

**HB**

**323**

*JMR*

DATE: 3/3/94

FURTHER: State Affairs

DATE TURNED INTO OFFICE: 3/21/94

HESS Committee considered CS FOR HOUSE BILL NO. 323(JUD) am

"An Act relating to requests for anatomical gifts and to the release of certain information for the purpose of facilitating anatomical gifts."

and recommends:

- replace with \_\_\_\_\_ CS \_\_\_\_\_ ( )
- or  adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( )
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

- adopts \_\_\_\_\_ Letter of Intent
- further referral to the \_\_\_\_\_

- do pass
- do not pass
- no recommendation
- individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
Alaska Court	1/24/94	✓	
HSS	1/14/94	✓	

*House*

Appropriation No Fiscal Note

DO PASS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OTHER RECOMMENDATIONS:

*Alaska Court - No Rec*

*Alaska Court - No Rec*

*Alaska Court - No Rec*

*Alaska Court - No Rec*

*Barth May Jr*  
 Chair: Signature and Recommendation

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. HB 323

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: Organ and Tissue Donations BRU: State Health Services  
 Component: Bureau of Vital Statistics  
 Sponsor: Toohy  
 Requestor: House HES COMPONENT SERIAL NO. #961

Expenditures/Revenues:	(Thousands of Dollars)					
OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

CHANGES IN REVENUES

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) cost \$ NONE

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact

Prepared by: Peter M. Nakamura, MD, MPH  
 Division: Public Health  
 Approved by Commissioner: M. Lowe  
 Agency: Department of Health & Social Services

Phone: (907) 465-3090  
 Date: 01/13/94  
 Date: 1-14-94

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Official Business

# Alaska State Legislature

HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA TOOHEY

DISTRICT 13

State Capitol  
Juneau, AK 99801-1182

## SPONSOR STATEMENT

### HOUSE BILL 323

**"An Act relating to requests for anatomical gifts and to the release of certain information for the purpose of facilitating anatomical gifts"**

HB323 would allow the Department of Health and Social Services to release pertinent information, collected for the purpose of completing death certificates or other vital records, to a bank, storage facility, or person who handles procurement of anatomical gifts. That information would include the name of the person who could execute the anatomical gift and the medical suitability of the decedent.

Like hospitals, the bank, storage facility, or person who handles the procurement of anatomical requests would be required to develop procedures which specify the circumstances under which it is inappropriate to request a gift.

This amendment to current statute would enable a transplant agency to obtain the necessary information, within a limited time-frame, to allow for successful donation to occur. Timing is of the essence. The harvesting of tissue must usually be done within the first twenty-four hours after death.

It is anticipated there will be over 300 tissue and organ transplant requests by Alaskans in 1994. This includes tendon, tissue, corneal, and bone transplants. A tremendous difference can be made in the quality of life of the recipient of the transplant and can often provide a certain solace to the decedent's family and friends.

The Alaska State Medical Association, the Department of Health and Social Services and the Court system are strongly supportive of HB323. It has two zero fiscal notes. HB323 passed the House unanimously.

Your support of this bill would be appreciated.

POSITION PAPER  
STATE OF ALASKA \* DEPARTMENT OF HEALTH & SOCIAL SERVICES

POSITION PAPER  
HB 323 (House HES)

HB 323 inserts new subsection (i) into AS 18.50.310 that permits the Bureau of Vital Statistics to allow release of death certificate information pertaining to next of kin and medical suitability for organ or tissue donation to individuals or organizations that provide for transplants of bodily organs or tissues.

Background:

Alaska's population is younger than the national average and participates in both occupations and recreational activities that are more risky than the national average. Therefore a larger than average number of decedents in Alaska are suitable for donation of organs and tissue. The window for successful harvest of useable donations is small, in many case 24 hours or less. It is therefore important that permission to accept donations be obtained as quickly as possible.

AS 18.50 does not currently allow release of the information necessary to obtain timely donations.

Position:

The department believes that it is important to facilitate timely donation of useable organs and tissues so long as it does not compromise public health and safety investigations and procedures. These materials can make the difference between life and death to citizens of Alaska.

Therefore the department supports this legislation.

Recommended by:

Peter M. Nakamura  
Peter M. Nakamura, MD, MPH  
Director  
Division of Public Health

Date:

1/13/94

Approved by:

Margaret R. Lowe  
Margaret R. Lowe, M.Ed., Ed.S.  
Commissioner

Date:

1-14-94



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
BILL ANALYSIS

DEPARTMENT H&SS	DIVISION Public Health	BILL NUMBER HB 323	SPONSOR Toohey
SHORT TITLE OF BILL An Act Authorizing the Bureau of Vital Statistics to release certain information for the purpose of organ and tissue donation.			
DEPARTMENT POSITION The Department supports this bill			
PREPARED BY Peter M. Nakamura, MD, MPH	DATE 11/13/94	COMMISSIONER'S SIGNATURE <i>M. Lowe</i>	DATE 1-17-94

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Alaska Court System	CONSTITUENT GROUP(S) AFFECTED BY BILL None
ORGANIZATIONAL SUPPORT FOR BILL Organ and tissue harvesting organizations	ORGANIZATIONAL OPPOSITION TO BILL none known

FISCAL IMPACT:  NONE  FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

Life Alaska, a tissue harvesting organization requested and received the cooperation of the Department of Health and Social Services in finding language that would allow tissues and organs to be harvested in a timely manner under Alaska law.

ANALYSIS OF BILL PROGRAM EFFECTS

This bill will allow the Department to release information for harvest of needed tissue without impeding either legal or public health investigations. The Department strongly supports this bill

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CS HB 323(HESS)

(Work draft 8-LS1283U)

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: An Act relating to the release of certain BRU: Trial Courts  
 Information for the purpose of facilitating anatomical gifts Components: \_\_\_\_\_  
 Sponsor: Rep. Toohay  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 758

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

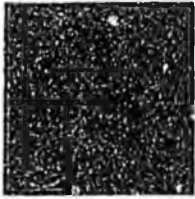
Estimate of current year (FY 94) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)  
No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *CSC* Phone: 254-8228  
 Agency: Alaska Court System Date: 01/24/94

Approved by: Arthur H. Snowden, II, Administrative Director *AS* Date: 01/24/94  
 Agency: Alaska Court System

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# ALASKA STATE MEDICAL ASSOCIATION

4107 Laurel Street • Anchorage, Alaska 99508-5334 • (907) 562-2662

January 28, 1994

Rep. Cynthia Toohey  
Alaska State Legislature  
P. O. Box V (MS3100)  
Juneau, AK 99811

Dear Representative Toohey:

The Legislative Affairs Committee of the Alaska State Medical Association recently discussed your House Bill 323 regarding organ donation. This bill will make it easier for much needed donor organs to be made available for those in need. This bill would certainly benefit the health and welfare of Alaskans. We give this bill our strong support. If I can be of any assistance to you in its passage, do not hesitate to contact me.

Sincerely yours,

Donald R. Lehmann, M.D.  
Chairman, Legislative Affairs Committee  
President, Alaska State Medical Association

CC: Byron Mallot

# Life Alaska, Inc.

Tissue Procurement Services

P.O. Box 230785

Anchorage, AK 99523-0785

(907) 562-5433

FAX 563-8824

Representative Cynthia Toohey  
State Capitol  
Juneau, AK 99801-1182


January 18, 1994

Dear Representative Toohey:

The people of Alaska are currently receiving nearly three hundred tissue transplants a year within the state. These include skin transplants for severe burns, corneal transplants, tendon transplants for knee and shoulder injuries, and bone transplants. Bone transplants have been used in Alaska for jaw reconstruction after bone cancer, saving a leg from amputation after bone tumor removal, repair of artificial hips and knees, trauma surgery by orthopedic and neurosurgeons, and dental repair by periodontists. Life Alaska is supplying heart-valves for pediatric and adult heart-valve transplant throughout the Northwest. Providence Hospital will begin transplanting heart-valves by this summer. As the only tissue donation agency based in Alaska, we are currently unable to meet the community's transplant needs in a timely manner. House Bill number 323 will be a terrific asset in providing more transplant tissue throughout Alaska.

For the last one and a half years, Life Alaska has been attempting to contact decedent families through the coroner's office. Because of Alaska's current restrictions on release of information contained on a death certificate, Life Alaska was not able to locate a next of kin or determine the medical suitability of donation for a majority of coroner's cases. Yet, of the thirty two families Life Alaska was able to reach, twenty six consented to tissue donation. Over 80% of the decedent families approached by Life Alaska were willing to give the gift of life and health to someone else. Nearly all of these families have indicated that donation was a source of comfort and support to them.

House Bill 323 will provide a rapid and effective way for Life Alaska to determine if there are any donation options, and be able to contact the grieving families as an information resource to offer the option of donation in a sensitive manner. Similar information sharing programs have been effective in Colorado, California, Texas, Missouri, and many other states. On behalf of all the families who are given the right to choose, and the recipient families who are given the gift of life and health, thank you for your support of this worthwhile project.

  
Jens Saakvitne  
Director

# METRO

ANCHORAGE DAILY NEWS

SECTION B

ASN  
3-16 '93



MARK DOLAN / Anchorage Daily News

Jens Saakvitne said he has seen dramatic improvement in the availability of tissue since the start of Life Alaska.

## ANOTHER CHANCE AT LIFE

### Tissue donation program keeps its focus on living

By NICOLE WONG  
Daily News reporter

Jens Saakvitne called at 8:30 the morning after Joyce Burt's husband died. He has made many of these calls. It is always a bad time. It is always difficult.

You need to think about funeral arrangements, he told Joyce. You need to think about what you want to do with Ray's body. One of the options you have is tissue donation.

"There is no wrong decision," Saakvitne assured her.

Ray Burt died from a heart attack two weeks ago at age 68. It was a surprise to Joyce, even though her husband had been in and out of the hospital for the last few months. But Ray had

always meant to donate his tissues and organs, so when Saakvitne called, she didn't hesitate.

Saakvitne is the director of Life Alaska Inc., a non-profit company that collects human tissue — primarily tendons, bones and corneas — for transplant. Before the establishment of Life Alaska in 1991, patients might wait months for a tissue that would restore their sight or the use of their limbs. Now, most tissues are available on demand.

Since May 1992, Life Alaska has had 78 donors from around the state, and placed about 125 tissues to those in need. Locally donated tissues are reserved for Alaska

Please see Page B-2, LIFE



Photo courtesy Joyce Burt  
pictured with his daughters Martha, right, who is in 1st grade at medical school, and Rebecca, 22, who graduated from University this year.

## LIFE: Support given to families of deceased

Continued from Page B-1

use for 30 days, then the freeze-dried tissues are made available nationwide.

Ray Burt lost his left eye when he was 19 and serving in the U.S. Coast Guard at Ketchikan. Last week, his right cornea was transplanted to an 89-year-old Los Angeles woman. The woman is reportedly healing very well.

"Since he only had the one eye, I'm certain that Ray would want someone else to have the other if they could use it," Joyce said.

In Saakvitne's 14 years working for organ and tissue banks in Colorado, New York and now Alaska, he has seen homicide victims, accident victims, people who suffered prolonged illnesses and those who collapsed without warning.

But while keeping company with the dead, Saakvitne remains keenly focused on the living. He devotes his attention to the widow or widower, the children, and the person — possibly thousands of miles away — who needs a heart valve, a new cornea or a bit of patellar tendon.

He must do all this to the tick of the clock. Human tissues have to be removed within 24 hours after death to be viable for transplant. Corneas, the strong refractive lenses of the eye, must be removed within 12 hours and transplanted within five days.

In the last year, Saakvitne has flown as far north as Fairbanks and as far south as Ketchikan to reach

the body in time.

But when he talks to the families of the deceased, Saakvitne tries to offer them as much as he seeks.

Saakvitne spends as many as 85 hours a week not only finding donors, but providing support for their families. He describes himself as a person who likes to help others in need.

Sitting in his small, paper-scattered office, Saakvitne talks about his job — the phone calls, the time pressure and the inevitable grief — with a quiet, but confident voice.

"I don't discuss recipients, or how many patients are waiting," Saakvitne said. "I think that's laying a guilt trip on them, and if they have regrets the next week then I haven't done anyone any good."

Saakvitne usually tells the families about the procedure of a coroner's investigation. They can expect to wait between 12 and 24 hours for the body to be released. They should be choosing a funeral home. They might want to contact one of several support services available for recent widows, widowers and children of the deceased. Saakvitne keeps a list on hand.

"Jens was very helpful about explaining things you need to be thinking about, because you're not thinking very clearly," Joyce Burt said.

Saakvitne called her several times on the day after her husband's death. He offered to pick up hospital papers she needed to sign,

and asked if she would be all right until her daughters arrived from the Lower 48.

"I could have called him and he would have done most anything I asked," Joyce said.

While some people are uncomfortable with the idea of human tissue and organ donation, Saakvitne said nearly 80 percent of the families he has called over the last year have agreed to the donation. None of the families he's called — even the ones who decline to donate — has ever gotten angry, Saakvitne said.

Burt said she and her husband had often discussed organ and tissue donation, particularly since their eldest daughter had entered medical school. But when Ray died, no one at Providence Hospital mentioned donation, even though federal and state laws require families to be given that option.

"I didn't know what the rules were," Joyce said. "Because they don't ask, you think everyone is trying to be nice. You think they're too nice to say that they don't want to use your loved one's parts."

Saakvitne contacted Joyce after seeing the coroner's report on Ray's death the following day. Daily review of local coroner's reports is how Saakvitne locates most donors.

"I'm calling to offer this free service of information ... and some compassion. Everything I do is aimed at the family's needs," Saakvitne said. "Still it does amaze me, the number of families that say yes."

But while most families have been receptive to the idea of donation so far, the rest of society isn't, said Dr. David A. McGuire, an orthopedic surgeon who was a founding director of Life Alaska.

"There's a certain amount of unawareness among ER doctors, police, paramedics, legislators — the whole spectrum of society," McGuire said. Yet tissue transplant is being used more often, and more safely, than ever before, he added. Life Alaska has made tissues available for those patients who choose transplants as a medical option.

Saakvitne goes over the medical history of each donor, then he and a surgical team remove the viable tissues in a hospital operating room. The body is restored so that an open-casket funeral is possible if the family wishes.

"Sometimes in talking with families I become so involved with their pain that I will be in tears at the end," Saakvitne said.

The most difficult cases are often the ones where a child has died. Last week, Saakvitne sat down with the parents of a young girl who died in a car accident. He told them a piece of her heart valve had been transplanted to another child who was now expected to live a normal, healthy life.

"My voice kept breaking," Saakvitne said. "There's nothing you can do to make it OK, but I like to think that I helped just a little bit."

"In enacting required request legislation, our society has indicated its collective desire that people routinely be given the option of organ and tissue donation as a last act of respect for the dead and their families and as an expression of concern for those who will die unless more organs and tissues are made available."

Arthur Caplan, Ph.D.

*Emergency Room  
Local Hospital*

*To Whom it May Concern:*

*Thank you for your greatest effort in trying to save our 2-year-old Bobby. We knew he was receiving the very best of care and as quickly as possible. With kindest regards for your feelings, may I make one suggestion? In the same breath that you said it is required by law in such cases to have an autopsy, could you find the courage to ask if prior arrangements have been made for an organ donation?*

*My reason for asking is that it has been five weeks since the accident and it is devastating to know the emptiness surrounding his passing. Giving someone living a fuller or longer life would be a comfort to me. But, I can't now make that choice - it is too late.*

*I know your thoughts at the time of your call were of me. Please give someone else the opportunity to decide about donating an organ for the comfort it will be six weeks later. Tears fill my eyes as I write this knowing I would have given permission if only given the chance.*

*Promise me you'll tell someone of my feelings until at least someone gives that permission and maybe six years from now I'll feel grateful that I gave someone else the choice.*

*Thank you for your devoted care,*

*Mrs. R. Langman*

## Don't Give Up

If you can swallow hard enough  
To push away the fear  
And ask that dreaded question  
That no-one wants to hear.

And if you add one ray of hope  
When there's nothing left but crying  
You'll become the "gentle link"  
between the living and the dying.

You'll give some meaning to the hour  
When hearts have been laid raw  
And offer hope to someone else  
Who prays and waits in awe.

If you can find the strength inside  
To face this painful task  
Then hundreds more will find new life  
Because you dared to ask.

In deepest gratitude,  
Becky Hanson 4/21/93

(Becky is from Washington.  
Her 21 year old son and his fiance were killed in Jan 1989  
and she wrote this poem to encourage and thank  
the professionals who ask families about organ donation.)

Sec. 13.50.014. Requests by hospitals for anatomical gifts.

(b) Each hospital in the state shall develop procedures for identifying potential donors of gifts, requesting gifts, notifying and coordinating with eye banks, tissue banks, and organ procurement agencies, and assisting in the procurement, removal, storage, and transportation of gifts. The procedures must specify the circumstances under which it is inappropriate to request a gift, such as if the gift is unsuitable, if the request is likely to offend the donor's religious beliefs, or if asked to make the request is likely to cause undue emotional distress to the person who would be making the gift. The procedures must encourage reasonable discretion and sensitivity.

Sec. 18.50.310. Disclosure of records. (a) To protect the integrity of vital statistics records, to ensure their proper use, and to ensure the efficient and proper administration of the vital statistics system, it is unlawful for a person to permit inspection of, or to disclose information contained in vital statistics records, or to copy or issue a copy of all or part of a record, except as provided by this section or as authorized by regulations issued under this chapter.

(b) The bureau may permit the use of data contained in vital statistics records for research purposes.

(c) Information in vital statistics records indicating that a birth occurred out of wedlock shall not be disclosed except upon order of a superior court or as provided by regulations.

(d) Appeals from decisions of the custodians of local records refusing disclosure under (a) and (b) of this section shall be made to the state registrar, whose decision is binding upon the custodian of local records.

(e) The department may by regulation provide for the release of information to authorized representatives of organizations or foundations that counsel the next of kin of victims of sudden infant death syndrome.

(f) Notwithstanding the provisions of AS 09.25.120, when 100 years have elapsed after the date of a birth, or 50 years have elapsed after the date of a death, marriage, divorce, dissolution of marriage, or annulment, the records of these events in the custody of the state registrar become public records subject to inspection and copying as provided in AS 09.25.110 — 09.25.140.

(g) The principal health officer of a municipality, or a municipal health officer designated by the principal health officer, may inspect vital statistics records pertinent to the functions of the principal health officer. The state registrar may enter into an agreement with a municipality governing the conditions and purposes of those inspections.

(h) In this section "principal health officer" means the municipal official who is exercising health powers and who is primarily responsible for public health in the municipality. (§ 27 ch 118 SLA 1960; am § 1 ch 132 SLA 1978; §§ 1, 2 ch 25 SLA 1984; am § 11 ch 200 SLA 1990)

*Effect of amendments.* — The 1990 amendment substituted "AS 09.25.110 — 09.25.140" for "AS 09.25.110 and AS 09.25.121 — 09.25.125" in subsection (f).

*Opinions of attorney general.* — The Bureau of Vital Statistics is authorized under its regulation, 7 AAC 05.925, to comply with requests for copies of documents made by the Longevity Bonus Program when necessary to perform its statutory duty of determining an individual's eligibility to receive the longevity bonus, unless otherwise prohibited by federal law. February 4, 1981 Op. Att'y Gen.

Although some provisions of a bill which would have accorded adopted persons who are 18 years of age or older a statutory right to a potentially substantial amount of information about their "natural" parents, and which would make it clear that Alaska's adoption statutes do not prohibit court-sanctioned post-adoption visitation between adopted persons and their natural parents and relatives, could have engendered a constitutional challenge, the challenge would not have been fatal to the entire bill. June 5, 1986, Op. Att'y Gen.

## Chapter 50. Uniform Anatomical Gift Act.

Section	Section
10. Persons who may execute an anatomical gift	30. Manner of executing anatomical gifts
14. Requests by hospitals for anatomical gifts	60. Rights and duties at death
16. Investigations by law enforcement and medical personnel	65. Regulations
	70. Definitions

### Sec. 13.50.010. Persons who may execute an anatomical gift.

(a) A person of sound mind who is 18 or more years of age may make a gift to take effect upon death, of all or a part of the person's body for a purpose specified in AS 13.50.020.

(b) When persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, any of the following persons, in order of priority listed, may give all or a part of the decedent's body for a purpose specified in AS 13.50.020:

(1) the spouse;

(2) an adult son or daughter;

(3) either parent;

(4) an adult brother or sister;

(5) a guardian of the decedent at the time of death;

(6) any other person authorized or under obligation to dispose of the body.

(c) The persons authorized by (b) of this section may make the gift after or immediately before death.

(d) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee may not accept the gift. However, an anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death.

(e) A gift of all or a part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(f) The rights of the donee created by the gift are superior to the rights of others except as provided in AS 13.50.060(d). (§ 1 ch 78 SLA 1972; am § 1 ch 43 SLA 1988; am § 1 ch 22 SLA 1991)

**Effect of amendments.** — The 1988 amendment substituted "18" for "19" in subsection (a).

The 1991 amendment, effective September 8, 1991, in subsection (d), added the second sentence.

Sec. 13.50.070. Definitions. In this chapter

(1) "bank or storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts of them: