

HEALTH & SAFETY CODE

CHAPTER 693. REMOVAL OF BODY PARTS, BODY TISSUE, AND CORNEAL TISSUE
SUBCHAPTER A. REMOVAL OF BODY PARTS OR TISSUE

Sec. 693.001. DEFINITION. In this subchapter, "visceral organ" means the heart, kidney, liver, or other organ or tissue that requires a patient support system to maintain the viability of the organ or tissue.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 693.002. REMOVAL OF BODY PART OR TISSUE FROM DECEDENT WHO DIED UNDER CIRCUMSTANCES REQUIRING AN INQUEST. (a)(1) On a request from a qualified organ procurement organization, as defined in Section 692.002, the medical examiner, justice of the peace, county judge, or physician designated by the justice of the peace or county judge may permit the removal of organs from a decedent who died under circumstances requiring an inquest by the medical examiner, justice of the peace, or county judge if consent is obtained pursuant to Section 693.003.

(2) If no autopsy is required, the organs to be transplanted shall be released in a timely manner to the qualified organ procurement organization, as defined in Section 692.002, for removal and transplantation.

(3) If an autopsy is required and the medical examiner, justice of the peace, county judge, or designated physician determines that the removal of the organs will not interfere with the subsequent course of an investigation or autopsy, the organs shall be released in a timely manner for removal and transplantation. The autopsy will be performed in a timely manner following the removal of the organs.

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

(A) the qualified organ procurement organization; and

(B) any person listed in Section 693.004 who consented to the removal.

(5) If the autopsy is not being performed by a medical examiner and one or more organs may be withheld, the justice of the peace, county judge, or designated physician shall be present during the removal of the organs and may request the biopsy or deny removal of the anatomical gift. If removal of the anatomical gift is denied, the justice of the peace, county judge, or physician shall provide the written explanation required by Subdivisions (4)(A) and (B).

(6) If, in performing the duties required by this subsection, the medical examiner or, in those cases in which an autopsy is not performed by a medical examiner, the justice of the peace, county judge, or designated physician is required to be present at the hospital to examine the decedent prior to removal of the organs or during the procedure to remove the organs, the qualified organ procurement organization shall on request reimburse the county or the entity designated by the county for the actual costs incurred in performing such duties, not to exceed \$1,000. Such reimbursements shall be deposited in the general fund of the county. The payment shall be applied to the additional costs incurred by the office of the medical examiner, justice of the peace, or county judge in performing such duties, including the cost of providing coverage beyond regular business hours. The payment shall be used to facilitate the timely procurement of organs in a manner consistent with the preservation of the organs for the purposes of transplantation.

(7) At the request of the medical examiner or, in those cases in which an autopsy is not performed by a medical examiner, the justice of the peace, county judge, or designated physician, the health care professional removing organs from a decedent who died under circumstances requiring an inquest shall file with the medical examiner, justice of the peace, or county judge a report detailing the condition of the organs removed and their relationship, if any, to the cause of death.

(b) On a request from a qualified tissue procurement organization, as defined in Section 692.002, the medical examiner

may permit the removal of tissue believed to be clinically usable for transplants or other therapy or treatment from a decedent who died under circumstances requiring an inquest if consent is obtained pursuant to Section 693.003 or, if consent is not required by that section, no objection by a person listed in Section 693.004 is known by the medical examiner. If the medical examiner denies removal of the tissue, the medical examiner shall explain in writing the reasons for the denial. The medical examiner shall provide the explanation to:

- (1) the qualified tissue procurement organization;
- and
- (2) the person listed in Section 693.004 who consented to the removal.

(c) If the autopsy is not being performed by a medical examiner, the justice of the peace, county judge, or designated physician may permit the removal of tissue in the same manner as a medical examiner under Subsection (b). If removal of the anatomical gift is denied, the justice of the peace, county judge, or physician shall provide the written explanation required by Subsections (b)(1) and (2).

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 523, Sec. 1, eff. June 13, 1995; Acts 2003, 78th Leg., ch. 1220, Sec. 1, eff. July 1, 2003.

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

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

(c) If a person listed in Section 693.004 cannot be identified and contacted within four hours after death is pronounced and the medical examiner determines that no reasonable likelihood exists that a person can be identified and contacted during the four-hour period, the medical examiner may permit the removal of a nonvisceral organ or tissue.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 693.004. PERSONS WHO MAY CONSENT OR OBJECT TO REMOVAL. The following persons may consent or object to the removal of tissue or a body part:

- (1) the decedent's spouse;
- (2) the decedent's adult children, if there is no spouse;
- (3) the decedent's parents, if there is no spouse or adult child; or
- (4) the decedent's brothers or sisters, if there is no spouse, adult child, or parent.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

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

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1220, Sec. 1, eff. July 1, 2003.

Sec. 693.006. REMOVAL OF CORNEAL TISSUE. On a request from an eye bank, as defined in Section 692.002, the medical examiner, justice of the peace, county judge, or physician designated by the justice of the peace or county judge may permit the removal of corneal tissue subject to the same provisions that apply to removal of a visceral organ on the request of an organ procurement organization under this subchapter. The provisions of this subchapter relating to immunity and consent apply to the removal of the corneal tissue.

Added by Acts 2005, 79th Leg., ch. 1069, Sec. 2, eff. Sept. 1, 2005.

SUBCHAPTER C. EYE ENUCLEATION

Sec. 693.021. DEFINITION. In this chapter, "ophthalmologist" means a person licensed to practice medicine who

specializes in treating eye diseases.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 693.022. PERSONS WHO MAY ENUCLEATE EYE AS ANATOMICAL GIFT. Only the following persons may enucleate an eye that is an anatomical gift:

- (1) a licensed physician;
- (2) a licensed doctor of dental surgery or medical dentistry;
- (3) a licensed embalmer; or
- (4) a technician supervised by a physician.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 693.023. EYE ENUCLEATION COURSE. Each person, other than a licensed physician, who performs an eye enucleation must complete a course in eye enucleation taught by an ophthalmologist and must possess a certificate showing that the course has been completed.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 693.024. REQUISITES OF EYE ENUCLEATION COURSE. The course in eye enucleation prescribed by Section 693.023 must include instruction in:

- (1) the anatomy and physiology of the eye;
- (2) maintaining a sterile field during the procedure;
- (3) use of the appropriate instruments; and
- (4) procedures for the sterile removal of the corneal button and the preservation of it in a preservative fluid.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.