

## CHAPTER 789

## S.B. No. 32

An Act relating to the authority of a medical examiner to permit the taking of body parts and body tissues in certain cases for transplants or other therapy or treatment and providing immunities in certain civil suits; amending Title 71, Chapter 13, Revised Statutes, by adding a new Article 4590-6.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Title 71, Chapter 13, Revised Statutes, is amended by adding a new Article 4590-6 to read as follows:

**“Article 4590-6. JUSTICE OF THE PEACE OR MEDICAL EXAMINER; PERMITTING REMOVAL OF BODY PARTS OR BODY TISSUE.**

**“Section 1. (a)** *On a request from a Texas nonprofit medical facility that performs organ transplants or a nonprofit organization or corporation that procures organs or tissues for transplantation, the medical examiner may permit the taking of eyes, heart, skin, bone, liver, kidney, or pancreas and other tissues as they prove to be clinically useable for transplants or other therapy or treatment, if:*

**“(1)** *the decedent from whom the tissue or body part is to be taken died under circumstances requiring an inquest by the medical examiner;*

**“(2)** *subject to Subsection (b) of this section, no objection by a person listed in Section 2 of this Act is known by the medical examiner; and*

**“(3)** *the removal of the tissue or body part will not interfere with the subsequent course of an investigation or autopsy.*

**“(b)** *The consent of a person listed in Section 2 of this Act to the taking of organs and tissues is required only as follows:*

**“(1)** *in the case of visceral organs, the medical examiner or a person acting upon the authority of the medical examiner must obtain consent to remove a visceral organ;*

**“(2)** *in the case of other organs and tissues, the medical examiner or a person acting upon the authority of the medical examiner must obtain consent where such person is known and available within four hours after the pronouncement of death. In cases where a person listed in Section 2 of this Act cannot be identified and contacted within the four-hour period, the medical examiner may permit the taking of the organs and tissues only upon determining that no reasonable likelihood exists that such person can be identified and contacted.*

**“(c)** *‘Visceral organs’ means the heart, kidney, liver, and other organs and tissues which require patient support systems to maintain the viability of the organ or tissue.*

**“Section 2.** *Objection may be made known to the medical examiner by the following persons:*

**“(1)** *the decedent’s spouse;*

*“(2) if no spouse, the decedent’s adult children;*

*“(3) if no adult children or spouse, the decedent’s parents; or*

*“(4) if no parents, adult children, or spouse, the decedent’s brothers or sisters.*

*“(d) Once a person listed in Section 2 of this Act has been contacted by the medical examiner or a person acting upon the authority of the medical examiner, this statute has no effect and the organ or tissue may only be removed with the consent of a person listed in Section 2 of this Act.*

*“Section 3. The medical examiner, the medical facility, the physician or physicians acting upon the permission of the medical examiner, and those assisting the physician or physicians are not liable for damages in a civil action brought by a person listed in Section 2 of this Act who has not objected prior to the removal of the tissue or body part specified in Section 1 of this Act on any theory of civil recovery based on a contention that the consent of plaintiff was required prior to the removal of the tissue or body part authorized by this Act.”*

**SECTION 2.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 18, 1985, by the following vote: Yeas 28, Nays 0; and that the Senate concurred in House amendment on May 27, 1985, by a viva-voce vote; passed the House, with amendment, on May 23, 1985, by a non-record vote.

Approved: June 15, 1985

Effective: August 26, 1985