

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

Fla. Stat. Ann. § 497.386  
(1) A person may not store or maintain human remains at any establishment or facility except an establishment or facility licensed under this chapter or a health care facility, medical examiner's facility, morgue, or cemetery holding facility.  
(6) A person who violates subsection (1) or subsection (3) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

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

Fla. Stat. Ann. § 497.386  
(2) A dead human body may not be held in any place or in transit over 24 hours after death or pending final disposition unless the body is maintained under refrigeration at a temperature of 40 degrees Fahrenheit or below or is embalmed or otherwise preserved in a manner approved by the licensing authority in accordance with the provisions of this chapter.  
(7) A person who violates subsection (2) or subsection (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

Fla. Stat. Ann. § 382.002.  
As used in this chapter, the term:  
(9) "Final disposition" means the burial, interment, entombment, cremation, removal from the state, anatomical donation, or other authorized disposition of a dead body or a fetus as described in subsection (8). In the case of cremation, dispersion of ashes or cremation residue is considered to occur after final disposition; the cremation itself is considered final disposition. In the case of anatomical donation of a dead body, the donation itself is considered final disposition.

Fla. Stat. Ann. § 497.005.  
As used in this chapter, the term:  
(35) "Final disposition" means the final disposal of a dead human body by earth interment, aboveground interment, cremation, burial at sea, anatomical donation, or delivery to a medical institution for lawful dissection if the medical institution or entity receiving the anatomical donation assumes responsibility for disposition after use pursuant to s. 406.60. The term does not include the disposal or distribution of cremated remains and residue of cremated remains.

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

Fla. Stat. Ann. § 382.011.

(1) In the case of any death or fetal death due to causes or conditions listed in s. 406.11, any death that occurred more than 12 months after the decedent was last treated by a primary or attending physician, or any death for which there is reason to believe that the death may have been due to an unlawful act or neglect, the funeral director or other person to whose attention the death may come shall refer the case to the district medical examiner of the county in which the death occurred or the body was found for investigation and determination of the cause of death.

(2) The medical examiner shall complete and sign the medical certification of cause of death of the death or fetal death certificate within 72 hours after notification, whether or not final determination of the cause of death has been established, unless an extension has been granted as provided under s. 382.008. Any amendment fees prescribed in s. 382.0255 shall be waived when a later determination of cause of death is made.

(3) The funeral director shall retain the responsibility for preparation of the death or fetal death certificate, obtaining the necessary signatures, filing with the department in a timely manner, and arranging for final disposition of the body when released by the medical examiner.

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

Fla. Stat. Ann. § 382.008.

(1) A certificate for each death and fetal death which occurs in this state shall be filed electronically on the department electronic death registration system or on a form prescribed by the department with the department or local registrar of the district in which the death occurred within 5 days after such death and prior to final disposition, and shall be registered by the department if it has been completed and filed in accordance with this chapter or adopted rules. The certificate shall include the decedent's social security number, if available. In addition, each certificate of death or fetal death:

(a) If requested by the informant, shall include aliases or “also known as” (AKA) names of a decedent in addition to the decedent's name of record. Aliases shall be entered on the face of the death certificate in the space provided for name if there is sufficient space;

(b) If the place of death is unknown, shall be registered in the registration district in which the dead body or fetus is found within 5 days after such occurrence; and

(c) If death occurs in a moving conveyance, shall be registered in the registration district in which the dead body was first removed from such conveyance.

(2)(a) The funeral director who first assumes custody of a dead body or fetus shall electronically file the certificate of death or fetal death. In the absence of the funeral director, the physician, physician assistant, advanced practice registered nurse registered under s. 464.0123, **advanced practice registered nurse providing hospice care pursuant to a written protocol with a licensed physician**, or other person in attendance at or after the death or the district medical examiner of the county in which the death occurred or the body was found shall electronically file the certificate of death or fetal death. The person who files the certificate shall obtain personal data from a legally

authorized person as described in s. 497.005 or the best qualified person or source available. The medical certification of cause of death must be furnished to the funeral director, either in person or via certified mail or electronic transfer, by the physician, physician assistant, advanced practice registered nurse registered under s. 464.0123, **advanced practice registered nurse providing hospice care pursuant to a written protocol with a licensed physician,** or medical examiner responsible for furnishing such information. For fetal deaths, the physician, physician assistant, advanced practice registered nurse registered under s. 464.0123, **advanced practice registered nurse providing hospice care pursuant to a written protocol with a licensed physician,** midwife, or hospital administrator shall provide any medical or health information to the funeral director within 72 hours after expulsion or extraction.

(b) The State Registrar shall receive electronically a certificate of death, fetal death, or nonviable birth which is required to be filed with the registrar under this chapter through facsimile or other electronic transfer for the purpose of filing the certificate. The receipt of a certificate of death, fetal death, or nonviable birth by electronic transfer constitutes delivery to the State Registrar as required by law.

(3) Within 72 hours after receipt of a death or fetal death certificate from the funeral director, the medical certification of cause of death shall be completed and made available to the funeral director by the decedent's primary or attending practitioner or, if s. 382.011 applies, the district medical examiner of the county in which the death occurred or the body was found. The primary or attending practitioner or the medical examiner shall certify over his or her signature the cause of death to the best of his or her knowledge and belief. As used in this section, the term "primary or attending practitioner" means a physician, physician assistant, or advanced practice registered nurse registered under s. 464.0123, **advanced practice registered nurse providing hospice care pursuant to a written protocol with a licensed physician,** who treated the decedent through examination, medical advice, or medication during the 12 months preceding the date of death.

(a) The department may grant the funeral director an extension of time upon a good and sufficient showing of any of the following conditions:

1. An autopsy is pending.
2. Toxicology, laboratory, or other diagnostic reports have not been completed.
3. The identity of the decedent is unknown and further investigation or identification is required.

(b) If the decedent's primary or attending practitioner or the district medical examiner of the county in which the death occurred or the body was found indicates that he or she will sign and complete the medical certification of cause of death but will not be available until after the 5-day registration deadline, the local registrar may grant an extension of 5 days. If a further extension is required, the funeral director must provide written justification to the registrar.

(4) If the department or local registrar grants an extension of time to provide the medical certification of cause of death, the funeral director shall file a temporary certificate of death or fetal death which shall contain all available information, including the fact that the cause of death is pending. The decedent's primary or attending practitioner or the district medical examiner of the county in which the death occurred or the body was found shall provide an estimated date for completion of the permanent certificate.

(5) A permanent certificate of death or fetal death, containing the cause of death and any other information that was

previously unavailable, shall be registered as a replacement for the temporary certificate. The permanent certificate may also include corrected information if the items being corrected are noted on the back of the certificate and dated and signed by the funeral director, physician, physician assistant, advanced practice registered nurse registered under s. 464.0123, **advanced practice registered nurse providing hospice care pursuant to a written protocol with a licensed physician,** or district medical examiner of the county in which the death occurred or the body was found, as appropriate.

(6) The original certificate of death or fetal death shall contain all the information required by the department for legal, social, and health research purposes. All information relating to cause of death in all death and fetal death records and the parentage, marital status, and medical information included in all fetal death records of this state are confidential and exempt from the provisions of s. 119.07(1), except for health research purposes as approved by the department; nor may copies of the same be issued except as provided in s. 382.025.

(7) Upon the request of a parent of a nonviable birth, a health care practitioner licensed pursuant to chapter 464 or chapter 467 who attends or diagnoses a nonviable birth, or a health care facility licensed pursuant to chapter 383 or chapter 395 at which a nonviable birth occurs, shall electronically file a registration of nonviable birth on the department electronic death registration system or on a form prescribed by the department with the department or local registrar of the district in which the nonviable birth occurred within 30 days after receipt of such request. The certificate of nonviable birth shall be registered with the department if it has been completed and filed in accordance with this chapter or adopted rules.

(8)(a) The original nonviable birth certificate shall contain all of the information required by the department for legal, social, and health research purposes. The department may issue a certified copy of an original nonviable birth certificate which includes the confidential and exempt information:

1. To the fetus' parent;
2. To any local, state, or federal agency for official purposes upon approval by the department; or
3. Upon the order of any court of competent jurisdiction.

(b) All information relating to the cause of death and parentage of a nonviable fetus, the marital status of such fetus' parent, and any medical information included in nonviable birth records held by a state agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, but may be released for health research purposes as approved by the department.

(c) The department shall authorize the issuance of a certified copy of all or part of an original nonviable birth certificate, excluding any information that is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, to any person requesting such copy, pursuant to paragraph (b), upon receipt of a request and payment of the fee prescribed in s. 382.0255.

**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?**

Fla. Stat. Ann. § 382.006.

- (1) The funeral director who first assumes custody of a dead body or fetus must obtain a burial-transit permit before final disposition and within 5 days after death. The funeral director shall provide the electronic burial-transit permit generated from the electronic death registration system, or a manually produced permit, to the person in charge of the place of final disposition.
- (2) A burial-transit permit shall be issued by the department or the local registrar or subregistrar of the registration district in which the death occurred or the body was found. A burial-transit permit may not be issued:
- (a) Until a complete and satisfactory certificate of death or fetal death is filed in accordance with the requirements of this chapter and adopted rules, unless the funeral director provides adequate assurance that a complete and satisfactory certificate will be so registered.
- (b) Except under conditions prescribed by the department, if the death occurred from some disease that is deemed by the department to be infectious, contagious, or communicable and dangerous to the public health.
- (3) The funeral director shall deliver the burial-transit permit to the person in charge of the place of final disposition, before interring or otherwise disposing of the dead body or fetus within this state; or when transported to a point outside the state, the permit shall accompany the dead body or fetus to its destination.
- (4) A burial-transit permit issued under the law of another state or country, or a certification of a death certificate issued under the law of a state or country that does not issue burial-transit permits, which accompanies a dead body or fetus brought into this state shall be authority for final disposition of the dead body or fetus in this state.
- (5) Rules of the department may provide for the issuance of a burial-transit permit prior to the filing of a certificate of death or fetal death upon conditions designed to assure compliance with the purposes of this chapter in cases in which compliance with the requirement that the certificate be filed prior to the issuance of the permit would result in undue hardship.
- (6) For manually filed paper death records, the subregistrar in the licensed funeral or direct disposal establishment is responsible for producing and maintaining death and fetal death certificates and burial-transit permits in accordance with this chapter.
- (7) The department may adopt rules to implement this section.

Fla. Stat. Ann. § 382.007.

A person in charge of any premises on which final dispositions are made shall not inter or permit the interment or other disposition of any dead body unless it is accompanied by a burial-transit permit. Such person shall enter upon the permit the date of final disposition. He or she shall keep a record of all dead bodies buried or otherwise disposed of on the premises under his or her charge, in each case stating the name of each deceased person, place of death, date of final disposition, and name and address of the funeral director which record shall at all times be open to official inspection. The burial-transit permit on file may satisfy this requirement. The funeral director, when burying a dead body in a cemetery having no person in charge, shall enter the date of final disposition on the permit, write "No person in charge" on the permit, and keep the permit on file for at least 3 years after the date of final disposition.

#### Inquiry 7: Personal Preference Statute

Fla. Stat. Ann. § 497.002

(2) Subject to certain interests of society, the Legislature finds that every competent adult has the right to control the decisions relating to her or his own funeral arrangements.

#### Inquiry 8: Designated Agent Statute

Fla. Stat. Ann. § 497.005(43)

(43) (a) "Legally authorized person" means, in the priority listed:

1. The decedent, when written inter vivos authorizations and directions are provided by the decedent;
2. The person designated by the decedent as authorized to direct disposition pursuant to Pub. L. No. 109-163, s. 564, as listed on the decedent's United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form, if the decedent died while in military service as described in 10 U.S.C. s. 1481(a)(1)-(8) in any branch of the United States Armed Forces, United States Reserve Forces, or National Guard;
3. The surviving spouse;
4. A son or daughter who is 18 years of age or older;
5. A parent;
6. A brother or sister who is 18 years of age or older;
7. A grandchild who is 18 years of age or older;
8. A grandparent; or
9. Any person in the next degree of kinship.

(b) In addition, the term legally authorized person may include, if no family member exists or is available from paragraph (a), the guardian of the dead person at the time of death; the personal representative of the deceased; the attorney in fact of the dead person at the time of death; the health surrogate of the dead person at the time of death; a public health officer; the medical examiner, county commission, or administrator acting under part II of chapter 406 or other public administrator; a representative of a nursing home or other health care institution in charge of final disposition; or a friend or other person, including a member of a representative community organization, not listed in this subsection who is willing to assume the responsibility as the legally authorized person. Where there is a person in any priority class listed in this subsection, the funeral establishment shall rely upon the authorization of any one legally authorized person of that class if that person represents that she or he is not aware of any objection to the cremation of the deceased's human remains by others in the same class of the person making the representation or of any person in a higher priority class.

No person who has been arrested for committing against the deceased an act of domestic violence as defined in s. 741.28, or any act that resulted in or contributed to the death of the deceased shall be accorded any legally recognizable interest under this section consistent with s. 732.802.

### Inquiry 9: Right of Sepulcher Statute

Fla. Stat. Ann. § 497.005(43)

(43) (a) "Legally authorized person" means, in the priority listed:

1. The decedent, when written inter vivos authorizations and directions are provided by the decedent;
2. The person designated by the decedent as authorized to direct disposition pursuant to Pub. L. No. 109-163, s. 564, as listed on the decedent's United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form, if the decedent died while in military service as described in 10 U.S.C. s. 1481(a)(1)-(8) in any branch of the United States Armed Forces, United States Reserve Forces, or National Guard;
3. The surviving spouse;
4. A son or daughter who is 18 years of age or older;
5. A parent;
6. A brother or sister who is 18 years of age or older;
7. A grandchild who is 18 years of age or older;
8. A grandparent; or
9. Any person in the next degree of kinship.

(b) In addition, the term legally authorized person may include, if no family member exists or is available from paragraph (a), the guardian of the dead person at the time of death; the personal representative of the deceased; the attorney in fact of the dead person at the time of death; the health surrogate of the dead person at the time of death; a public health officer; the medical examiner, county commission, or administrator acting under part II of chapter 406 or other public administrator; a representative of a nursing home or other health care institution in charge of final disposition; or a friend or other person, including a member of a representative community organization, not listed in this subsection who is willing to assume the responsibility as the legally authorized person. Where there is a person in any priority class listed in this subsection, the funeral establishment shall rely upon the authorization of any one legally authorized person of that class if that person represents that she or he is not aware of any objection to the cremation of the deceased's human remains by others in the same class of the person making the representation or of any person in a higher priority class.

No person who has been arrested for committing against the deceased an act of domestic violence as defined in s. 741.28, or any act that resulted in or contributed to the death of the deceased shall be accorded any legally recognizable interest under this section consistent with s. 732.802.