



TEXAS ANATOMICAL GIFT ACT

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 or part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to restrictions imposed by law other than this chapter, a fetus.
- (6) "Department" means the Department of State Health Services.
- (7) "Disinterested witness" means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or another adult who exhibited special care and concern for the individual. The term does not include a person to which an anatomical gift could pass under Section 692A.011.
- (8) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry.
- (9) "Donor" means an individual whose body or part is the subject of an anatomical gift.
- (10) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.
- (11) "Driver's license" means a license or permit issued by the Department of Public Safety to operate a vehicle, whether or not conditions are attached to the license or permit.
- (12) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

- (13) “Guardian” means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.
- (14) “Hospital” means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.
- (15) “Identification card” means an identification card issued by the Department of Public Safety.
- (16) “Imminent death” means a patient who requires mechanical ventilation, has a severe neurologic injury, and meets certain clinical criteria indicating that neurologic death is near or a patient for whom withdrawal of ventilatory support is being considered.
- (17) “Know” means to have actual knowledge.
- (18) “Minor” means an individual who is under 18 years of age.
- (19) “Organ procurement organization” means a person designated by the secretary of the United States Department of Health and Human Services as an organ procurement organization.
- (20) “Parent” means a parent whose parental rights have not been terminated.
- (21) “Part” means an organ, an eye, or tissue of a human being. The term does not include the whole body.
- (22) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (23) “Physician” means an individual authorized to practice medicine or osteopathy under the law of any state.
- (24) “Procurement organization” means an eye bank, organ procurement organization, or tissue bank.
- (25) “Prospective donor” means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.
- (26) “Reasonably available” means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.
- (27) “Recipient” means an individual into whose body a decedent’s part has been or is intended to be transplanted.
- (28) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (29) “Refusal” means a record created under Section 692A.007 that expressly states an intent to bar other persons from making an anatomical gift of an individual’s body or part.
- (30) “Sign” means, with the present intent to authenticate or adopt a record:
 - (A) to execute or adopt a tangible symbol; or
 - (B) to attach to or logically associate with the record an electronic symbol, sound, or process.
- (31) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

- (32) “Technician” means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.
- (33) “Timely notification” means notification of an imminent death to the organ procurement organization within one hour of the patient’s meeting the criteria for imminent death and before the withdrawal of any life sustaining therapies. With respect to cardiac death, timely notification means notification to the organ procurement organization within one hour of the cardiac death.
- (34) “Tissue” means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.
- (35) “Tissue bank” means a person licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.
- (36) “Transplant hospital” means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.
- (37) “Visceral organ” means the heart, kidney, or liver or another organ or tissue that requires a patient support system to maintain the viability of the organ or tissue.

Sec. 692A.003.
APPLICABILITY.

This chapter applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

Sec. 692A.004.
PERSONS AUTHORIZED TO MAKE ANATOMICAL GIFT BEFORE DONOR’S DEATH.

Subject to Section 692A.008, an anatomical gift of a donor’s body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in Section 692A.005 by:

- (1) the donor, if the donor is an adult or if the donor is a minor and is:
 - (A) emancipated; or
 - (B) authorized under state law to apply for a driver’s license because the donor is at least 16 years of age and:
 - (i) circumstances allow the donation to be actualized prior to 18 years of age; and
 - (ii) an organ procurement organization obtains signed written consent from the minor’s parent, guardian, or custodian as in Subdivision (3);
- (2) an agent of the donor, unless the medical power of attorney or other record prohibits the agent from making an anatomical gift;
- (3) a parent of the donor, if the donor is an unemancipated minor; or
- (4) the donor’s guardian.

Sec. 692A.005.

MANNER OF MAKING ANATOMICAL GIFT BEFORE DONOR'S DEATH.

- (a) A donor may make an anatomical gift:
 - (1) by authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;
 - (2) in a will;
 - (3) during a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or
 - (4) as provided in Subsection (b).
- (b) A donor or other person authorized to make an anatomical gift under Section 692A.004 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:
 - (1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and
 - (2) state that the record has been signed and witnessed as provided in Subdivision (1).
- (c) Revocation, suspension, expiration, or cancellation of a driver's license or identification card on which an anatomical gift is indicated does not invalidate the gift.
- (d) An anatomical gift made by will takes effect on the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

Sec. 692A.006.

AMENDING OR REVOKING ANATOMICAL GIFT BEFORE DONOR'S DEATH.

- (a) Subject to Section 692A.008, a donor or other person authorized to make an anatomical gift under Section 692A.004 may amend or revoke an anatomical gift by:
 - (1) a record signed by:
 - (A) the donor;
 - (B) the other person; or
 - (C) subject to Subsection (b), another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or
 - (2) a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.
- (b) A record signed pursuant to Subsection (a)(1)(C) must:
 - (1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and
 - (2) state that the record has been signed and witnessed as provided in Subdivision (1).
- (c) Subject to Section 692A.008, a donor or other person authorized to make an anatomical gift under Section 692A.004 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

- (d) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.
- (e) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in Subsection (a).

Sec. 692A.007.

REFUSAL TO MAKE ANATOMICAL GIFT; EFFECT OF REFUSAL.

- (a) An individual may refuse to make an anatomical gift of the individual's body or part by:
 - (1) a record signed by:
 - (A) the individual; or
 - (B) subject to Subsection (b), another individual acting at the direction of the individual if the individual is physically unable to sign;
 - (2) the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or
 - (3) any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.
- (b) A record signed pursuant to Subsection (a)(1)(B) must:
 - (1) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and
 - (2) state that the record has been signed and witnessed as provided in Subdivision (1).
- (c) An individual who has made a refusal may amend or revoke the refusal:
 - (1) in the manner provided in Subsection (a) for making a refusal;
 - (2) by subsequently making an anatomical gift pursuant to Section 692A.005 that is inconsistent with the refusal; or
 - (3) by destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.
- (d) Except as otherwise provided in Section 692A.008(h), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

Sec. 692A.008.

PRECLUSIVE EFFECT OF ANATOMICAL GIFT, AMENDMENT, OR REVOCATION.

- (a) Except as otherwise provided in Subsection (g) and subject to Subsection (f), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under Section 692A.005 or an amendment to an anatomical gift of the donor's body or part under Section 692A.006.
- (b) A donor's revocation of an anatomical gift of the donor's body or part under Section 692A.006 is not a refusal and does not bar another person specified in Section 692A.004 or

Section 692A.009 from making an anatomical gift of the donor's body or part under Section 692A.005 or Section 692A.010.

- (c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under Section 692A.005 or an amendment to an anatomical gift of the donor's body or part under Section 692A.006, another person may not make, amend, or revoke the gift of the donor's body or part under Section 692A.010.
- (d) A revocation of an anatomical gift of a donor's body or part under Section 692A.006 by a person other than the donor does not bar another person from making an anatomical gift of the body or part under Section 692A.005 or Section 692A.010.
- (e) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 692A.004, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.
- (f) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under Section 692A.004, an anatomical gift of a part for one or more of the purposes set forth in Section 692A.004 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under Section 692A.005 or Section 692A.010.
- (g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.
- (h) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

Sec. 692A.009.

WHO MAY MAKE ANATOMICAL GIFT OF DECEDENT'S BODY OR PART.

- (a) Subject to Subsections (b) and (c) and unless barred by Section 692A.007 or Section 692A.008, an anatomical gift of a decedent's body or part for the purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:
 - (1) an agent of the decedent at the time of death who could have made an anatomical gift under Section 692A.004(2) immediately before the decedent's death;
 - (2) the spouse of the decedent;
 - (3) adult children of the decedent;
 - (4) parents of the decedent;
 - (5) adult siblings of the decedent;
 - (6) adult grandchildren of the decedent;
 - (7) grandparents of the decedent;
 - (8) an adult who exhibited special care and concern for the decedent;
 - (9) the persons who were acting as the guardians of the person of the decedent at the time of death;
 - (10) the hospital administrator; and
 - (11) any other person having the authority to dispose of the decedent's body.

- (b) If there is more than one member of a class listed in Subsection (a)(1), (3), (4), (5), (6), (7), or (9) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under Section 692A.011 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.
- (c) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under Subsection (a) is reasonably available to make or to object to the making of an anatomical gift.

Sec. 692A.010.

MANNER OF MAKING, AMENDING, OR REVOKING ANATOMICAL GIFT OF DECEDENT'S BODY OR PART.

- (a) A person authorized to make an anatomical gift under Section 692A.009 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.
- (b) Subject to Subsection (c), an anatomical gift by a person authorized under Section 692A.009 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under Section 692A.009 may be:
 - (1) amended only if a majority of the reasonably available members agree to the amending of the gift; or
 - (2) revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.
- (c) A revocation under Subsection (b) is effective only if, before an incision has been made to remove a part from the donor's body or before the initiation of invasive procedures to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

Sec. 692A.011.

PERSONS THAT MAY RECEIVE ANATOMICAL GIFT; PURPOSE OF ANATOMICAL GIFT.

- (a) An anatomical gift may be made to the following persons named in the document of gift:
 - (1) an organ procurement organization to be used for transplantation, therapy, research, or education;
 - (2) a hospital to be used for research;
 - (3) subject to Subsection (d), an individual designated by the person making the anatomical gift if the individual is the recipient of the part;
 - (4) an eye bank or tissue bank, except that use of a gift of a whole body must be coordinated through the Anatomical Board of the State of Texas;

- (5) a forensic science program at:
 - (A) a general academic teaching institution as defined by Section 61.003, Education Code; or
 - (B) a private or independent institution of higher education as defined by Section 61.003, Education Code; or
- (6) the Anatomical Board of the State of Texas.
- (b) Except for donations described by Subsections (a)(1) through (5), the Anatomical Board of the State of Texas shall be the donee of gifts of bodies or parts of bodies made for the purpose of education or research that are subject to distribution by the board under Chapter 691.
- (c) A forensic science program that receives a donation under Subsection (a)(5) must submit a report to the Anatomical Board of the State of Texas on a quarterly basis that lists:
 - (1) the number of bodies or parts of bodies that the program received; and
 - (2) the method in which the program used the bodies or parts of bodies for education or research.
- (d) If an anatomical gift to an individual under Subsection (a)(3) cannot be transplanted into the individual, the part passes in accordance with Subsection (i) in the absence of an express, contrary indication by the person making the anatomical gift.
- (e) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in Subsection (a) but identifies the purpose for which an anatomical gift may be used, the following rules apply:
 - (1) if the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank;
 - (2) if the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank;
 - (3) if the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ; and
 - (4) if the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.
- (f) For the purpose of Subsection (e), if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.
- (g) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in Subsection (a) and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with Subsection (i).
- (h) If a document of gift specifies only a general intent to make an anatomical gift by words such as “donor,” “organ donor,” or “body donor,” or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with Subsection (i).
- (i) For purposes of Subsections (d), (g), and (h), the following rules apply:
 - (1) if the part is an eye, the gift passes to the appropriate eye bank;
 - (2) if the part is tissue, the gift passes to the appropriate tissue bank; and

- (3) if the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.
- (j) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under Subsection (a)(3), passes to the organ procurement organization as custodian of the organ.
- (k) If an anatomical gift does not pass pursuant to Subsections (a) through (j) or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.
- (l) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under Section 692A.005 or Section 692A.010 or if the person knows that the decedent made a refusal under Section 692A.007 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.
- (m) Except as otherwise provided in Subsection (a)(3), nothing in this chapter affects the allocation of organs for transplantation or therapy.
- (n) A donee may accept or reject a gift.

Sec. 692A.012.

SEARCH AND NOTIFICATION.

The donor card of a person who is involved in an accident or other trauma shall accompany the person to the hospital or other health care facility. The driver's license or personal identification certificate indicating an affirmative statement of gift of a person who is involved in an accident or other trauma shall accompany the person to the hospital or health care facility if the person does not have a donor card.

Sec. 692A.013.

DELIVERY OF DOCUMENT OF GIFT NOT REQUIRED; RIGHT TO EXAMINE.

- (a) A document of gift need not be delivered during the donor's lifetime to be effective.
- (b) On or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under Section 692A.011.

Sec. 692A.014.

RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATION AND OTHERS.

- (a) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Department of Public Safety and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

- (b) A procurement organization must be allowed reasonable access to information in the records of the Department of Public Safety to ascertain whether an individual at or near death is a donor.
- (c) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.
- (d) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under Section 692A.011 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.
- (e) Unless prohibited by law other than this chapter, an examination under Subsection (c) or (d) may include an examination of all medical and dental records of the donor or prospective donor.
- (f) On the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.
- (g) On referral by a hospital under Subsection (a), a procurement organization shall make a reasonable search for any person listed in Section 692A.009 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.
- (h) Subject to Sections 692A.011(k) and 693.002, the rights of the person to which a part passes under Section 692A.011 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift wholly or partly. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under Section 692A.011, on the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.
- (i) The physician who attends the decedent at death or the physician who determines the time of the decedent's death may not participate in the procedures for removing or transplanting a part from the decedent.
- (j) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

Sec. 692A.015.

COORDINATION OF PROCUREMENT AND USE; HOSPITAL PROCEDURES.

Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts. Each hospital must have a protocol that

ensures its maintenance of an effective donation system in order to maximize organ, tissue, and eye donation. The protocol must:

- (1) be available to the public during the hospital's normal business hours;
- (2) establish a procedure for the timely notification to an organ procurement organization of individuals whose death is imminent or who have died in the hospital;
- (3) establish procedures to ensure potential donors are declared dead by an appropriate practitioner in an acceptable time frame;
- (4) establish procedures to ensure that hospital staff and organ procurement organization staff maintain appropriate medical treatment of potential donors while necessary testing and placement of potential donated organs, tissues, and eyes take place;
- (5) ensure that all families are provided the opportunity to donate organs, tissues, and eyes, including vascular organs procured from asystolic donors;
- (6) provide that the hospital use appropriately trained persons from an organ procurement organization, tissue bank, or eye bank to make inquiries relating to donations;
- (7) provide for documentation of the inquiry and of its disposition in the decedent's medical records;
- (8) require an organ procurement organization, tissue bank, or eye bank that makes inquiries relating to donations to develop a protocol for making those inquiries;
- (9) encourage sensitivity to families' beliefs and circumstances in all discussions relating to the donations;
- (10) provide that the organ procurement organization determines medical suitability for organ donation and, in the absence of alternative arrangements by the hospital, the organ procurement organization determines medical suitability for tissue and eye donation, using the definition of potential tissue and eye donor and the notification protocol developed in consultation with the tissue and eye banks identified by the hospital for this purpose;
- (11) ensure that the hospital works cooperatively with the designated organ procurement organization, tissue bank, and eye bank in educating staff on donation issues;
- (12) ensure that the hospital works with the designated organ procurement organization, tissue bank, and eye bank in reviewing death records; and
- (13) provide for monitoring of donation system effectiveness, including rates of donation, protocols, and policies, as part of the hospital's quality improvement program.

Sec. 692A.016.

SALE OR PURCHASE OF PARTS PROHIBITED.

- (a) Except as otherwise provided in Subsection (b), a person commits an offense if the person for valuable consideration knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death. An offense under this subsection is a Class A misdemeanor.
- (b) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.
- (c) If conduct that constitutes an offense under this section also constitutes an offense under other law, the actor may be prosecuted under this section, the other law, or both this section and the other law.

Sec. 692A.017.

OTHER PROHIBITED ACTS.

- (a) A person commits an offense if the person, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal. An offense under this section is a Class A misdemeanor.
- (b) If conduct that constitutes an offense under this section also constitutes an offense under other law, the actor may be prosecuted under this section, the other law, or both this section and the other law.

Sec. 692A.018.

IMMUNITY.

- (a) A person who acts in good faith in accordance with this chapter is not liable for civil damages or subject to criminal prosecution for the person's action if the prerequisites for an anatomical gift are met under the laws applicable at the time and place the gift is made.
- (b) A person that acts in accordance with this chapter or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.
- (c) A person who acts in good faith in accordance with this chapter is not liable as a result of the action except in the case of an act or omission of the person that is intentional, wilfully or wantonly negligent, or done with conscious indifference or reckless disregard. For purposes of this subsection, "good faith" in determining the appropriate person authorized to make a donation under Section 692A.009 means making a reasonable effort to locate and contact the member or members of the highest priority class who are reasonably available at or near the time of death.
- (d) Neither a person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.
- (e) In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely on representations of an individual listed in Section 692A.009(a) (2), (3), (4), (5), (6), (7), or (8) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

Sec. 692A.019.

LAW GOVERNING VALIDITY; CHOICE OF LAW AS TO EXECUTION OF DOCUMENT OF GIFT; PRESUMPTION OF VALIDITY.

- (a) A document of gift is valid if executed in accordance with:
 - (1) this chapter;
 - (2) the laws of the state or country where it was executed; or
 - (3) the laws of the state or country where the person making the anatomical gift was domiciled, had a place of residence, or was a national at the time the document of gift was executed.

- (b) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.
- (c) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

Sec. 692A.020.

GLENDA DAWSON DONATE LIFE-TEXAS REGISTRY; EDUCATION PROGRAM.

- (a) In this section, “registry program” means the donor education, awareness, and registry program established under this section and known as the Glenda Dawson Donate Life-Texas Registry.
- (b) Any program or component of a program that the department develops under this chapter shall be known as the Glenda Dawson Donate Life-Texas Registry.
- (c) The department shall affiliate with an entity, such as a national or state association concerned with organ donation, to promote the registry program in accordance with this section.
- (d) In consultation with the Department of Public Safety and organ procurement organizations, the department shall establish the Glenda Dawson Donate Life-Texas Registry.
- (e) The department shall enter into an agreement with an organization selected by the commissioner under a competitive proposal process for the establishment and maintenance of a statewide Internet-based registry of organ, tissue, and eye donors. Contingent on the continued availability of appropriations under Subsection (k), the term of the initial agreement is two years and may be renewed for two-year terms thereafter unless terminated in a written notice to the other party by the department or organization not later than the 180th day before the last day of a term.
- (f) The Department of Public Safety at least monthly shall electronically transfer to the organization selected by the commissioner as provided by Subsection (e) the name, date of birth, driver’s license number, most recent address, and any other relevant information in the possession of the Department of Public Safety for any person who indicates on the person’s driver’s license application under Section 521.401, Transportation Code, that the person would like to make an anatomical gift and consents in writing to the release of the information by the Department of Public Safety to the organization for inclusion in the Internet-based registry.
- (g) The contract between the department and the organization selected by the commissioner as provided by Subsection (e) must require the organization to:
 - (1) make information obtained from the Department of Public Safety under Subsection (f) available to procurement organizations;
 - (2) allow potential donors to submit information in writing directly to the organization for inclusion in the Internet-based registry;
 - (3) maintain the Internet-based registry in a manner that allows procurement organizations to immediately access organ, tissue, and eye donation information 24 hours a day, seven days a week through electronic and telephonic methods; and
 - (4) protect the confidentiality and privacy of the individuals providing information to the Internet-based registry, regardless of the manner in which the information is provided.

- (h) Except as otherwise provided by Subsection (g)(3) or this subsection, the Department of Public Safety, the organization selected by the commissioner under Subsection (e), or a procurement organization may not sell, rent, or otherwise share any information provided to the Internet-based registry. A procurement organization may share any information provided to the registry with an organ procurement organization or a health care provider or facility providing medical care to a potential donor as necessary to properly identify an individual at the time of donation.
- (i) The Department of Public Safety, the organization selected by the commissioner under Subsection (e), or the procurement organizations may not use any demographic or specific data provided to the Internet-based registry for any fund-raising activities. Data may only be transmitted from the selected organization to procurement organizations through electronic and telephonic methods using secure, encrypted technology to preserve the integrity of the data and the privacy of the individuals providing information.
- (j) In each office authorized to issue driver's licenses or personal identification certificates, the Department of Public Safety shall make available educational materials developed by the Texas Organ, Tissue, and Eye Donor Council established under Chapter 113, as added by Chapter 1186, Acts of the 79th Legislature, Regular Session, 2005.
- (k) The Department of Public Safety shall remit to the comptroller the money collected under Sections 521.421(g) and 521.422(c), Transportation Code, as provided by those subsections. A county assessor-collector shall remit to the comptroller any money collected under Section 502.1745, Transportation Code, as provided by that section. Money remitted to the comptroller in accordance with those sections that is appropriated to the department must be spent in accordance with the priorities established by the department in consultation with the Texas Organ, Tissue, and Eye Donor Council to pay the costs of:
 - (1) maintaining, operating, and updating the Internet-based registry and establishing procedures for an individual to be added to the registry; and
 - (2) designing and distributing educational materials for prospective donors as required under this section.
- (l) Any additional money over the amount necessary to accomplish the purposes of Subsections (k)(1) and (2) may be used by the department to provide education under this chapter or may be awarded using a competitive grant process to organizations to conduct organ, eye, and tissue donation education activities in this state. A member of the Texas Organ, Tissue, and Eye Donor Council may not receive a grant under this subsection.
- (m) The department shall require the organization selected under Subsection (e) to submit an annual written report to the department that includes:
 - (1) the number of donors listed on the Internet-based registry;
 - (2) changes in the number of donors listed on the registry; and
 - (3) the demographic characteristics of listed donors, to the extent the characteristics may be determined from information provided on donor registry forms submitted by donors to the organization.
- (n) To the extent funds are available and as part of the donor registry program, the department shall educate residents about anatomical gifts. The program shall include information about:
 - (1) the laws governing anatomical gifts, including Subchapter Q, Chapter 521, Transportation Code, Chapter 693, and this chapter;

- (2) the procedures for becoming an organ, eye, or tissue donor or donee; and
- (3) the benefits of organ, eye, or tissue donation.
- (o) In developing the registry program, the department in consultation with the Texas Organ, Tissue, and Eye Donor Council shall solicit broad-based input reflecting recommendations of all interested groups, including representatives of patients, providers, ethnic groups, and geographic regions.
- (p) In consultation with the Texas Organ, Tissue, and Eye Donor Council, the department may implement a training program for all appropriate Department of Public Safety and Texas Department of Transportation employees on the benefits of organ, tissue, and eye donation and the procedures for individuals to be added to the Internet-based registry. The department shall implement the training program before the date that the registry is operational and shall conduct the training on an ongoing basis for new employees.
- (q) The department shall develop a program to educate health care providers and attorneys in this state about anatomical gifts.
- (r) The department through the program shall encourage attorneys to provide organ donation information to clients seeking advice for end-of-life decisions.
- (s) The department shall encourage medical and nursing schools in this state to include mandatory organ donation education in the schools' curricula.
- (t) The department shall encourage medical schools in this state to require a physician in a neurology or neurosurgery residency program to complete an advanced course in organ donation education.

Sec. 692A.021.

EFFECT OF ANATOMICAL GIFT ON ADVANCE DIRECTIVE.

- (a) In this section:
 - (1) "Advance directive" means a medical power of attorney or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health-care decision for the prospective donor.
 - (2) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.
 - (3) "Health-care decision" means any decision made regarding the health care of the prospective donor.
- (b) If a prospective donor has a declaration or advance directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or, if the agent is not reasonably available, another person authorized by law other than this chapter to make health-care decisions on behalf of the prospective donor, shall act on the prospective donor's behalf to resolve the conflict. The conflict must be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from

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

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

Sec. 692A.022.

UNIFORMITY OF APPLICATION AND CONSTRUCTION.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of this chapter among states that enact a law substantially similar to this chapter.

Sec. 692A.023.

RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

This chapter modifies, limits, and supersedes the provisions of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.), but does not modify, limit, or supersede Section 101(a) of that Act (15 U.S.C. Section 7001(a)), or authorize electronic delivery of any of the notices described in Section 103 of that Act (15 U.S.C. Section 7003(b)).