

CHAPTER 928

H.B. No. 1206

AN ACT

relating to anatomical gifts.

Be it enacted by the Legislature of the State of Texas

SECTION 1. Sections 11B(f) and (g), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), are amended to read as follows:

(f) *If the deceased is not a declared donor and if a person listed in Section 692.004, Health and Safety Code, is not [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 visceral organ or tissue. In this subsection, "visceral organ" means the heart, lung, kidney, liver, or other organ or tissue that requires a patient support system to maintain the viability of the organ or tissue.*

(g) *A person who carries [performs in good faith in carrying] out this section is not civilly or criminally liable [for the person's good-faith efforts to comply with this section]. The legislature recognizes that because swiftness of action is required in organ and tissue donation situations, good-faith errors are preferable to delay as a matter of public policy. Medical examiners are encouraged to permit organ and tissue removal at the earliest possible time consistent with their duties regarding the cause and manner of death.*

SECTION 2. Section 692.014, Health and Safety Code, is amended to read as follows:

Sec. 692.014. PROCEDURES. (a) *At [In accordance with the protocol established under Section 692.013 and with procedures established under Section 11B, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), at] or near the time of notification of death, if it is unclear whether the decedent is or is not a donor, the organ or tissue procurement organization or its designee shall ask the person authorized to make an anatomical gift on behalf of the decedent under Section 692.004, according to the priority established by that section, whether [if] the decedent is or is not a donor. The inquiry shall be made in accordance with the protocol established under Section 692.013 and with procedures established under Section 11B, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).*

(b) ~~[If there are two or more persons in the same priority class authorized to make a gift under Section 692.004, the organ or tissue procurement organization or its designee shall ask those class members reasonably available at or near the time of notification of death.~~

(e) *If the decedent is a donor 18 years of age or older, the decedent's anatomical gift made under Section 692.003, including a gift made under Section 11B, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), shall be honored without obtaining the approval or consent of any other person.*

(c) ~~[(d)] A copy [photocopy] of the decedent's driver's license or personal identification card with a statement of anatomical gift symbolized on it or a document executed in accordance with Section 692.003 [telefaxed message from an organ or tissue procurement organization] is conclusive evidence of the decedent's status as a donor and serves as consent for the organ or tissue removal.~~

(d) ~~[(e)] If the decedent is not a declared donor, the organ or tissue procurement organization or its designee shall inform the person of the option to donate the decedent's organs and tissues according to the procedures established under this chapter and under Section 11B, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).~~

SECTION 3. 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 by the House on April 30, 1993, by a non-record vote; passed by the Senate on May 24, 1993: Yeas 30, Nays 0, 1 present, not voting.

Approved June 19, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.