

By: Zerwas

H.B. No. 2027

A BILL TO BE ENTITLED

AN ACT

relating to adoption of the Revised Uniform Anatomical Gift Act;  
providing criminal penalties.

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

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

CHAPTER 692A. REVISED UNIFORM ANATOMICAL GIFT ACT

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

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

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

(2) "Agent" means an individual:

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

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

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

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

(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;

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

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

22           (4) the donor's guardian.

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

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

1           (2) in a will;

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

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

6           (b) A donor or other person authorized to make an anatomical  
7 gift under Section 692A.004 may make a gift by a donor card or other  
8 record signed by the donor or other person making the gift or by  
9 authorizing that a statement or symbol indicating the donor has  
10 made an anatomical gift be included on a donor registry. If the  
11 donor or other person is physically unable to sign a record, the  
12 record may be signed by another individual at the direction of the  
13 donor or other person and 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) Revocation, suspension, expiration, or cancellation of  
20 a driver's license or identification card on which an anatomical  
21 gift is indicated does not invalidate the gift.

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

25           Sec. 692A.006. AMENDING OR REVOKING ANATOMICAL GIFT BEFORE  
26 DONOR'S DEATH. (a) Subject to Section 692A.008, a donor or other  
27 person authorized to make an anatomical gift under Section 692A.004

1 may amend or revoke an anatomical gift by:

2 (1) a record signed by:

3 (A) the donor;

4 (B) the other person; or

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

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

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

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

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

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

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

26 (e) A donor who makes an anatomical gift in a will may amend  
27 or revoke the gift in the manner provided for amendment or

1 revocation of wills or as provided in Subsection (a).

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

3 REFUSAL. (a) An individual may refuse to make an anatomical gift

4 of the individual's body or part by:

5 (1) a record signed by:

6 (A) the individual; or

7 (B) subject to Subsection (b), another

8 individual acting at the direction of the individual if the

9 individual is physically unable to sign;

10 (2) the individual's will, whether or not the will is

11 admitted to probate or invalidated after the individual's death; or

12 (3) any form of communication made by the individual

13 during the individual's terminal illness or injury addressed to at

14 least two adults, at least one of whom is a disinterested witness.

15 (b) A record signed pursuant to Subsection (a)(1)(B) 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 individual; and

19 (2) state that the record has been signed and

20 witnessed as provided in Subdivision (1).

21 (c) An individual who has made a refusal may amend or revoke

22 the refusal:

23 (1) in the manner provided in Subsection (a) for

24 making a refusal;

25 (2) by subsequently making an anatomical gift pursuant

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

27 (3) by destroying or canceling the record evidencing

1 the refusal, or the portion of the record used to make the refusal,  
2 with the intent to revoke the refusal.

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

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

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

23 (c) If a person other than the donor makes an unrevoked  
24 anatomical gift of the donor's body or part under Section 692A.005  
25 or an amendment to an anatomical gift of the donor's body or part  
26 under Section 692A.006, another person may not make, amend, or  
27 revoke the gift of the donor's body or part under Section 692A.010.

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

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

10       (f) 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 for one or more of  
13 the purposes set forth in Section 692A.004 is not a limitation on  
14 the making of an anatomical gift of the part for any of the other  
15 purposes by the donor or any other person under Section 692A.005 or  
16 Section 692A.010.

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

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

23       Sec. 692A.009. WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S  
24 BODY OR PART. (a) Subject to Subsections (b) and (c) and unless  
25 barred by Section 692A.007 or Section 692A.008, an anatomical gift  
26 of a decedent's body or part for the purpose of transplantation,  
27 therapy, research, or education may be made by any member of the

1 following classes of persons who is reasonably available, in the  
2 order of priority listed:

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

6 (2) the spouse of the decedent;

7 (3) adult children of the decedent;

8 (4) parents of the decedent;

9 (5) adult siblings of the decedent;

10 (6) adult grandchildren of the decedent;

11 (7) grandparents of the decedent;

12 (8) an adult who exhibited special care and concern  
13 for the decedent;

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

16 (10) the hospital administrator; and

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

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

26 (c) A person may not make an anatomical gift if, at the time  
27 of the decedent's death, a person in a prior class under Subsection

1 (a) is reasonably available to make or to object to the making of an  
2 anatomical gift.

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

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

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

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

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

26 Sec. 692A.011. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT;  
27 PURPOSE OF ANATOMICAL GIFT. (a) An anatomical gift may be made to

1 the following persons named in the document of gift:

2 (1) a hospital, an accredited medical school, dental  
3 school, college, or university, an organ procurement organization,  
4 or another appropriate person for research or education;

5 (2) subject to Subsection (b), an individual  
6 designated by the person making the anatomical gift if the  
7 individual is the recipient of the part;

8 (3) an eye bank or tissue bank; or

9 (4) the Anatomical Board of the State of Texas.

10 (b) If an anatomical gift to an individual under Subsection  
11 (a)(2) cannot be transplanted into the individual, the part passes  
12 in accordance with Subsection (g) in the absence of an express,  
13 contrary indication by the person making the anatomical gift.

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

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

21 (2) if the part is tissue and the gift is for the  
22 purpose of transplantation or therapy, the gift passes to the  
23 appropriate tissue bank;

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

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

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

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

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

20           (g) For purposes of Subsections (b), (e), and (f), the  
21 following rules apply:

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

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

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

1 organ.

2 (h) An anatomical gift of an organ for transplantation or  
3 therapy, other than an anatomical gift under Subsection (a)(2),  
4 passes to the organ procurement organization as custodian of the  
5 organ.

6 (i) If an anatomical gift does not pass pursuant to  
7 Subsections (a) through (h) or the decedent's body or part is not  
8 used for transplantation, therapy, research, or education, custody  
9 of the body or part passes to the person under obligation to dispose  
10 of the body or part.

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

19 (k) Except as otherwise provided in Subsection (a)(2),  
20 nothing in this chapter affects the allocation of organs for  
21 transplantation or therapy.

22 Sec. 692A.012. SEARCH AND NOTIFICATION. The donor card of a  
23 person who is involved in an accident or other trauma shall  
24 accompany the person to the hospital or other health care facility.  
25 The driver's license or personal identification certificate  
26 indicating an affirmative statement of gift of a person who is  
27 involved in an accident or other trauma shall accompany the person

1 to the hospital or health care facility if the person does not have  
2 a donor card.

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

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

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

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

24 (c) When a hospital refers an individual at or near death to  
25 a procurement organization, the organization may conduct any  
26 reasonable examination necessary to ensure the medical suitability  
27 of a part that is or could be the subject of an anatomical gift for

1 transplantation, therapy, research, or education from a donor or a  
2 prospective donor. During the examination period, measures  
3 necessary to ensure the medical suitability of the part may not be  
4 withdrawn unless the hospital or procurement organization knows  
5 that the individual expressed a contrary intent.

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

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

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

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

27 (h) Subject to Sections 692A.011(i) and 693.002, the rights

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

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

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

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

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

27 (2) establish a procedure for the timely notification

1 to an organ procurement organization of individuals whose death is  
2 imminent or who have died in the hospital;

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

6 (4) establish procedures to ensure that hospital staff  
7 and organ procurement organization staff maintain appropriate  
8 medical treatment of potential donors while necessary testing and  
9 placement of potential donated organs, tissues, and eyes take  
10 place;

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

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

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

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

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

24 (10) provide that the organ procurement organization  
25 determines medical suitability for organ donation and, in the  
26 absence of alternative arrangements by the hospital, the organ  
27 procurement organization determines medical suitability for tissue

1 and eye donation, using the definition of potential tissue and eye  
2 donor and the notification protocol developed in consultation with  
3 the tissue and eye banks identified by the hospital for this  
4 purpose;

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

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

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

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

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

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

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

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

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

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

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

1 are reasonably available at or near the time of death.

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

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

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

14 (1) this chapter;

15 (2) the laws of the state or country where it was  
16 executed; or

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

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

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

26 Sec. 692A.020. GLENDA DAWSON DONATE LIFE-TEXAS REGISTRY;  
27 EDUCATION PROGRAM. (a) In this section, "registry program" means

1 the donor education, awareness, and registry program established  
2 under this section and known as the Glenda Dawson Donate Life-Texas  
3 Registry.

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

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

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

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

22 (f) The Department of Public Safety at least monthly shall  
23 electronically transfer to the organization selected by the  
24 commissioner as provided by Subsection (e) the name, date of birth,  
25 driver's license number, most recent address, and any other  
26 relevant information in the possession of the Department of Public  
27 Safety for any person who indicates on the person's driver's license

1 application under Section 521.401, Transportation Code, that the  
2 person would like to make an anatomical gift and consents in writing  
3 to the release of the information by the Department of Public Safety  
4 to the organization for inclusion in the Internet-based registry.

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

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

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

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

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

21 (h) Except as otherwise provided by Subsection (g)(3) or  
22 this subsection, the Department of Public Safety, the organization  
23 selected by the commissioner under Subsection (e), or a procurement  
24 organization may not sell, rent, or otherwise share any information  
25 provided to the Internet-based registry. A procurement  
26 organization may share any information provided to the registry  
27 with an organ procurement organization or a health care provider or

1 facility providing medical care to a potential donor as necessary  
2 to properly identify an individual at the time of donation.

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

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

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

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

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

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

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

16           (1) the number of donors listed on the Internet-based  
17 registry;

18           (2) changes in the number of donors listed on the  
19 registry; and

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

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

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

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

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

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

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

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

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

26           (s) The department shall encourage medical and nursing  
27 schools in this state to include mandatory organ donation education

1 in the schools' curricula.

2 (t) The department shall encourage medical schools in this  
3 state to require a physician in a neurology or neurosurgery  
4 residency program to complete an advanced course in organ donation  
5 education.

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

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

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

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

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

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

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

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

19 Sec. 692A.023. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL  
20 AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and  
21 supersedes the provisions of the Electronic Signatures in Global  
22 and National Commerce Act (15 U.S.C. Section 7001 et seq.), but does  
23 not modify, limit, or supersede Section 101(a) of that Act (15  
24 U.S.C. Section 7001(a)), or authorize electronic delivery of any of  
25 the notices described in Section 103 of that Act (15 U.S.C. Section  
26 7003(b)).

27 SECTION 2. Section 241.153, Health and Safety Code, is

1 amended to read as follows:

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

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

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

10           (3) to a transporting emergency medical services  
11 provider for the purpose of:

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

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

19           (i) quality assessment and improvement  
20 activities;

21           (ii) specified insurance functions;

22           (iii) conducting or arranging for medical  
23 reviews; or

24           (iv) competency assurance activities;

25           (4) to a member of the clergy specifically designated  
26 by the patient;

27           (5) to a [~~qualified organ or tissue~~] procurement

1 organization as defined in Section 692A.002 [~~692.002~~] for the  
2 purpose of making inquiries relating to donations according to the  
3 protocol referred to in Section 692A.015 [~~692.013(d)~~];

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

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

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

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

20 (B) will take appropriate steps to protect the  
21 health care information;

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

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

26 (11) to the American Red Cross for the specific  
27 purpose of fulfilling the duties specified under its charter

1 granted as an instrumentality of the United States government;

2 (12) to a regional poison control center, as the term  
3 is used in Chapter 777, to the extent necessary to enable the center  
4 to provide information and education to health professionals  
5 involved in the management of poison and overdose victims,  
6 including information regarding appropriate therapeutic use of  
7 medications, their compatibility and stability, and adverse drug  
8 reactions and interactions;

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

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

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

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

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

26 (18) to satisfy a request for medical records of a  
27 deceased or incompetent person pursuant to Section 74.051(e), Civil

1 Practice and Remedies Code;

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

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

7 (A) the Texas Rules of Civil Procedure or Code of  
8 Criminal Procedure; or

9 (B) Chapter 121, Civil Practice and Remedies  
10 Code.

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

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

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

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

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

27 (1) On a request from an [~~a qualified~~] organ

1 procurement organization, as defined by [~~in~~] Section 692A.002  
2 [~~692.002~~], the medical examiner, justice of the peace, county  
3 judge, or physician designated by the justice of the peace or county  
4 judge may permit the removal of organs from a decedent who died  
5 under circumstances requiring an inquest by the medical examiner,  
6 justice of the peace, or county judge if consent is obtained  
7 pursuant to Sections 692A.005 through 692A.010 or Section 693.003.

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

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

20 (A) the [~~qualified~~] organ procurement  
21 organization; and

22 (B) any person listed in Section 692A.009  
23 [~~693.004~~] who consented to the removal.

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

26 (b) On a request from a [~~qualified~~] tissue bank [~~procurement~~  
27 ~~organization~~], as defined by [~~in~~] Section 692A.002 [~~692.002~~], the

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

11 (1) the [~~qualified~~] tissue bank [~~procurement~~  
12 ~~organization~~]; and

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

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

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

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

27 [~~(c)~~] If a person listed in Section 692A.009 [~~693.004~~]

1 cannot be identified and contacted within four hours after death is  
2 pronounced and the county court [~~medical examiner~~] determines that  
3 no reasonable likelihood exists that a person can be identified and  
4 contacted during the four-hour period, the county court [~~medical  
5 examiner~~] may permit the removal of a nonvisceral organ or tissue.

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

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

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

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

1 apply to the removal of the corneal tissue.

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

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

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

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

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

26 (B) an opportunity for the person to consent in  
27 writing to the department's provision of the person's name, date of

1 birth, driver's license number, most recent address, and other  
2 information needed for identification purposes at the time of  
3 donation to the organization selected by the commissioner of state  
4 health services under Section 692A.020 [~~Chapter 49~~], Health and  
5 Safety Code, for inclusion in the statewide Internet-based registry  
6 of organ, tissue, and eye donors and for release to procurement  
7 [~~qualified organ, tissue, and eye bank~~] organizations; and

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

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

13 (f) This section does not apply to a dead human body  
14 obtained by a school or college of mortuary science under Chapter  
15 691 or 692A [~~692~~], Health and Safety Code.

16 SECTION 11. The following provisions are repealed:

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

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

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