Eye Donor Council
 12-15 shall solicit broad-based input reflecting recommendations of all
 12-16 interested groups, including representatives of patients,
 12-17 providers, ethnic groups, and geographic regions.

12-18 (p) In consultation with the Texas Organ, Tissue, and Eye
 12-19 Donor Council, the department may implement a training program for
 12-20 all appropriate Department of Public Safety and Texas Department of
 12-21 Transportation employees on the benefits of organ, tissue, and eye
 12-22 donation and the procedures for individuals to be added to the
 12-23 Internet-based registry. The department shall implement the
 12-24 training program before the date that the registry is operational
 12-25 and shall conduct the training on an ongoing basis for new
 12-26 employees.

12-27 (q) The department shall develop a program to educate health
 12-28 care providers and attorneys in this state about anatomical gifts.

12-29 (r) The department through the program shall encourage
 12-30 attorneys to provide organ donation information to clients seeking
 12-31 advice for end-of-life decisions.

12-32 (s) The department shall encourage medical and nursing
 12-33 schools in this state to include mandatory organ donation education
 12-34 in the schools' curricula.

12-35 (t) The department shall encourage medical schools in this
 12-36 state to require a physician in a neurology or neurosurgery
 12-37 residency program to complete an advanced course in organ donation
 12-38 education.

12-39 Sec. 692A.021. EFFECT OF ANATOMICAL GIFT ON ADVANCE
 12-40 DIRECTIVE. (a) In this section:

12-41 (1) "Advance directive" means a medical power of
 12-42 attorney or a record signed or authorized by a prospective donor
 12-43 containing the prospective donor's direction concerning a
 12-44 health-care decision for the prospective donor.

12-45 (2) "Declaration" means a record signed by a
 12-46 prospective donor specifying the circumstances under which a life
 12-47 support system may be withheld or withdrawn from the prospective
 12-48 donor.

12-49 (3) "Health-care decision" means any decision made
 12-50 regarding the health care of the prospective donor.

12-51 (b) If a prospective donor has a declaration or advance
 12-52 directive and the terms of the declaration or directive and the
 12-53 express or implied terms of a potential anatomical gift are in
 12-54 conflict with regard to the administration of measures necessary to
 12-55 ensure the medical suitability of a part for transplantation or
 12-56 therapy, the prospective donor's attending physician and
 12-57 prospective donor shall confer to resolve the conflict. If the
 12-58 prospective donor is incapable of resolving the conflict, an agent
 12-59 acting under the prospective donor's declaration or directive, or,
 12-60 if the agent is not reasonably available, another person authorized
 12-61 by law other than this chapter to make health-care decisions on
 12-62 behalf of the prospective donor, shall act on the prospective
 12-63 donor's behalf to resolve the conflict. The conflict must be
 12-64 resolved as expeditiously as possible. Information relevant to the
 12-65 resolution of the conflict may be obtained from the appropriate
 12-66 procurement organization and any other person authorized to make an
 12-67 anatomical gift for the prospective donor under Section 692A.009.
 12-68 Before resolution of the conflict, measures necessary to ensure the
 12-69 medical suitability of the part may not be withheld or withdrawn

13-1 from the prospective donor.
13-2 (c) If the conflict cannot be resolved, an expedited review
13-3 of the matter must be initiated by an ethics or medical committee of
13-4 the appropriate health care facility.
13-5 Sec. 692A.022. UNIFORMITY OF APPLICATION AND CONSTRUCTION.
13-6 In applying and construing this chapter, consideration must be
13-7 given to the need to promote uniformity of the law with respect to
13-8 the subject matter of this chapter among states that enact a law
13-9 substantially similar to this chapter.
13-10 Sec. 692A.023. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL
13-11 AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and
13-12 supersedes the provisions of the Electronic Signatures in Global
13-13 and National Commerce Act (15 U.S.C. Section 7001 et seq.), but does
13-14 not modify, limit, or supersede Section 101(a) of that Act (15
13-15 U.S.C. Section 7001(a)), or authorize electronic delivery of any of
13-16 the notices described in Section 103 of that Act (15 U.S.C. Section
13-17 7003(b)).
13-18 SECTION 2. Section 241.153, Health and Safety Code, is
13-19 amended to read as follows:
13-20 Sec. 241.153. DISCLOSURE WITHOUT WRITTEN AUTHORIZATION. A
13-21 patient's health care information may be disclosed without the
13-22 patient's authorization if the disclosure is:
13-23 (1) directory information, unless the patient has
13-24 instructed the hospital not to make the disclosure or the directory
13-25 information is otherwise protected by state or federal law;
13-26 (2) to a health care provider who is rendering health
13-27 care to the patient when the request for the disclosure is made;
13-28 (3) to a transporting emergency medical services
13-29 provider for the purpose of:
13-30 (A) treatment or payment, as those terms are
13-31 defined by the regulations adopted under the Health Insurance
13-32 Portability and Accountability Act of 1996 (Pub. L. No. 104-191);
13-33 or
13-34 (B) the following health care operations
13-35 described by the regulations adopted under the Health Insurance
13-36 Portability and Accountability Act of 1996 (Pub. L. No. 104-191):
13-37 (i) quality assessment and improvement
13-38 activities;
13-39 (ii) specified insurance functions;
13-40 (iii) conducting or arranging for medical
13-41 reviews; or
13-42 (iv) competency assurance activities;
13-43 (4) to a member of the clergy specifically designated
13-44 by the patient;
13-45 (5) to a ~~[qualified organ or tissue]~~ procurement
13-46 organization as defined in Section 692A.002 ~~[692.002]~~ for the
13-47 purpose of making inquiries relating to donations according to the
13-48 protocol referred to in Section 692A.015 ~~[692.013(d)]~~;
13-49 (6) to a prospective health care provider for the
13-50 purpose of securing the services of that health care provider as
13-51 part of the patient's continuum of care, as determined by the
13-52 patient's attending physician;
13-53 (7) to a person authorized to consent to medical
13-54 treatment under Chapter 313 or to a person in a circumstance
13-55 exempted from Chapter 313 to facilitate the adequate provision of
13-56 treatment;
13-57 (8) to an employee or agent of the hospital who
13-58 requires health care information for health care education, quality
13-59 assurance, or peer review or for assisting the hospital in the
13-60 delivery of health care or in complying with statutory, licensing,
13-61 accreditation, or certification requirements and if the hospital
13-62 takes appropriate action to ensure that the employee or agent:
13-63 (A) will not use or disclose the health care
13-64 information for any other purpose; and
13-65 (B) will take appropriate steps to protect the
13-66 health care information;
13-67 (9) to a federal, state, or local government agency or
13-68 authority to the extent authorized or required by law;
13-69 (10) to a hospital that is the successor in interest to

14-1 the hospital maintaining the health care information;
 14-2 (11) to the American Red Cross for the specific
 14-3 purpose of fulfilling the duties specified under its charter
 14-4 granted as an instrumentality of the United States government;
 14-5 (12) to a regional poison control center, as the term
 14-6 is used in Chapter 777, to the extent necessary to enable the center
 14-7 to provide information and education to health professionals
 14-8 involved in the management of poison and overdose victims,
 14-9 including information regarding appropriate therapeutic use of
 14-10 medications, their compatibility and stability, and adverse drug
 14-11 reactions and interactions;
 14-12 (13) to a health care utilization review agent who
 14-13 requires the health care information for utilization review of
 14-14 health care under Chapter 4201 [~~Article 21.58A~~], Insurance Code;
 14-15 (14) for use in a research project authorized by an
 14-16 institutional review board under federal law;
 14-17 (15) to health care personnel of a penal or other
 14-18 custodial institution in which the patient is detained if the
 14-19 disclosure is for the sole purpose of providing health care to the
 14-20 patient;
 14-21 (16) to facilitate reimbursement to a hospital, other
 14-22 health care provider, or the patient for medical services or
 14-23 supplies;
 14-24 (17) to a health maintenance organization for purposes
 14-25 of maintaining a statistical reporting system as required by a rule
 14-26 adopted by a state agency or regulations adopted under the federal
 14-27 Health Maintenance Organization Act of 1973, as amended (42 U.S.C.
 14-28 Section 300e et seq.);
 14-29 (18) to satisfy a request for medical records of a
 14-30 deceased or incompetent person pursuant to Section 74.051(e), Civil
 14-31 Practice and Remedies Code;
 14-32 (19) to comply with a court order except as provided by
 14-33 Subdivision (20); or
 14-34 (20) related to a judicial proceeding in which the
 14-35 patient is a party and the disclosure is requested under a subpoena
 14-36 issued under:
 14-37 (A) the Texas Rules of Civil Procedure or Code of
 14-38 Criminal Procedure; or
 14-39 (B) Chapter 121, Civil Practice and Remedies
 14-40 Code.

14-41 SECTION 3. Section 691.030(d), Health and Safety Code, is
 14-42 amended to read as follows:
 14-43 (d) The board may transport a body or anatomical specimen to
 14-44 an authorized recipient in another state if the board determines
 14-45 that the supply of bodies or anatomical specimens in this state
 14-46 exceeds the need for bodies or anatomical specimens in this state
 14-47 and if:
 14-48 (1) the deceased donated his body in compliance with
 14-49 Section 691.028 and at the time of the donation authorized the board
 14-50 to transport the body outside this state; or
 14-51 (2) the body was donated in compliance with Chapter
 14-52 692A [~~692 (Texas Anatomical Gift Act)~~] and the person authorized to
 14-53 make the donation under Section 692A.009 [~~692.004~~] authorized the
 14-54 board to transport the body outside this state.

14-55 SECTION 4. Sections 693.002(a)(1), (2), and (4), Health and
 14-56 Safety Code, are amended to read as follows:
 14-57 (1) On a request from an [~~a qualified~~] organ
 14-58 procurement organization, as defined by [~~in~~] Section 692A.002
 14-59 [~~692.002~~], the medical examiner, justice of the peace, county
 14-60 judge, or physician designated by the justice of the peace or county
 14-61 judge may permit the removal of organs from a decedent who died
 14-62 under circumstances requiring an inquest by the medical examiner,
 14-63 justice of the peace, or county judge if consent is obtained
 14-64 pursuant to Sections 692A.005 through 692A.010 or Section 693.003.
 14-65 (2) If no autopsy is required, the organs to be
 14-66 transplanted shall be released in a timely manner to the
 14-67 [~~qualified~~] organ procurement organization, as defined by [~~in~~]
 14-68 Section 692A.002 [~~692.002~~], for removal and transplantation.
 14-69 (4) If the medical examiner is considering withholding

15-1 one or more organs of a potential donor for any reason, the medical
15-2 examiner shall be present during the removal of the organs. In such
15-3 case, the medical examiner may request a biopsy of those organs or
15-4 deny removal of the anatomical gift. If the medical examiner denies
15-5 removal of the anatomical gift, the medical examiner shall explain
15-6 in writing the reasons for the denial. The medical examiner shall
15-7 provide the explanation to:

15-8 (A) the ~~[qualified]~~ organ procurement
15-9 organization; and

15-10 (B) any person listed in Section 692A.009
15-11 ~~[693.004]~~ who consented to the removal.

15-12 SECTION 5. Section 693.002(b), Health and Safety Code, is
15-13 amended to read as follows:

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

15-26 (1) the ~~[qualified]~~ tissue bank ~~[procurement~~
15-27 ~~organization]~~; and

15-28 (2) the person listed in Section 692A.009 ~~[693.004]~~
15-29 who consented to the removal.

15-30 SECTION 6. Section 693.003, Health and Safety Code, is
15-31 amended to read as follows:

15-32 Sec. 693.003. CONSENT NOT REQUIRED IN CERTAIN
15-33 CIRCUMSTANCES. ~~[(a) A medical examiner or a person acting on the~~
15-34 ~~authority of a medical examiner may not remove a visceral organ~~
15-35 ~~unless the medical examiner or person obtains the consent of a~~
15-36 ~~person listed in Section 693.004.~~

15-37 ~~[(b) If a person listed in Section 693.004 is known and~~
15-38 ~~available within four hours after death is pronounced, a medical~~
15-39 ~~examiner or a person acting on the authority of a medical examiner~~
15-40 ~~may not remove a nonvisceral organ or tissue unless the medical~~
15-41 ~~examiner or person obtains that person's consent.~~

15-42 ~~[(c)]~~ If a person listed in Section 692A.009 ~~[693.004]~~
15-43 cannot be identified and contacted within four hours after death is
15-44 pronounced and the county court ~~[medical examiner]~~ determines that
15-45 no reasonable likelihood exists that a person can be identified and
15-46 contacted during the four-hour period, the county court ~~[medical~~
15-47 ~~examiner]~~ may permit the removal of a nonvisceral organ or tissue.

15-48 SECTION 7. Section 693.005, Health and Safety Code, is
15-49 amended to read as follows:

15-50 Sec. 693.005. IMMUNITY FROM DAMAGES IN CIVIL ACTION. In a
15-51 civil action brought by a person listed in Section 692A.009
15-52 ~~[693.004]~~ who did not object before the removal of tissue or a body
15-53 part specified by Section 693.002, a medical examiner, justice of
15-54 the peace, county judge, medical facility, physician acting on
15-55 permission of a medical examiner, justice of the peace, or county
15-56 judge, or person assisting a physician is not liable for damages on
15-57 a theory of civil recovery based on a contention that the
15-58 plaintiff's consent was required before the body part or tissue
15-59 could be removed.

15-60 SECTION 8. Section 693.006, Health and Safety Code, is
15-61 amended to read as follows:

15-62 Sec. 693.006. REMOVAL OF CORNEAL TISSUE. On a request from
15-63 an eye bank, as defined in Section 692A.002 ~~[692.002]~~, the medical
15-64 examiner, justice of the peace, county judge, or physician
15-65 designated by the justice of the peace or county judge may permit
15-66 the removal of corneal tissue subject to the same provisions that
15-67 apply to removal of a visceral organ on the request of a [an organ]
15-68 procurement organization under this subchapter. The provisions of
15-69 Chapter 692A ~~[this subchapter]~~ relating to immunity and consent

16-1 apply to the removal of the corneal tissue.

16-2 SECTION 9. Sections 521.401(b) and (c), Transportation
16-3 Code, are amended to read as follows:

16-4 (b) The statement of gift may be shown on a donor's driver's
16-5 license or personal identification certificate or by a card
16-6 designed to be carried by the donor to evidence the donor's
16-7 intentions with respect to organ, tissue, and eye donation. A donor
16-8 card signed by the donor shall be given effect as if executed
16-9 pursuant to Section 692A.005 [~~692.003(d)~~], Health and Safety Code.

16-10 (c) Donor cards shall be provided to the department by
16-11 [~~qualified~~] organ [~~or tissue~~] procurement organizations, tissue
16-12 banks, or eye banks, as those terms are defined in Section 692A.002
16-13 [~~692.002~~], Health and Safety Code, or by the Glenda Dawson Donate
16-14 Life-Texas [~~Donor Education, Awareness, and~~] Registry [~~Program of~~
16-15 ~~Texas~~] established under Chapter 692A [~~49~~], Health and Safety Code.
16-16 The department shall:

16-17 (1) provide to each applicant for the issuance of an
16-18 original, renewal, corrected, or duplicate driver's license or
16-19 personal identification certificate who applies in person, by mail,
16-20 over the Internet, or by other electronic means:

16-21 (A) the opportunity to indicate on the person's
16-22 driver's license or personal identification certificate that the
16-23 person is willing to make an anatomical gift, in the event of death,
16-24 in accordance with Section 692A.005 [~~692.003~~], Health and Safety
16-25 Code; and

16-26 (B) an opportunity for the person to consent in
16-27 writing to the department's provision of the person's name, date of
16-28 birth, driver's license number, most recent address, and other
16-29 information needed for identification purposes at the time of
16-30 donation to the organization selected by the commissioner of state
16-31 health services under Section 692A.020 [~~Chapter 49~~], Health and
16-32 Safety Code, for inclusion in the statewide Internet-based registry
16-33 of organ, tissue, and eye donors and for release to procurement
16-34 [~~qualified organ, tissue, and eye bank~~] organizations; and

16-35 (2) provide a means to distribute donor cards to
16-36 interested individuals in each office authorized to issue driver's
16-37 licenses or personal identification certificates.

16-38 SECTION 10. Section 651.407(f), Occupations Code, is
16-39 amended to read as follows:

16-40 (f) This section does not apply to a dead human body
16-41 obtained by a school or college of mortuary science under Chapter
16-42 691 or 692A [~~692~~], Health and Safety Code.

16-43 SECTION 11. The following provisions are repealed:

- 16-44 (1) Chapter 49, Health and Safety Code;
- 16-45 (2) Chapter 692, Health and Safety Code;
- 16-46 (3) Section 693.004, Health and Safety Code;
- 16-47 (4) Section 521.403, Transportation Code; and
- 16-48 (5) Section 521.404, Transportation Code.

16-49 SECTION 12. Notwithstanding the repeal of Chapter 49,
16-50 Health and Safety Code, by this Act, the Glenda Dawson Donate
16-51 Life-Texas Registry described by that chapter is continued in
16-52 effect in accordance with Chapter 692A, Health and Safety Code, as
16-53 added by this Act.

16-54 SECTION 13. This Act takes effect September 1, 2009.

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