

State:	South Carolina
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**Inquiry 1: How long can I keep the body at home after death and under what conditions?**

There are no statutes or regulations that address this question.

**Inquiry 2: Does my state require the body to be embalmed? Refrigerated?**

There are no statutes or regulations that address this question.

**Inquiry 3: What methods of disposition are legal in my state?**

South Carolina law mentions burial, cremation, entombment, donation to medical science, and removal from the state.

**Inquiry 4: Are there any circumstances under which I would be required to wait before final disposition?**

S.C. Code Ann. § 17-7-20

Whenever a body is found dead and an investigation or inquest is deemed advisable the coroner or the magistrate acting as coroner, as the case may be, shall go to the body and examine the witnesses most likely to be able to explain the cause of death, take their testimony in writing and decide for himself whether there ought to be a trial or whether blame probably attaches to any living person for the death, and if so and if he shall receive the written request, if any, required by § 17-7-50, he shall proceed to summon a jury and hold a formal inquest as required by law. But if there be, in his judgment, no apparent or probable blame against living persons as to the death he shall issue a burial permit and all further inquiry or formal inquest shall be dispensed with. Provided, however, that the coroner of Charleston County is authorized and empowered to issue a death certificate.

### **Inquiry 5: What do I need to do to get a death certificate?**

South Carolina has an electronic death registration system.

S.C. Code Ann. § 44-63-74

(A)(1) Notwithstanding any other provision of law, death certificates must be electronically filed with the Bureau of Vital Statistics as prescribed by the State Registrar of Vital Statistics within five days after death. As prescribed by law, the Bureau of Vital Statistics shall notify the State Election Commission of the decedent's death who shall subsequently notify the County Board of Voter Registration and Elections in which the decedent was a resident of the decedent's death for purposes of removing the decedent from the voter roll.

(2) The funeral director or other person acting as the funeral director who first assumes custody of a dead body shall file a death certificate. He also shall obtain:

- (a) the personal data of the decedent from the next of kin or the best qualified person or source available; and
- (b) the medical certification of cause of death as provided in department regulations.

(3) Medical certifications of cause of death must be completed and returned to the funeral home director within forty-eight hours after receipt of notice of the death by the physician in charge of the patient's care for the illness or condition which resulted in death, except when an inquiry is required by a coroner or medical examiner. If the cause of death cannot be determined within forty-eight hours after death, the medical certification must be entered as pending, and the physician, medical examiner, or coroner shall submit a supplemental report to the state registrar on a form furnished by or approved by him as soon as practicable. The supplemental report shall be made a part of the death certificate. If the forty-eight hour period terminates on a weekend, federal holiday, or state holiday, the physician must file the certification by the end of the next business day. In the absence of this physician or with his approval, the certificate may be completed by his associate physician, the chief medical officer of the institution in which the death occurred, or by the pathologist who performed an autopsy upon the decedent.

(4) Death certificates must be transmitted electronically between the funeral home, or funeral home director, and the physician, coroner, or medical examiner certifying the cause of death in order to document the death certificate information prescribed by this chapter. Required signatures on death certificates must be provided by electronic signature. **An individual who acts, without compensation, as a funeral director on behalf of a deceased family member**

or friend, is exempt from the requirement to file electronically but must comply with the requirements of items (2) or (3), as applicable.

(5)(a) A physician who fails to certify the cause of death within forty-eight hours, without good cause shown, may be assessed an administrative penalty for violating item (3). The department shall notify the Board of Medical Examiners if a penalty is assessed. Each day after the initial forty-eight hour period shall constitute an additional violation.

(b) A funeral home or funeral director who fails to file a death certificate or collect data or collect medical certification of cause of death as required in items (1), (2), or both, without good cause shown, may be assessed an administrative penalty for violating the respective item. However, the department must not assess a penalty against a funeral home or funeral director for the delay or inability to collect personal data of the decedent pursuant to item (2)(a). The department shall notify the Board of Funeral Services if a penalty is assessed. Each day after the initial five day period in item (1) shall constitute an additional violation of that item.

(c) A physician, funeral director, or funeral home that is required to file electronically pursuant to item (4) but who fails to file accordingly may be assessed an administrative penalty for violating item (4).

(d) The administrative penalties are:

(i) two hundred fifty dollars for a first violation or a warning letter;

(ii) five hundred dollars for a second violation; and

(iii) one thousand dollars for a third or subsequent violation.

(e) The department shall retain any administrative penalties collected pursuant to this subsection and must allocate all of these funds to the Bureau of Vital Statistics for its use.

(B) For purposes of this section, an electronic signature shall be as defined pursuant to the Uniform Electronic Transactions Act, Chapter 6, Title 26.

#### **Inquiry 6: What do I need to do to get a burial-transit permit? Is there a wait period before I can receive a burial-transit permit?**

S.C. Code Ann. § 17-5-600

When the body of any dead person who died in the county is to be cremated, the person who has requested the cremation must secure a permit for the cremation from the coroner, deputy coroner, medical examiner, or deputy medical examiner. A person who wilfully fails to secure a permit for cremation is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty dollars and not more than five hundred dollars. A permit for cremation promptly must be acted upon by the coroner or medical examiner.

#### **Inquiry 7: Personal Preference Statute**

S.C. Code Ann. § 32-8-315

(A) A person may authorize his or her own cremation and the final disposition of his or her cremated remains by executing a cremation authorization form. A person has the right to revoke this authorization at any time by providing written notice to the funeral establishment which assisted the person in making these arrangements and the crematory authority designated to perform the cremation.

(B) At the time of death of a person who had executed a cremation authorization form, the person in possession of the executed form and the person charged with making arrangements for the final disposition of the decedent who has knowledge of the existence of the executed form shall ensure that the decedent is cremated and that the final instructions contained on the authorization form are carried out. The crematory authority is required to cremate the human remains and dispose of the cremated remains according to the instructions contained on the cremation authorization form if the crematory authority has a completed authorization form, all permits, and certificates required by law, and the designated human remains.

(C) A preneed authorization for cremation arranged with a licensed funeral establishment and crematory authority shall specify the final disposition of the cremated remains in accordance with Section 32-8-345. If no different or inconsistent instructions are provided to the funeral establishment or the crematory authority by the agent at the time of death, the crematory authority shall release or dispose of the cremated remains as indicated in the preneed agreement.

(D) No person may revoke a cremation authorization form subsequent to the death of the person who executed the form and the instructions for cremation and disposition of the cremated remains must be complied with unless full payment for the cremation and disposition of the remains has not been received or guaranteed.

#### **Inquiry 8: Designated Agent Statute**

S.C. Code Ann. § 32-8-320 states that a decedent may designate an agent “in a will or other verified and attested document” who shall have the power, “in the absence of a preneed cremation authorization may authorize cremation of the decedent.”

#### **Inquiry 9: Right of Sepulcher Statute**

S.C. Code Ann. § 32-8-320

(A) In the following order of priority these persons may serve as a decedent's agent and in the absence of a preneed cremation authorization may authorize cremation of the decedent:

- (1) the person designated as agent for this purpose by the decedent in a will or other verified and attested document, or a person named in the decedent's United States Department of Defense Record of Emergency Data Form (DD Form 93), or its successor form, if the decedent died while serving in any branch of the United States Armed Services, as defined in 10 U.S.C. Section 1481, and there is no known designation in a will or other verified and attested document of the decedent;
- (2) the spouse of the decedent, unless the spouse and the decedent are separated pursuant to one of the following:
  - (a) entry of a pendente lite order in a divorce or separate maintenance action;

(b) formal signing of a written property or marital settlement agreement;

(c) entry of a permanent order of separate maintenance and support or of a permanent order approving a property or marital settlement agreement between the spouse and the decedent;

(3) the decedent's surviving adult children;

(4) the decedent's surviving parents;

(5) adult siblings of the decedent;

(6) the adult grandchildren of the decedent;

(7) the grandparents of the decedent;

(8) the person appointed by the probate court as the guardian; and

(9) any other person authorized or under obligation by law to dispose of the 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 authorize the cremation of the decedent, the authorization to cremate may be made by a member of the class unless the member knows of an objection by another member within the class. If an objection is known, the authorization to cremate only may be made by a majority of the members of the class who are reasonably available.

(C) A person may not execute an authorization to cremate if a person in a prior class is reasonably available to make or object to the execution of the authorization to cremate the decedent.