

By: Buckingham, et al.

S.B. No. 701

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and transfer of the regulation of
willed body programs to the Texas Funeral Service Commission and to
the creation of the State Anatomical Advisory Committee;
authorizing a fee.

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

ARTICLE 1. STATE ANATOMICAL ADVISORY COMMITTEE; TEXAS FUNERAL
SERVICE COMMISSION

SECTION 1.01. The heading to Chapter 691, Health and Safety
Code, is amended to read as follows:

CHAPTER 691. DONATION OF BODIES AND ANATOMICAL SPECIMENS

~~[ANATOMICAL BOARD OF THE STATE OF TEXAS]~~

SECTION 1.02. The heading to Subchapter A, Chapter 691,
Health and Safety Code, is amended to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS; STATE ~~[ORGANIZATION OF]~~
ANATOMICAL ADVISORY COMMITTEE ~~[BOARD OF THE STATE OF TEXAS]~~

SECTION 1.03. Section 691.001, Health and Safety Code, is
amended by amending Subdivision (1) and adding Subdivisions (4) and
(5) to read as follows:

(1) "Advisory committee [Board]" means the State
Anatomical Advisory Committee ~~[Board of the State of Texas]~~.

(4) "Commission" means the Texas Funeral Service
Commission.

(5) "Willed body program" means a program operated at

1 an institution of higher education in this state and approved by the
2 commission that allows a living individual to donate the
3 individual's body or anatomical specimen for educational or
4 research purposes.

5 SECTION 1.04. Section 691.002, Health and Safety Code, is
6 amended to read as follows:

7 Sec. 691.002. ADVISORY COMMITTEE [~~COMPOSITION OF BOARD~~].

8 (a) The State Anatomical Advisory Committee is established to
9 advise the commission on matters related to the regulation and
10 operation of willed body programs in this state.

11 (b) The advisory committee is composed of representatives
12 appointed by the commission from institutions of higher education
13 that operate willed body programs [~~The Anatomical Board of the~~
14 ~~State of Texas is composed of one representative from each school or~~
15 ~~college of chiropractic, osteopathy, medicine, or dentistry~~
16 ~~incorporated in this state]~~.

17 (c) Members of the advisory committee serve two-year terms
18 [~~(b) On March 1 of each odd-numbered year, the chief executive~~
19 ~~officer of each institution described by Subsection (a) shall~~
20 ~~appoint as the institution's representative on the board one~~
21 ~~professor of surgery or of basic anatomical sciences who is~~
22 ~~associated with the institution]~~.

23 (d) [(c)] Appointments to the advisory committee [board]
24 shall be made without regard to the race, creed, sex, religion, or
25 national origin of the appointees.

26 (e) Sections 2110.002 and 2110.008, Government Code, do not
27 apply to the advisory committee.

SECTION 1.05. Section 691.007(c), Health and Safety Code, is redesignated as Section 691.011, Health and Safety Code, and amended to read as follows:

Sec. 691.011. RECORDS. ~~[(c)]~~ The commission ~~[board]~~ shall keep identification records of each body donated to the commission ~~[board]~~ and of each body or anatomical specimen distributed by the commission ~~[board]~~.

SECTION 1.06. Section 691.008(a), Health and Safety Code, is redesignated as Section 691.012, Health and Safety Code, and amended to read as follows:

Sec. 691.012. FEES. ~~[(a)]~~ The commission ~~[board]~~ may set and collect reasonable and necessary fees for:

(1) receiving and distributing bodies and anatomical specimens; and

(2) conducting inspections of institutions or other persons authorized to receive and use bodies or anatomical specimens under this chapter.

SECTION 1.07. Section 691.010, Health and Safety Code, is amended to read as follows:

Sec. 691.010. PUBLIC INFORMATION AND PARTICIPATION; COMPLAINTS. (a) The commission ~~[board]~~ shall prepare information of public interest describing the functions of the commission under this chapter ~~[board]~~ and the commission's ~~[board's]~~ procedures by which complaints are filed with and resolved by the commission ~~[board]~~. The commission ~~[board]~~ shall make the information available to the public and appropriate state agencies.

(b) The commission ~~[board]~~ by rule shall establish methods

1 by which service recipients can be notified of the name, mailing
2 address, and telephone number of the commission [~~board~~] for the
3 purpose of directing complaints to the commission [~~board~~]. The
4 commission [~~board~~] may provide for that notification by including
5 the information on each written contract relating to bodies willed
6 or donated to an entity regulated by the commission [~~board~~] or
7 authorized by the commission [~~board~~] to receive bodies.

8 (c) The commission [~~board~~] shall keep an information file
9 about each complaint filed with the commission [~~board~~] relating to
10 its functions under this chapter. If a written complaint is filed
11 with the commission [~~board~~] relating to a person or an entity
12 regulated by the commission under this chapter [~~board~~], the
13 commission [~~board, at least as frequently as quarterly and until~~
14 ~~final disposition of the complaint,~~] shall periodically notify the
15 parties to the complaint of the status of the complaint until final
16 disposition unless notice would jeopardize an undercover
17 investigation.

18 (d) The commission [~~board~~] shall develop and implement
19 policies that provide the public with a reasonable opportunity to
20 appear before the commission [~~board~~] and to speak on any issue under
21 the jurisdiction of the commission [~~board~~].

22 SECTION 1.08. Section 691.022, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 691.022. GENERAL DUTIES. (a) The commission [~~board~~]
25 shall distribute bodies and anatomical specimens to institutions of
26 higher education that operate willed body programs and other
27 institutions and persons authorized to receive a body or specimen

1 under this chapter ~~[them]~~.

2 (b) The commission ~~[board]~~ shall adopt rules to ensure that
3 each body and anatomical specimen is treated with respect while in
4 the custody of the commission ~~[board]~~ or an institution or person
5 authorized to receive the body or specimen, including an
6 institution of higher education that operates a willed body program
7 ~~[represented on the board is treated with respect]~~.

8 (c) The commission may not adopt a rule related to standards
9 of practice, ethics, qualifications, or disciplinary sanctions for
10 institutions or persons regulated under this chapter unless the
11 advisory committee first proposes the rule and the proposed rule is
12 authorized by this chapter. The commission may not modify a rule
13 described by this subsection that is proposed by the advisory
14 committee. If the commission declines to adopt a rule proposed by
15 the advisory committee, the commission shall return the rule to the
16 advisory committee with an explanation of the reasons the
17 commission declined to adopt the rule.

18 (d) The commission shall adopt rules, establish procedures,
19 and prescribe forms necessary to administer and enforce this
20 chapter.

21 SECTION 1.09. Section [691.0225](#), Health and Safety Code, is
22 amended to read as follows:

23 Sec. 691.0225. INFORMATIONAL DOCUMENT. The commission
24 ~~[board]~~ shall develop a document to inform a person making a gift of
25 a decedent's body or anatomical specimen for purposes of education,
26 including forensic science education, or research of the risks and
27 benefits associated with donation. The commission ~~[board]~~ shall

1 make the document available on the commission's [~~board's~~] Internet
2 website.

3 SECTION 1.10. Section 691.023, Health and Safety Code, is
4 amended to read as follows:

5 Sec. 691.023. DUTY TO DELIVER CERTAIN BODIES TO COMMISSION
6 [~~BOARD~~]. (a) An officer, employee, or representative of the state,
7 of a political subdivision, or of an institution having charge or
8 control of a body not claimed for burial or a body required to be
9 buried at public expense shall:

10 (1) notify the commission [~~board~~] or the commission's
11 [~~board's~~] representative of the body's existence when the body
12 comes into the person's possession, charge, or control if notified
13 in writing to do so by the commission [~~board~~] or the commission's
14 [~~board's~~] representative;

15 (2) deliver the body in accordance with the direction
16 of the commission [~~board~~]; and

17 (3) allow the commission [~~board~~], the commission's
18 [~~board's~~] representative, or a physician designated by the
19 commission [~~board~~] who complies with this chapter to remove the
20 body to be used for the advancement of medical or forensic science.

21 (b) If the commission [~~board~~] does not require a political
22 subdivision or agency of the political subdivision to deliver a
23 body under this section, the political subdivision shall pay all
24 costs of preparation for burial, including costs of embalming.

25 SECTION 1.11. Section 691.025(c), Health and Safety Code,
26 is amended to read as follows:

27 (c) A body that is not claimed for burial within 48 hours

1 after a relative receives notification shall be delivered as soon
2 as possible to the commission [~~board~~] or the commission's [~~board's~~]
3 representative.

4 SECTION 1.12. Section 691.026, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 691.026. BODY OF TRAVELER. If an unclaimed body is the
7 body of a traveler who died suddenly, the commission [~~board~~] shall
8 direct the institution or other person receiving the body to retain
9 the body for six months for purposes of identification.

10 SECTION 1.13. Section 691.027, Health and Safety Code, is
11 amended to read as follows:

12 Sec. 691.027. AUTOPSY. Only the commission [~~board~~] may
13 grant permission to perform an autopsy on an unclaimed body. The
14 commission [~~board~~] may grant permission after receiving a specific
15 request for an autopsy that shows sufficient evidence of medical
16 urgency.

17 SECTION 1.14. Section 691.028(a), Health and Safety Code,
18 is amended to read as follows:

19 (a) An adult living in this state who is of sound mind may
20 donate the adult's body by will or other written instrument to the
21 commission [~~board~~], a medical or dental school, or another donee
22 authorized by the commission [~~board~~] to be used for the
23 advancement of medical or forensic science.

24 SECTION 1.15. Section 691.029, Health and Safety Code, is
25 amended to read as follows:

26 Sec. 691.029. AUTHORITY TO ACCEPT BODIES FROM OUTSIDE THE
27 STATE. The commission [~~board~~] may receive a body transported to the

1 commission [~~board~~] from outside this state.

2 SECTION 1.16. Section 691.030, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 691.030. COMMISSION'S [~~BOARD'S~~] AUTHORITY TO
5 DISTRIBUTE BODIES AND ANATOMICAL SPECIMENS. (a) The commission
6 [~~board~~] or the commission's [~~board's~~] representative shall
7 distribute bodies donated to it and may redistribute bodies donated
8 to medical or dental schools or other donees authorized by the
9 commission [~~board~~] to:

10 (1) schools and colleges of chiropractic, osteopathy,
11 medicine, or dentistry incorporated in this state;

12 (2) forensic science programs;

13 (3) search and rescue organizations or recovery teams
14 that are recognized by the commission [~~board~~], are exempt from
15 federal taxation under Section 501(c)(3), Internal Revenue Code of
16 1986, and use human remains detection canines with the
17 authorization of a local or county law enforcement agency;

18 (4) physicians; and

19 (5) other persons as provided by this section.

20 (b) In making the distribution, the commission [~~board~~]
21 shall give priority to the schools and colleges that need bodies for
22 lectures and demonstrations.

23 (c) If the commission [~~board~~] has remaining bodies, the
24 commission [~~board~~] or the commission's [~~board's~~] representative
25 shall distribute or redistribute those bodies to the schools and
26 colleges proportionately and equitably according to the number of
27 students in each school or college receiving instruction or

demonstration in normal or morbid anatomy and operative surgery.
The dean of each school or college shall certify that number to the
commission [~~board~~] when required by the commission [~~board~~].

(d) The commission [~~board~~] may transport a body or
anatomical specimen to an authorized recipient in another state if
the commission [~~board~~] determines that the supply of bodies or
anatomical specimens in this state exceeds the need for bodies or
anatomical specimens in this state and if:

(1) the deceased donated the deceased's [~~his~~] body in
compliance with Section 691.028 and at the time of the donation
authorized the commission [~~board~~] to transport the body outside
this state; or

(2) the body was donated in compliance with Chapter
692A and the person authorized to make the donation under Section
692A.009 authorized the commission [~~board~~] to transport the body
outside this state.

SECTION 1.17. Sections 691.031(a), (b), and (f), Health and
Safety Code, are amended to read as follows:

(a) The commission [~~board~~] shall adopt rules to ensure that:

(1) each body or anatomical specimen received or
distributed by the commission [~~board~~] is properly transported;

(2) a label with the statement "CONTENTS DERIVED FROM
DONATED HUMAN TISSUE" is affixed to the container in which the body
or anatomical specimen is transported; and

(3) each person who has control or possession of a body
or anatomical specimen:

(A) satisfactorily completes the information

1 required on a chain-of-custody form prescribed by the commission
2 [~~board~~];

3 (B) maintains a copy of the form for the person's
4 records; and

5 (C) transfers the form to any other person to
6 whom control or possession of the body or anatomical specimen is
7 transferred.

8 (b) The commission [~~board~~] may employ a public carrier to
9 transport bodies or anatomical specimens received or distributed by
10 the commission [~~board~~].

11 (f) The sender and receiver of each body or anatomical
12 specimen shall file the records required under this section in
13 accordance with commission [~~board~~] rules so that the commission
14 [~~board~~] or a district or county attorney may inspect the records at
15 any time.

16 SECTION 1.18. Section 691.032, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 691.032. COSTS OF DISTRIBUTION. A person or
19 institution receiving a body or anatomical specimen under this
20 chapter shall pay in a manner specified by the commission [~~board~~],
21 or as otherwise agreed on, all costs incurred in distributing the
22 body or anatomical specimen so that the state, a county, a
23 municipality, or an officer, employee, or representative of the
24 state, a county, or a municipality does not incur any expense.

25 SECTION 1.19. Sections 691.033(a), (b), and (d), Health and
26 Safety Code, are amended to read as follows:

27 (a) To further medical or forensic science, a school,

1 college, or person designated by the commission [~~board~~] may use,
2 dissect, operate on, examine, and experiment on a body or
3 anatomical specimen distributed under this chapter.

4 (b) A school, college, or person shall keep a permanent
5 record of each body or anatomical specimen received from the
6 commission [~~board~~] or the commission's [~~board's~~] representative.
7 The record must be sufficient to identify the body or anatomical
8 specimen and may be inspected by the commission [~~board~~] or the
9 commission's [~~board's~~] representative.

10 (d) To aid prosecutions under Section 42.08, Penal Code, the
11 commission [~~board~~] shall adopt rules that clearly state the
12 activities that are authorized by the commission [~~board~~] in
13 relation to the use or dissection of a body.

14 SECTION 1.20. Section 691.034, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 691.034. REGULATION OF PERSONS AND INSTITUTIONS USING
17 BODIES AND ANATOMICAL SPECIMENS. (a) The commission [~~board~~] shall
18 inspect and may approve institutions and other persons for the
19 receipt and use of bodies and anatomical specimens under this
20 chapter.

21 (b) The commission [~~board~~] may investigate a person or
22 institution if the commission [~~board~~] has reason to believe that
23 the person or institution has improperly used a body or anatomical
24 specimen.

25 (c) The commission [~~board~~] may suspend or revoke a person's
26 or institution's authorization to receive and use or dissect bodies
27 or anatomical specimens if the commission [~~board~~] determines that

1 the person or institution has improperly used a body or anatomical
2 specimen.

3 (d) A person or institution is entitled to a hearing before
4 the commission [~~board~~] or a hearing examiner appointed by the
5 commission [~~board~~] before the commission [~~board~~] may revoke the
6 person's or institution's authorization to receive and use or
7 dissect bodies or anatomical specimens. The commission [~~board~~]
8 shall make all final decisions to suspend or revoke an
9 authorization.

10 SECTION 1.21. Subchapter A, Chapter 651, Occupations Code,
11 is amended by adding Section 651.005 to read as follows:

12 Sec. 651.005. REGULATION OF WILLED BODY PROGRAMS. The
13 commission shall regulate willed body programs as provided by
14 Chapter 691, Health and Safety Code, and in accordance with the
15 powers and duties granted by this chapter to the extent necessary to
16 regulate the programs under that chapter.

17 SECTION 1.22. The following provisions of the Health and
18 Safety Code are repealed:

- 19 (1) Section 691.003;
- 20 (2) Section 691.004;
- 21 (3) Section 691.005;
- 22 (4) Section 691.006;
- 23 (5) Sections 691.007(a), (b), and (d);
- 24 (6) Sections 691.008(b) and (d);
- 25 (7) the headings to Sections 691.007 and 691.008; and
- 26 (8) Section 691.009.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Article 43.25, Code of Criminal Procedure, is amended to read as follows:

Art. 43.25. BODY OF CONVICT. The body of a convict who has been legally executed shall be embalmed immediately and so directed by the Director of the correctional institutions division of the Texas Department of Criminal Justice [~~Department of Corrections~~].

If the body is not demanded or requested by a relative or bona fide friend within forty-eight hours after execution then it shall be delivered to the Texas Funeral Service Commission [~~Anatomical Board of the State of Texas~~], if requested by the commission [~~Board~~].

If the body is requested by a relative, a bona fide friend, or the Texas Funeral Service Commission [~~Anatomical Board of the State of Texas~~], such recipient shall pay a fee [~~of~~] not to exceed

twenty-five dollars to the mortician for the mortician's [~~his~~] services in embalming the body for which the mortician shall issue to the recipient a written receipt. When such receipt is delivered

to the Director of the correctional institutions division of the Texas Department of Criminal Justice [~~Department of Corrections~~],

the body of the deceased shall be delivered to the party named in the receipt or the party's [~~his~~] authorized agent. If the body is

not delivered to a relative, a bona fide friend, or the Texas Funeral Service Commission [~~Anatomical Board of the State of Texas~~],

the Director of the correctional institutions division of the Texas Department of Criminal Justice [~~Department of Corrections~~]

shall cause the body to be decently buried, and the fee for embalming shall be paid by the county in which the indictment

1 which resulted in conviction was found.

2 SECTION 2.02. Section 404.093(b), Government Code, is
3 amended to read as follows:

4 (b) This subchapter does not apply to:

5 (1) funds pledged to the payment of bonds, notes, or
6 other debts if the funds are not otherwise required to be deposited
7 in the treasury;

8 (2) funds held in trust or escrow for the benefit of a
9 person or entity other than a state agency;

10 (3) funds set apart out of earnings derived from
11 investment of funds held in trust for others, as administrative
12 expenses of the trustee agency; or

13 (4) funds, grants, donations, and proceeds from funds,
14 grants, and donations, given in trust to the Texas State Library and
15 Archives Commission for the establishment and maintenance of
16 regional historical resource depositories and libraries in
17 accordance with Section 441.154[, ~~or~~

18 [~~(5) funds under the management of the~~
19 ~~secretary-treasurer of the Anatomical Board of the State of Texas,~~
20 ~~as provided by Section 691.008, Health and Safety Code]~~.

21 SECTION 2.03. Sections 692A.011(a), (b), and (c), Health and
22 Safety Code, are amended to read as follows:

23 (a) An anatomical gift may be made to the following persons
24 named in the document of gift:

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

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

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

4 (4) an eye bank or tissue bank, except that use of a
5 gift of a whole body must be coordinated through the Texas Funeral
6 Service Commission [~~Anatomical Board of the State of Texas~~];

7 (5) a forensic science program at:

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

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

12 (6) a search and rescue organization or recovery team
13 that is recognized by the Texas Funeral Service Commission
14 [~~Anatomical Board of the State of Texas~~], is exempt from federal
15 taxation under Section 501(c)(3), Internal Revenue Code of 1986,
16 and uses human remains detection canines with the authorization of
17 a local or county law enforcement agency; or

18 (7) the Texas Funeral Service Commission [~~Anatomical~~
19 ~~Board of the State of Texas~~].

20 (b) Except for donations described by Subsections (a)(1)
21 through (6), the Texas Funeral Service Commission [~~Anatomical Board~~
22 ~~of the State of Texas~~] shall be the donee of gifts of bodies or parts
23 of bodies made for the purpose of education or research that are
24 subject to distribution by the commission [~~board~~] under Chapter
25 691.

26 (c) A forensic science program that receives a donation
27 under Subsection (a)(5) must submit a report to the Texas Funeral

1 Service Commission [~~Anatomical Board of the State of Texas~~] on a
2 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 ARTICLE 3. TRANSITIONS AND EFFECTIVE DATE

8 SECTION 3.01. (a) The Anatomical Board of the State of Texas
9 is abolished but continues in existence until September 1, 2022,
10 for the sole purpose of transferring obligations, property, rights,
11 powers, and duties to the Texas Funeral Service Commission. The
12 Texas Funeral Service Commission assumes all of the obligations,
13 property, rights, powers, and duties of the Anatomical Board of the
14 State of Texas as they exist immediately before the effective date
15 of this Act. All unexpended and unobligated funds under the
16 management of the secretary-treasurer of the Anatomical Board of
17 the State of Texas, as provided by Section 691.008, Health and
18 Safety Code, as that section existed immediately before the
19 effective date of this Act, are transferred to the general revenue
20 fund for the purpose of the Texas Funeral Service Commission
21 administering duties under Chapter 691, Health and Safety Code, as
22 amended by this Act.

23 (b) The Anatomical Board of the State of Texas and the Texas
24 Funeral Service Commission shall, in consultation with appropriate
25 state entities, ensure that the transfer of the obligations,
26 property, rights, powers, and duties of the Anatomical Board of the
27 State of Texas to the Texas Funeral Service Commission is completed

not later than September 1, 2022.

(c) All rules of the Anatomical Board of the State of Texas are continued in effect as rules of the Texas Funeral Service Commission until superseded by a rule of the Texas Funeral Service Commission. An authorization issued by the Anatomical Board of the State of Texas is continued in effect as provided by the law in effect immediately before the effective date of this Act. An authorization pending on the effective date of this Act is continued without change in status after the effective date of this Act. A complaint, investigation, or other proceeding pending on the effective date of this Act is continued without change in status after the effective date of this Act.

(d) Unless the context indicates otherwise, a reference to the Anatomical Board of the State of Texas in a law or administrative rule means the Texas Funeral Service Commission.

SECTION 3.02. (a) Not later than the 60th day after the effective date of this Act, the Texas Funeral Service Commission shall appoint members to the State Anatomical Advisory Committee in accordance with Section 691.002, Health and Safety Code, as amended by this Act.

(b) The members of the Anatomical Board of the State of Texas whose terms expire under Section 3.01 of this Act shall continue to provide advice to the Texas Funeral Service Commission until a majority of the members of the State Anatomical Advisory Committee are appointed under Subsection (a) of this section and qualified. A member of the Anatomical Board of the State of Texas described by this subsection may be appointed to the State

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1 Anatomical Advisory Committee if the member is otherwise eligible
2 for appointment under Section [691.002](#), Health and Safety Code, as
3 amended by this Act.

4 SECTION 3.03. This Act takes effect September 1, 2021.