

SENATE AMENDMENTS

2nd Printing

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A BILL TO BE ENTITLED

1 AN ACT
2 relating to adoption of the Revised Uniform Anatomical Gift Act;
3 providing criminal penalties.

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

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

7 CHAPTER 692A. REVISED UNIFORM ANATOMICAL GIFT ACT

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

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

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

13 (2) "Agent" means an individual:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 of human eyes or portions of human eyes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (A) emancipated; or

15 (B) authorized under state law to apply for a
16 driver's license because the donor is at least 16 years of age and
17 obtains signed, written consent from the minor's parent, guardian,
18 or custodian;

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

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

24 (4) the donor's guardian.

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

27 (1) by authorizing a statement or symbol indicating

1 that the donor has made an anatomical gift to be imprinted on the
2 donor's driver's license or identification card;

3 (2) in a will;

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

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

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

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

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

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

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

27 Sec. 692A.006. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE

1 DONOR'S DEATH. (a) Subject to Section 692A.008, a donor or other
2 person authorized to make an anatomical gift under Section 692A.004
3 may amend or revoke an anatomical gift by:

4 (1) a record signed by:

5 (A) the donor;

6 (B) the other person; or

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

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

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

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

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

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

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

1 (e) A donor who makes an anatomical gift in a will may amend
2 or revoke the gift in the manner provided for amendment or
3 revocation of wills or as provided in Subsection (a).

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

7 (1) a record signed by:

8 (A) the individual; or

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

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

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

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

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

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

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

25 (1) in the manner provided in Subsection (a) for
26 making a refusal;

27 (2) by subsequently making an anatomical gift pursuant

1 to Section 692A.005 that is inconsistent with the refusal; or

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

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

11 Sec. 692A.008. PRECLUSIVE EFFECT OF ANATOMICAL GIFT,
12 AMENDMENT, OR REVOCATION. (a) Except as otherwise provided in
13 Subsection (g) and subject to Subsection (f), in the absence of an
14 express, contrary indication by the donor, a person other than the
15 donor is barred from making, amending, or revoking an anatomical
16 gift of a donor's body or part if the donor made an anatomical gift
17 of the donor's body or part under Section 692A.005 or an amendment
18 to an anatomical gift of the donor's body or part under Section
19 692A.006.

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

25 (c) If a person other than the donor makes an unrevoked
26 anatomical gift of the donor's body or part under Section 692A.005
27 or an amendment to an anatomical gift of the donor's body or part

1 under Section 692A.006, another person may not make, amend, or
2 revoke the gift of the donor's body or part under Section 692A.010.

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

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

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

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

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

25 Sec. 692A.009. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S
26 BODY OR PART. (a) Subject to Subsections (b) and (c) and unless
27 barred by Section 692A.007 or Section 692A.008, an anatomical gift

1 of a decedent's body or part for the purpose of transplantation,
2 therapy, research, or education may be made by any member of the
3 following classes of persons who is reasonably available, in the
4 order of priority listed:

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

8 (2) the spouse of the decedent;

9 (3) adult children of the decedent;

10 (4) parents of the decedent;

11 (5) adult siblings of the decedent;

12 (6) adult grandchildren of the decedent;

13 (7) grandparents of the decedent;

14 (8) an adult who exhibited special care and concern
15 for the decedent;

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

18 (10) the hospital administrator; and

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

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

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

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

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

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

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

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

1 Sec. 692A.011. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT;

2 PURPOSE OF ANATOMICAL GIFT. (a) An anatomical gift may be made to
3 the following persons named in the document of gift:

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

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

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

10 (4) an eye bank or tissue bank, except that use of a
11 gift of a whole body must be coordinated through the Anatomical
12 Board of the State of Texas;

13 (5) a forensic science program at:

14 (A) a general academic teaching institution as
15 defined by Section 61.003, Education Code; or

16 (B) a private or independent institution of
17 higher education as defined by Section 61.003, Education Code; or

18 (6) the Anatomical Board of the State of Texas.

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

24 (c) A forensic science program that receives a donation
25 under Subsection (a)(5) must submit a report to the Anatomical
26 Board of the State of Texas on a quarterly basis that lists:

27 (1) the number of bodies or parts of bodies that the

1 program received; and

2 (2) the method in which the program used the bodies or
3 parts of bodies for education or research.

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

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

12 (1) if the part is an eye and the gift is for the
13 purpose of transplantation or therapy, the gift passes to the
14 appropriate eye bank;

15 (2) if the part is tissue and the gift is for the
16 purpose of transplantation or therapy, the gift passes to the
17 appropriate tissue bank;

18 (3) if the part is an organ and the gift is for the
19 purpose of transplantation or therapy, the gift passes to the
20 appropriate organ procurement organization as custodian of the
21 organ; and

22 (4) if the part is an organ, an eye, or tissue and the
23 gift is for the purpose of research or education, the gift passes to
24 the appropriate procurement organization.

25 (f) For the purpose of Subsection (e), if there is more than
26 one purpose of an anatomical gift set forth in the document of gift
27 but the purposes are not set forth in any priority, the gift must be

1 used for transplantation or therapy, if suitable. If the gift
2 cannot be used for transplantation or therapy, the gift may be used
3 for research or education.

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

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

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

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

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

20 (3) if the part is an organ, the gift passes to the
21 appropriate organ procurement organization as custodian of the
22 organ.

23 (j) An anatomical gift of an organ for transplantation or
24 therapy, other than an anatomical gift under Subsection (a)(3),
25 passes to the organ procurement organization as custodian of the
26 organ.

27 (k) If an anatomical gift does not pass pursuant to

1 Subsections (a) through (j) or the decedent's body or part is not
2 used for transplantation, therapy, research, or education, custody
3 of the body or part passes to the person under obligation to dispose
4 of the body or part.

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

13 (m) Except as otherwise provided in Subsection (a)(3),
14 nothing in this chapter affects the allocation of organs for
15 transplantation or therapy.

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

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

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

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

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

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

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

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

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

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

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

22 (h) Subject to Sections 692A.011(k) and 693.002, the rights
23 of the person to which a part passes under Section 692A.011 are
24 superior to the rights of all others with respect to the part. The
25 person may accept or reject an anatomical gift wholly or partly.
26 Subject to the terms of the document of gift and this chapter, a
27 person that accepts an anatomical gift of an entire body may allow

1 embalming, burial, or cremation, and use of remains in a funeral
2 service. If the gift is of a part, the person to which the part
3 passes under Section 692A.011, on the death of the donor and before
4 embalming, burial, or cremation, shall cause the part to be removed
5 without unnecessary mutilation.

6 (i) The physician who attends the decedent at death or the
7 physician who determines the time of the decedent's death may not
8 participate in the procedures for removing or transplanting a part
9 from the decedent.

10 (j) A physician or technician may remove a donated part from
11 the body of a donor that the physician or technician is qualified to
12 remove.

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

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

22 (2) establish a procedure for the timely notification
23 to an organ procurement organization of individuals whose death is
24 imminent or who have died in the hospital;

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

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

6 (5) ensure that all families are provided the
7 opportunity to donate organs, tissues, and eyes, including vascular
8 organs procured from asystolic donors;

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

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

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

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

19 (10) provide that the organ procurement organization
20 determines medical suitability for organ donation and, in the
21 absence of alternative arrangements by the hospital, the organ
22 procurement organization determines medical suitability for tissue
23 and eye donation, using the definition of potential tissue and eye
24 donor and the notification protocol developed in consultation with
25 the tissue and eye banks identified by the hospital for this
26 purpose;

27 (11) ensure that the hospital works cooperatively with

1 the designated organ procurement organization, tissue bank, and eye
2 bank in educating staff on donation issues;

3 (12) ensure that the hospital works with the
4 designated organ procurement organization, tissue bank, and eye
5 bank in reviewing death records; and

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

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

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

19 (c) If conduct that constitutes an offense under this
20 section also constitutes an offense under other law, the actor may
21 be prosecuted under this section, the other law, or both this
22 section and the other law.

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

1 Class A misdemeanor.

2 (b) If conduct that constitutes an offense under this
3 section also constitutes an offense under other law, the actor may
4 be prosecuted under this section, the other law, or both this
5 section and the other law.

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

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

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

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

27 (e) In determining whether an anatomical gift has been made,

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

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

9 (1) this chapter;

10 (2) the laws of the state or country where it was
11 executed; or

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

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

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

21 Sec. 692A.020. GLENDA DAWSON DONATE LIFE-TEXAS REGISTRY;
22 EDUCATION PROGRAM. (a) In this section, "registry program" means
23 the donor education, awareness, and registry program established
24 under this section and known as the Glenda Dawson Donate Life-Texas
25 Registry.

26 (b) Any program or component of a program that the
27 department develops under this chapter shall be known as the Glenda

1 Dawson Donate Life-Texas Registry.

2 (c) The department shall affiliate with an entity, such as a
3 national or state association concerned with organ donation, to
4 promote the registry program in accordance with this section.

5 (d) In consultation with the Department of Public Safety and
6 organ procurement organizations, the department shall establish
7 the Glenda Dawson Donate Life-Texas Registry.

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

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

27 (g) The contract between the department and the

1 organization selected by the commissioner as provided by Subsection
2 (e) must require the organization to:

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

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

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

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

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

25 (i) The Department of Public Safety, the organization
26 selected by the commissioner under Subsection (e), or the
27 procurement organizations may not use any demographic or specific

1 data provided to the Internet-based registry for any fund-raising
2 activities. Data may only be transmitted from the selected
3 organization to procurement organizations through electronic and
4 telephonic methods using secure, encrypted technology to preserve
5 the integrity of the data and the privacy of the individuals
6 providing information.

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

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

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

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

1 (1) Any additional money over the amount necessary to
2 accomplish the purposes of Subsections (k)(1) and (2) may be used by
3 the department to provide education under this chapter or may be
4 awarded using a competitive grant process to organizations to
5 conduct organ, eye, and tissue donation education activities in
6 this state. A member of the Texas Organ, Tissue, and Eye Donor
7 Council may not receive a grant under this subsection.

8 (m) The department shall require the organization selected
9 under Subsection (e) to submit an annual written report to the
10 department that includes:

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

13 (2) changes in the number of donors listed on the
14 registry; and

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

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

23 (1) the laws governing anatomical gifts, including
24 Subchapter Q, Chapter 521, Transportation Code, Chapter 693, and
25 this chapter;

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

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

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

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

16 (q) The department shall develop a program to educate health
17 care providers and attorneys in this state about anatomical gifts.

18 (r) The department through the program shall encourage
19 attorneys to provide organ donation information to clients seeking
20 advice for end-of-life decisions.

21 (s) The department shall encourage medical and nursing
22 schools in this state to include mandatory organ donation education
23 in the schools' curricula.

24 (t) The department shall encourage medical schools in this
25 state to require a physician in a neurology or neurosurgery
26 residency program to complete an advanced course in organ donation
27 education.

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

3 (1) "Advance directive" means a medical power of
4 attorney or a record signed or authorized by a prospective donor
5 containing the prospective donor's direction concerning a
6 health-care decision for the prospective donor.

7 (2) "Declaration" means a record signed by a
8 prospective donor specifying the circumstances under which a life
9 support system may be withheld or withdrawn from the prospective
10 donor.

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

13 (b) If a prospective donor has a declaration or advance
14 directive and the terms of the declaration or directive and the
15 express or implied terms of a potential anatomical gift are in
16 conflict with regard to the administration of measures necessary to
17 ensure the medical suitability of a part for transplantation or
18 therapy, the prospective donor's attending physician and
19 prospective donor shall confer to resolve the conflict. If the
20 prospective donor is incapable of resolving the conflict, an agent
21 acting under the prospective donor's declaration or directive, or,
22 if the agent is not reasonably available, another person authorized
23 by law other than this chapter to make health-care decisions on
24 behalf of the prospective donor, shall act on the prospective
25 donor's behalf to resolve the conflict. The conflict must be
26 resolved as expeditiously as possible. Information relevant to the
27 resolution of the conflict may be obtained from the appropriate

1 procurement organization and any other person authorized to make an
2 anatomical gift for the prospective donor under Section 692A.009.
3 Before resolution of the conflict, measures necessary to ensure the
4 medical suitability of the part may not be withheld or withdrawn
5 from the prospective donor.

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

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

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

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

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

27 (1) directory information, unless the patient has

1 instructed the hospital not to make the disclosure or the directory
2 information is otherwise protected by state or federal law;

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

5 (3) to a transporting emergency medical services
6 provider for the purpose of:

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

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

14 (i) quality assessment and improvement
15 activities;

16 (ii) specified insurance functions;

17 (iii) conducting or arranging for medical
18 reviews; or

19 (iv) competency assurance activities;

20 (4) to a member of the clergy specifically designated
21 by the patient;

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

26 (6) to a prospective health care provider for the
27 purpose of securing the services of that health care provider as

1 part of the patient's continuum of care, as determined by the
2 patient's attending physician;

3 (7) to a person authorized to consent to medical
4 treatment under Chapter 313 or to a person in a circumstance
5 exempted from Chapter 313 to facilitate the adequate provision of
6 treatment;

7 (8) to an employee or agent of the hospital who
8 requires health care information for health care education, quality
9 assurance, or peer review or for assisting the hospital in the
10 delivery of health care or in complying with statutory, licensing,
11 accreditation, or certification requirements and if the hospital
12 takes appropriate action to ensure that the employee or agent:

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

15 (B) will take appropriate steps to protect the
16 health care information;

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

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

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

24 (12) to a regional poison control center, as the term
25 is used in Chapter 777, to the extent necessary to enable the center
26 to provide information and education to health professionals
27 involved in the management of poison and overdose victims,

1 including information regarding appropriate therapeutic use of
2 medications, their compatibility and stability, and adverse drug
3 reactions and interactions;

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

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

9 (15) to health care personnel of a penal or other
10 custodial institution in which the patient is detained if the
11 disclosure is for the sole purpose of providing health care to the
12 patient;

13 (16) to facilitate reimbursement to a hospital, other
14 health care provider, or the patient for medical services or
15 supplies;

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

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

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

26 (20) related to a judicial proceeding in which the
27 patient is a party and the disclosure is requested under a subpoena

1 issued under:

2 (A) the Texas Rules of Civil Procedure or Code of
3 Criminal Procedure; or

4 (B) Chapter 121, Civil Practice and Remedies
5 Code.

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

8 (d) The board may transport a body or anatomical specimen to
9 an authorized recipient in another state if the board determines
10 that the supply of bodies or anatomical specimens in this state
11 exceeds the need for bodies or anatomical specimens in this state
12 and if:

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

16 (2) the body was donated in compliance with Chapter
17 692A [~~692 (Texas Anatomical Gift Act)~~] and the person authorized to
18 make the donation under Section 692A.009 [~~692.004~~] authorized the
19 board to transport the body outside this state.

20 SECTION 4. Sections 693.002(a)(1), (2), and (4), Health and
21 Safety Code, are amended to read as follows:

22 (1) On a request from an [~~a qualified~~] organ
23 procurement organization, as defined by [~~in~~] Section 692A.002
24 [~~692.002~~], the medical examiner, justice of the peace, county
25 judge, or physician designated by the justice of the peace or county
26 judge may permit the removal of organs from a decedent who died
27 under circumstances requiring an inquest by the medical examiner,

1 justice of the peace, or county judge if consent is obtained
2 pursuant to Sections 692A.005 through 692A.010 or Section 693.003.

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

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

15 (A) the ~~[qualified]~~ organ procurement
16 organization; and

17 (B) any person listed in Section 692A.009
18 ~~[693.004]~~ who consented to the removal.

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

21 (b) On a request from a ~~[qualified]~~ tissue bank ~~[procurement~~
22 ~~organization]~~, as defined by ~~[in]~~ Section 692A.002 ~~[692.002]~~, the
23 medical examiner may permit the removal of tissue believed to be
24 clinically usable for transplants or other therapy or treatment
25 from a decedent who died under circumstances requiring an inquest
26 if consent is obtained pursuant to Sections 692A.005 through
27 692A.010 or Section 693.003 or, if consent is not required by those

1 sections [~~that section~~], no objection by a person listed in Section
2 692A.009 [~~693.004~~] is known by the medical examiner. If the medical
3 examiner denies removal of the tissue, the medical examiner shall
4 explain in writing the reasons for the denial. The medical examiner
5 shall provide the explanation to:

6 (1) the [~~qualified~~] tissue bank [~~procurement~~
7 ~~organization~~]; and

8 (2) the person listed in Section 692A.009 [~~693.004~~]
9 who consented to the removal.

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

12 Sec. 693.003. CONSENT NOT REQUIRED IN CERTAIN
13 CIRCUMSTANCES. [~~(a) A medical examiner or a person acting on the~~
14 ~~authority of a medical examiner may not remove a visceral organ~~
15 ~~unless the medical examiner or person obtains the consent of a~~
16 ~~person listed in Section 693.004.~~

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

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

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

3 Sec. 693.005. IMMUNITY FROM DAMAGES IN CIVIL ACTION. In a
4 civil action brought by a person listed in Section 692A.009
5 [~~693.004~~] who did not object before the removal of tissue or a body
6 part specified by Section 693.002, a medical examiner, justice of
7 the peace, county judge, medical facility, physician acting on
8 permission of a medical examiner, justice of the peace, or county
9 judge, or person assisting a physician is not liable for damages on
10 a theory of civil recovery based on a contention that the
11 plaintiff's consent was required before the body part or tissue
12 could be removed.

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

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

24 SECTION 9. Sections 521.401(b) and (c), Transportation
25 Code, are amended to read as follows:

26 (b) The statement of gift may be shown on a donor's driver's
27 license or personal identification certificate or by a card

1 designed to be carried by the donor to evidence the donor's
2 intentions with respect to organ, tissue, and eye donation. A donor
3 card signed by the donor shall be given effect as if executed
4 pursuant to Section 692A.005 [~~692.003(d)~~], Health and Safety Code.

5 (c) Donor cards shall be provided to the department by
6 [~~qualified~~] organ [~~or tissue~~] procurement organizations, tissue
7 banks, or eye banks, as those terms are defined in Section 692A.002
8 [~~692.002~~], Health and Safety Code, or by the Glenda Dawson Donate
9 Life-Texas [~~Donor Education, Awareness, and~~] Registry [~~Program of~~
10 ~~Texas~~] established under Chapter 692A [~~49~~], Health and Safety Code.
11 The department shall:

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

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

21 (B) an opportunity for the person to consent in
22 writing to the department's provision of the person's name, date of
23 birth, driver's license number, most recent address, and other
24 information needed for identification purposes at the time of
25 donation to the organization selected by the commissioner of state
26 health services under Section 692A.020 [~~Chapter 49~~], Health and
27 Safety Code, for inclusion in the statewide Internet-based registry

1 of organ, tissue, and eye donors and for release to procurement
2 [~~qualified organ, tissue, and eye bank~~] organizations; and

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

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

8 (f) This section does not apply to a dead human body
9 obtained by a school or college of mortuary science under Chapter
10 691 or 692A [~~692~~], Health and Safety Code.

11 SECTION 11. The following provisions are repealed:

- 12 (1) Chapter 49, Health and Safety Code;
13 (2) Chapter 692, Health and Safety Code;
14 (3) Section 693.004, Health and Safety Code;
15 (4) Section 521.403, Transportation Code; and
16 (5) Section 521.404, Transportation Code.

17 SECTION 12. Notwithstanding the repeal of Chapter 49,
18 Health and Safety Code, by this Act, the Glenda Dawson Donate
19 Life-Texas Registry described by that chapter is continued in
20 effect in accordance with Chapter 692A, Health and Safety Code, as
21 added by this Act.

22 SECTION 13. This Act takes effect September 1, 2009.

ADOPTED

MAY 15 2009

Atty Gen
Secretary of the Senate

By: Zerwas / SP. Harris

H.B. No. 2027

Substitute the following for H.B. No. 2027 :

By: *Upham*

C.S. H.B. No. 2027

A BILL TO BE ENTITLED

1 AN ACT
2 relating to adoption of the Revised Uniform Anatomical Gift Act;
3 providing criminal penalties.

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

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

7 CHAPTER 692A. REVISED UNIFORM ANATOMICAL GIFT ACT

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

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

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

13 (2) "Agent" means an individual:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 of human eyes or portions of human eyes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (A) emancipated; or

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

17 (i) circumstances allow the donation to be
18 actualized prior to 18 years of age; and

19 (ii) an organ procurement organization
20 obtains signed written consent from the minor's parent, guardian,
21 or custodian as in Subdivision (3);

22 (2) an agent of the donor, unless the medical power of
23 attorney or other record prohibits the agent from making an
24 anatomical gift;

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

27 (4) the donor's guardian.

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

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

6 (2) in a will;

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

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

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

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

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

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

27 (d) An anatomical gift made by will takes effect on the

1 donor's death whether or not the will is probated. Invalidation of
2 the will after the donor's death does not invalidate the gift.

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

7 (1) a record signed by:

8 (A) the donor;

9 (B) the other person; or

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

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

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

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

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

22 (c) Subject to Section 692A.008, a donor or other person
23 authorized to make an anatomical gift under Section 692A.004 may
24 revoke an anatomical gift by the destruction or cancellation of the
25 document of gift, or the portion of the document of gift used to
26 make the gift, with the intent to revoke the gift.

27 (d) A donor may amend or revoke an anatomical gift that was

1 not made in a will by any form of communication during a terminal
2 illness or injury addressed to at least two adults, at least one of
3 whom is a disinterested witness.

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

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

10 (1) a record signed by:

11 (A) the individual; or

12 (B) subject to Subsection (b), another
13 individual acting at the direction of the individual if the
14 individual is physically unable to sign;

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

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

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

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

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

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

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

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

5 (3) by destroying or canceling the record evidencing
6 the refusal, or the portion of the record used to make the refusal,
7 with the intent to revoke the refusal.

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

14 Sec. 692A.008. PRECLUSIVE EFFECT OF ANATOMICAL GIFT,
15 AMENDMENT, OR REVOCATION. (a) Except as otherwise provided in
16 Subsection (g) and subject to Subsection (f), in the absence of an
17 express, contrary indication by the donor, a person other than the
18 donor is barred from making, amending, or revoking an anatomical
19 gift of a donor's body or part if the donor made an anatomical gift
20 of the donor's body or part under Section 692A.005 or an amendment
21 to an anatomical gift of the donor's body or part under Section
22 692A.006.

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

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

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

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

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

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

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

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

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

11 (2) the spouse of the decedent;

12 (3) adult children of the decedent;

13 (4) parents of the decedent;

14 (5) adult siblings of the decedent;

15 (6) adult grandchildren of the decedent;

16 (7) grandparents of the decedent;

17 (8) an adult who exhibited special care and concern
18 for the decedent;

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

21 (10) the hospital administrator; and

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

24 (b) If there is more than one member of a class listed in
25 Subsection (a)(1), (3), (4), (5), (6), (7), or (9) entitled to make
26 an anatomical gift, an anatomical gift may be made by a member of
27 the class unless that member or a person to which the gift may pass

1 under Section 692A.011 knows of an objection by another member of
2 the class. If an objection is known, the gift may be made only by a
3 majority of the members of the class who are reasonably available.

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

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

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

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

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

26 (c) A revocation under Subsection (b) is effective only if,
27 before an incision has been made to remove a part from the donor's

1 body or before the initiation of invasive procedures to prepare the
2 recipient, the procurement organization, transplant hospital, or
3 physician or technician knows of the revocation.

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

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

9 (2) a hospital to be used for research;

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

13 (4) an eye bank or tissue bank, except that use of a
14 gift of a whole body must be coordinated through the Anatomical
15 Board of the State of Texas;

16 (5) a forensic science program at:

17 (A) a general academic teaching institution as
18 defined by Section 61.003, Education Code; or

19 (B) a private or independent institution of
20 higher education as defined by Section 61.003, Education Code; or

21 (6) the Anatomical Board of the State of Texas.

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

27 (c) A forensic science program that receives a donation

1 under Subsection (a)(5) must submit a report to the Anatomical
2 Board of the State of Texas on a quarterly basis that lists:

3 (1) the number of bodies or parts of bodies that the
4 program received; and

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

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

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

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

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

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

25 (4) if the part is an organ, an eye, or tissue and the
26 gift is for the purpose of research or education, the gift passes to
27 the appropriate procurement organization.

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

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

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

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

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

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

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

26 (j) An anatomical gift of an organ for transplantation or
27 therapy, other than an anatomical gift under Subsection (a)(3),

1 passes to the organ procurement organization as custodian of the
2 organ.

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

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

16 (m) Except as otherwise provided in Subsection (a)(3),
17 nothing in this chapter affects the allocation of organs for
18 transplantation or therapy.

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

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

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

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

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

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

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

1 necessary to ensure the medical suitability of the part may not be
2 withdrawn unless the hospital or procurement organization knows
3 that the individual expressed a contrary intent.

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

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

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

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

25 (h) Subject to Sections 692A.011(k) and 693.002, the rights
26 of the person to which a part passes under Section 692A.011 are
27 superior to the rights of all others with respect to the part. The

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

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

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

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

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

25 (2) establish a procedure for the timely notification
26 to an organ procurement organization of individuals whose death is
27 imminent or who have died in the hospital;

- 1 (3) establish procedures to ensure potential donors
2 are declared dead by an appropriate practitioner in an acceptable
3 time frame;
- 4 (4) establish procedures to ensure that hospital staff
5 and organ procurement organization staff maintain appropriate
6 medical treatment of potential donors while necessary testing and
7 placement of potential donated organs, tissues, and eyes take
8 place;
- 9 (5) ensure that all families are provided the
10 opportunity to donate organs, tissues, and eyes, including vascular
11 organs procured from asystolic donors;
- 12 (6) provide that the hospital use appropriately
13 trained persons from an organ procurement organization, tissue
14 bank, or eye bank to make inquiries relating to donations;
- 15 (7) provide for documentation of the inquiry and of
16 its disposition in the decedent's medical records;
- 17 (8) require an organ procurement organization, tissue
18 bank, or eye bank that makes inquiries relating to donations to
19 develop a protocol for making those inquiries;
- 20 (9) encourage sensitivity to families' beliefs and
21 circumstances in all discussions relating to the donations;
- 22 (10) provide that the organ procurement organization
23 determines medical suitability for organ donation and, in the
24 absence of alternative arrangements by the hospital, the organ
25 procurement organization determines medical suitability for tissue
26 and eye donation, using the definition of potential tissue and eye
27 donor and the notification protocol developed in consultation with

1 the tissue and eye banks identified by the hospital for this
2 purpose;

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

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

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

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

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

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

26 Sec. 692A.017. OTHER PROHIBITED ACTS. (a) A person
27 commits an offense if the person, in order to obtain a financial

1 gain, intentionally falsifies, forges, conceals, defaces, or
2 obliterates a document of gift, an amendment or revocation of a
3 document of gift, or a refusal. An offense under this section is a
4 Class A misdemeanor.

5 (b) If conduct that constitutes an offense under this
6 section also constitutes an offense under other law, the actor may
7 be prosecuted under this section, the other law, or both this
8 section and the other law.

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

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

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

27 (d) Neither a person making an anatomical gift nor the

1 donor's estate is liable for any injury or damage that results from
2 the making or use of the gift.

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

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

12 (1) this chapter;

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

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

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

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

24 Sec. 692A.020. GLENDA DAWSON DONATE LIFE-TEXAS REGISTRY;
25 EDUCATION PROGRAM. (a) In this section, "registry program" means
26 the donor education, awareness, and registry program established
27 under this section and known as the Glenda Dawson Donate Life-Texas

1 Registry.

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

5 (c) The department shall affiliate with an entity, such as a
6 national or state association concerned with organ donation, to
7 promote the registry program in accordance with this section.

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

11 (e) The department shall enter into an agreement with an
12 organization selected by the commissioner under a competitive
13 proposal process for the establishment and maintenance of a
14 statewide Internet-based registry of organ, tissue, and eye donors.
15 Contingent on the continued availability of appropriations under
16 Subsection (k), the term of the initial agreement is two years and
17 may be renewed for two-year terms thereafter unless terminated in a
18 written notice to the other party by the department or organization
19 not later than the 180th day before the last day of a term.

20 (f) The Department of Public Safety at least monthly shall
21 electronically transfer to the organization selected by the
22 commissioner as provided by Subsection (e) the name, date of birth,
23 driver's license number, most recent address, and any other
24 relevant information in the possession of the Department of Public
25 Safety for any person who indicates on the person's driver's license
26 application under Section 521.401, Transportation Code, that the
27 person would like to make an anatomical gift and consents in writing

1 to the release of the information by the Department of Public Safety
2 to the organization for inclusion in the Internet-based registry.

3 (g) The contract between the department and the
4 organization selected by the commissioner as provided by Subsection
5 (e) must require the organization to:

6 (1) make information obtained from the Department of
7 Public Safety under Subsection (f) available to procurement
8 organizations;

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

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

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

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

1 (i) The Department of Public Safety, the organization
2 selected by the commissioner under Subsection (e), or the
3 procurement organizations may not use any demographic or specific
4 data provided to the Internet-based registry for any fund-raising
5 activities. Data may only be transmitted from the selected
6 organization to procurement organizations through electronic and
7 telephonic methods using secure, encrypted technology to preserve
8 the integrity of the data and the privacy of the individuals
9 providing information.

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

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

26 (1) maintaining, operating, and updating the
27 Internet-based registry and establishing procedures for an

1 individual to be added to the registry; and

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

4 (1) Any additional money over the amount necessary to
5 accomplish the purposes of Subsections (k)(1) and (2) may be used by
6 the department to provide education under this chapter or may be
7 awarded using a competitive grant process to organizations to
8 conduct organ, eye, and tissue donation education activities in
9 this state. A member of the Texas Organ, Tissue, and Eye Donor
10 Council may not receive a grant under this subsection.

11 (m) The department shall require the organization selected
12 under Subsection (e) to submit an annual written report to the
13 department that includes:

14 (1) the number of donors listed on the Internet-based
15 registry;

16 (2) changes in the number of donors listed on the
17 registry; and

18 (3) the demographic characteristics of listed donors,
19 to the extent the characteristics may be determined from
20 information provided on donor registry forms submitted by donors to
21 the organization.

22 (n) To the extent funds are available and as part of the
23 donor registry program, the department shall educate residents
24 about anatomical gifts. The program shall include information
25 about:

26 (1) the laws governing anatomical gifts, including
27 Subchapter Q, Chapter 521, Transportation Code, Chapter 693, and

1 this chapter;

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

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

5 (o) In developing the registry program, the department in
6 consultation with the Texas Organ, Tissue, and Eye Donor Council
7 shall solicit broad-based input reflecting recommendations of all
8 interested groups, including representatives of patients,
9 providers, ethnic groups, and geographic regions.

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

19 (q) The department shall develop a program to educate health
20 care providers and attorneys in this state about anatomical gifts.

21 (r) The department through the program shall encourage
22 attorneys to provide organ donation information to clients seeking
23 advice for end-of-life decisions.

24 (s) The department shall encourage medical and nursing
25 schools in this state to include mandatory organ donation education
26 in the schools' curricula.

27 (t) The department shall encourage medical schools in this

1 state to require a physician in a neurology or neurosurgery
2 residency program to complete an advanced course in organ donation
3 education.

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

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

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

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

16 (b) If a prospective donor has a declaration or advance
17 directive and the terms of the declaration or directive and the
18 express or implied terms of a potential anatomical gift are in
19 conflict with regard to the administration of measures necessary to
20 ensure the medical suitability of a part for transplantation or
21 therapy, the prospective donor's attending physician and
22 prospective donor shall confer to resolve the conflict. If the
23 prospective donor is incapable of resolving the conflict, an agent
24 acting under the prospective donor's declaration or directive, or,
25 if the agent is not reasonably available, another person authorized
26 by law other than this chapter to make health-care decisions on
27 behalf of the prospective donor, shall act on the prospective

1 donor's behalf to resolve the conflict. The conflict must be
2 resolved as expeditiously as possible. Information relevant to the
3 resolution of the conflict may be obtained from the appropriate
4 procurement organization and any other person authorized to make an
5 anatomical gift for the prospective donor under Section 692A.009.
6 Before resolution of the conflict, measures necessary to ensure the
7 medical suitability of the part may not be withheld or withdrawn
8 from the prospective donor.

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

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

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

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

27 Sec. 241.153. DISCLOSURE WITHOUT WRITTEN AUTHORIZATION. A

1 patient's health care information may be disclosed without the
2 patient's authorization if the disclosure is:

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

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

8 (3) to a transporting emergency medical services
9 provider for the purpose of:

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

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

17 (i) quality assessment and improvement
18 activities;

19 (ii) specified insurance functions;

20 (iii) conducting or arranging for medical
21 reviews; or

22 (iv) competency assurance activities;

23 (4) to a member of the clergy specifically designated
24 by the patient;

25 (5) to a [~~qualified organ or tissue~~] procurement
26 organization as defined in Section 692A.002 [~~692.002~~] for the
27 purpose of making inquiries relating to donations according to the

1 protocol referred to in Section 692A.015 [~~692.013(d)~~];

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

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

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

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

18 (B) will take appropriate steps to protect the
19 health care information;

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

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

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

27 (12) to a regional poison control center, as the term

1 is used in Chapter 777, to the extent necessary to enable the center
2 to provide information and education to health professionals
3 involved in the management of poison and overdose victims,
4 including information regarding appropriate therapeutic use of
5 medications, their compatibility and stability, and adverse drug
6 reactions and interactions;

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

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

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

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

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

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

27 (19) to comply with a court order except as provided by

1 Subdivision (20); or

2 (20) related to a judicial proceeding in which the
3 patient is a party and the disclosure is requested under a subpoena
4 issued under:

5 (A) the Texas Rules of Civil Procedure or Code of
6 Criminal Procedure; or

7 (B) Chapter 121, Civil Practice and Remedies
8 Code.

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

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

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

19 (2) the body was donated in compliance with Chapter
20 692A [~~692 (Texas Anatomical Gift Act)~~] and the person authorized to
21 make the donation under Section 692A.009 [~~692.004~~] authorized the
22 board to transport the body outside this state.

23 SECTION 4. Sections 693.002(a)(1), (2), and (4), Health and
24 Safety Code, are amended to read as follows:

25 (1) On a request from an [~~a qualified~~] organ
26 procurement organization, as defined by [~~in~~] Section 692A.002
27 [~~692.002~~], the medical examiner, justice of the peace, county

1 judge, or physician designated by the justice of the peace or county
2 judge may permit the removal of organs from a decedent who died
3 under circumstances requiring an inquest by the medical examiner,
4 justice of the peace, or county judge if consent is obtained
5 pursuant to Sections 692A.005 through 692A.010 or Section 693.003.

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

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

18 (A) the ~~[qualified]~~ organ procurement
19 organization; and

20 (B) any person listed in Section 692A.009
21 ~~[693.004]~~ who consented to the removal.

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

24 (b) On a request from a ~~[qualified]~~ tissue bank ~~[procurement~~
25 ~~organization]~~, as defined by ~~[in]~~ Section 692A.002 ~~[692.002]~~, the
26 medical examiner may permit the removal of tissue believed to be
27 clinically usable for transplants or other therapy or treatment

1 from a decedent who died under circumstances requiring an inquest
2 if consent is obtained pursuant to Sections 692A.005 through
3 692A.010 or Section 693.003 or, if consent is not required by those
4 sections [~~that section~~], no objection by a person listed in Section
5 692A.009 [~~693.004~~] is known by the medical examiner. If the medical
6 examiner denies removal of the tissue, the medical examiner shall
7 explain in writing the reasons for the denial. The medical examiner
8 shall provide the explanation to:

9 (1) the [~~qualified~~] tissue bank [~~procurement~~
10 ~~organization~~]; and

11 (2) the person listed in Section 692A.009 [~~693.004~~]
12 who consented to the removal.

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

15 Sec. 693.003. CONSENT NOT REQUIRED IN CERTAIN
16 CIRCUMSTANCES. [~~(a) A medical examiner or a person acting on the~~
17 ~~authority of a medical examiner may not remove a visceral organ~~
18 ~~unless the medical examiner or person obtains the consent of a~~
19 ~~person listed in Section 693.004.~~

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

25 [~~(c)~~] If a person listed in Section 692A.009 [~~693.004~~]
26 cannot be identified and contacted within four hours after death is
27 pronounced and the county court [~~medical examiner~~] determines that

1 no reasonable likelihood exists that a person can be identified and
2 contacted during the four-hour period, the county court [~~medical~~
3 ~~examiner~~] may permit the removal of a nonvisceral organ or tissue.

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

6 Sec. 693.005. IMMUNITY FROM DAMAGES IN CIVIL ACTION. In a
7 civil action brought by a person listed in Section 692A.009
8 [~~693.004~~] who did not object before the removal of tissue or a body
9 part specified by Section 693.002, a medical examiner, justice of
10 the peace, county judge, medical facility, physician acting on
11 permission of a medical examiner, justice of the peace, or county
12 judge, or person assisting a physician is not liable for damages on
13 a theory of civil recovery based on a contention that the
14 plaintiff's consent was required before the body part or tissue
15 could be removed.

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

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

27 SECTION 9. Sections 521.401(b) and (c), Transportation

1 Code, are amended to read as follows:

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

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

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

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

24 (B) an opportunity for the person to consent in
25 writing to the department's provision of the person's name, date of
26 birth, driver's license number, most recent address, and other
27 information needed for identification purposes at the time of

1 donation to the organization selected by the commissioner of state
2 health services under Section 692A.020 [~~Chapter 49~~], Health and
3 Safety Code, for inclusion in the statewide Internet-based registry
4 of organ, tissue, and eye donors and for release to procurement
5 [~~qualified organ, tissue, and eye bank~~] organizations; and

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

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

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

14 SECTION 11. The following provisions are repealed:

- 15 (1) Chapter 49, Health and Safety Code;
16 (2) Chapter 692, Health and Safety Code;
17 (3) Section 693.004, Health and Safety Code;
18 (4) Section 521.403, Transportation Code; and
19 (5) Section 521.404, Transportation Code.

20 SECTION 12. Notwithstanding the repeal of Chapter 49,
21 Health and Safety Code, by this Act, the Glenda Dawson Donate
22 Life-Texas Registry described by that chapter is continued in
23 effect in accordance with Chapter 692A, Health and Safety Code, as
24 added by this Act.

25 SECTION 13. This Act takes effect September 1, 2009.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 15, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2027 by Zerwas (Relating to adoption of the Revised Uniform Anatomical Gift Act; providing criminal penalties.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would replace the current Texas Anatomical Gift Act with the Revised Uniform Anatomical Gift Act, relating to the donation and use of parts or all of the human body after death. According to the agencies, the bill would not have significant fiscal impact to the state because it does not represent a change to current agency operations.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 537 State Health Services, Department of, 601 Department of Transportation, 304 Comptroller of Public Accounts

LBB Staff: JOB, SD, CL, MB, LR, JJ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 8, 2009

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2027 by Zerwas (relating to adoption of the Revised Uniform Anatomical Gift Act; providing criminal penalties.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would replace the current Texas Anatomical Gift Act with the Revised Uniform Anatomical Gift Act, relating to the donation and use of parts or all of the human body after death. According to the agencies, the bill would not have significant fiscal impact to the state because it does not represent a change to current agency operations.

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Source Agencies: 405 Department of Public Safety, 537 State Health Services, Department of, 601 Department of Transportation, 304 Comptroller of Public Accounts

LBB Staff: JOB, CL, MB, LR, JJ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 4, 2009

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2027 by Zerwas (Relating to adoption of the Revised Uniform Anatomical Gift Act; providing criminal penalties.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would replace the current Texas Anatomical Gift Act with the Revised Uniform Anatomical Gift Act, relating to the donation and use of parts or all of the human body after death. According to the agencies, the bill would not have significant fiscal impact to the state because it does not represent a change to current agency operations.

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LBB Staff: JOB, CL, LR, JJ

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 30, 2009

TO: Honorable Lois W. Kolkhorst, Chair, House Committee on Public Health

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2027 by Zerwas (Relating to adoption of the Revised Uniform Anatomical Gift Act; providing criminal penalties.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would replace the current Texas Anatomical Gift Act with the Revised Uniform Anatomical Gift Act, relating to the donation and use of parts or all of the human body after death. According to the agencies, the bill would not have significant fiscal impact to the state because it does not represent a change to current agency operations.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 405 Department of Public Safety, 537 State Health Services, Department of, 601 Department of Transportation

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