

January 2026: Changes and additions highlighted in blue

State:	Montana
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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? If so, when?

Mont. Code Ann. § 37-19-705

(2) Human remains may not be cremated within 24 hours after the time of death.

(4) A crematory shall hold human remains, prior to their cremation, under the following conditions:

(a) In the event the crematory is unable to perform cremation upon receipt of the human remains, it shall place the human remains in a holding facility.

(b) **If the human remains are not embalmed**, they may not be held longer than 48 hours after the time of death outside of a refrigerated facility.

Mont. Code Ann. § 37-19-907

(3)(a) In the event of a dispute regarding the right of disposition, a mortician may not be held liable for refusing to accept the remains or to inter or otherwise dispose of the remains of the decedent or complete the arrangements for final disposition of the remains until the mortician receives a court order or a written agreement signed by the parties to the disagreement that decides the final disposition of the remains.

(b) If the mortician retains the remains for final disposition while the parties are in disagreement, the mortician may embalm or refrigerate and shelter the body, or both, in order to preserve the body while awaiting the final decision of the district court and may add the cost of embalming or refrigeration and sheltering, or both, to the final disposition costs.

Mont. Admin. R. 37.116.103

(2) The body of a person who, at the time of death, did not have a disease listed in ARM 37.116.102(3):

(a) when removed from the place of death to a mortuary, must be transported by removal cot, transport stretcher or alternative container;

(b) must be placed in a casket or alternative container in order to be transported by common carrier. If such body is en route more than eight hours, or if the termination of common carrier transport occurs more than 36 hours after the time of death, the body must be either embalmed or refrigerated at 35°F or colder, so as to prevent or substantially retard decomposition and the resultant effluents and odors;

(c) when being transported by a private conveyer and the body will not reach its destination within 48 hours after the time of death, must be either embalmed or refrigerated at 35°F or colder, so as to prevent or substantially retard decomposition and the resultant effluents and odors.

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

Montana 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?

Mont. Code Ann. § 37-19-705

(2) Human remains may not be cremated within 24 hours after the time of death.

Mont. Code Ann. § 7-4-2915

(1) In the course of an inquiry authorized under the provisions of 46-4-122, the coroner may take custody of a dead human body and cause it to be removed from the site of death to a facility designated by the coroner.

(2) A dead human body in the custody of a county coroner must be held until the coroner, after consultation with appropriate law enforcement officials and the county attorney, establishes that it is not necessary to hold the body to determine the reasonable and true cause of death or that the body is no longer necessary to assist any local investigations.

...

(4) A dead human body in the custody of the coroner may be released by the coroner to the custody of a person who is entitled to custody or to a funeral home.

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

Mont. Code Ann. § 50-15-403

(1) A person in charge of disposition of a dead body or fetus that weighs at least 350 grams at death or, if the weight is unknown, has reached 20 completed weeks of gestation at death shall obtain personal data on the deceased, including the deceased's social security number, if any, or, in the case of a fetal death, on the parents that is required by the department from persons best qualified to supply the data and enter it on the death or fetal death certificate.

(2) The person in charge of disposition of the dead body or fetus shall present the death certificate to the certifying physician, the certifying advanced practice registered nurse, or the coroner having jurisdiction for medical certification of the cause of death. The medical certification must be completed by the physician, the advanced practice registered nurse, or the coroner within the timeframe established by the department by rule. The person in charge of disposition shall obtain the completed certification of the cause of death from the physician, the advanced practice registered nurse, or the coroner and shall, within the time that the department may prescribe by rule, file the death or fetal death certificate with the local registrar in the registration area where the death occurred or, if the place of death is unknown, where the dead body was discovered.

(3) If a dead body is found in this state but the place of death is unknown, the place where the body is found must be shown as the place of death on the death certificate. If the date of death is unknown, then the approximate date must be entered on the certificate. If the date cannot be approximated, the date that the body was found must be entered as the date of death, and the certificate must indicate that fact.

(4) When a death occurs in a moving vehicle, as defined in 45-2-101, in the United States and the body is first removed from the vehicle in this state, the death must be registered in this state and the place where the body is first removed is considered the place of death. When a death occurs in a moving vehicle while in international air space or in a foreign country or its air space and the body is first removed from the vehicle in this state, the death must be registered in this state, but the actual place of death, insofar as it can be determined, must be entered on the death certificate.

Mont. Code Ann. § 50-15-404

(1) If the death or fetal death occurred without medical attendance or the physician or advanced practice registered nurse last in attendance failed to sign the death certificate, the local registrar may complete the certificate on the basis of information received from persons having knowledge of the facts.

(2) If it appears the death or fetal death resulted from other than natural causes, the local registrar shall notify the coroner and the state medical examiner for investigation and certification.

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?

Mont. Code Ann. § 50-15-405

(1) Except as provided in subsection (2), a dead body may be removed from the place of death only upon the written authorization or oral authorization, which must be reduced to writing within 24 hours, of the physician in attendance at death or the physician's designee, the advanced practice registered nurse in attendance at death, the coroner having jurisdiction, or a mortician licensed under [37-19-302](#).

(2) If the death requires inquiry under [46-4-122](#), the written authorization may only be granted by the coroner having jurisdiction or the coroner's designee or by the state medical examiner if the coroner fails to act. However, when the only reason for inquiry under [46-4-122](#) is that the body is to be cremated, the coroner may grant oral authorization for cremation of the body, which must be reduced to writing as specified under subsection (1) by the coroner.

(3) The written authorization to move a dead body or, when applicable, to cremate a dead body must be made in quadruplicate on a form provided by the department. **The person in charge of disposition of the dead body**, the coroner having jurisdiction, and the local registrar must each be provided with and retain a copy of the authorization. A fourth copy may accompany the body to final disposition, as necessary.

(4) A written authorization issued under this section permits removal, transportation, and final disposition of a dead body.

Inquiry 7: Personal Preference Statute

Mont. Code Ann. § 37-19-903

(1) A person who is 18 years of age or older and of sound mind, by entering into a prepaid funeral contract with any mortuary licensed under Title 37, chapter 19, part 4, or by providing disposition directions may direct the location, manner, and conditions of disposition of the person's remains and the arrangements for funeral goods and services to be provided upon the person's death.

(2) The funeral prearrangements that are prepaid and contracted for with a licensed mortuary or the disposition directions may not be canceled or substantially revised unless the cancellation or substantial revision has been ordered by a person appointed by the decedent in the prepaid funeral contract or the disposition directions as the person authorized to cancel or revise the terms of the prepaid funeral contract or the disposition directions.

(3) As used in this section, the term "disposition directions" means:

(a) a video provided in a replayable format of the person who is the subject of the disposition directions in which the person describes the wishes for disposition and that is accompanied by a written attestation of the video accuracy by two witnesses who are at least 18 years of age; or

(b) a legible written instrument signed by the person who is the subject of the disposition directions and by two people who are at least 18 years of age who have witnessed the signing by the person. The written instrument may be but is not limited to a letter of instructions, a will, a trust document, or advance directives. A written instrument that does not name a person with the right to control the decedent's disposition must follow the priority of rights of disposition provided in 37-19-904.

Inquiry 8: Designated Agent Statute

Mont. Code Ann. § 37-19-904 (1)

A person who is 18 years of age or older and of sound mind wishing to authorize another person to control the disposition of the person's remains may execute an affidavit or a written instrument before a notary public in substantially the following form:

"State of Montana

]

ss

County of

]

I,[person designating another person to control the disposition of the person's remains] do hereby designate [person who is provided with the right to control the disposition] with the right to control the disposition of my remains upon my death. I have or have not attached specific directions concerning the disposition of my remains with which the designee shall substantially comply, provided the directions are

lawful and there are sufficient resources in my estate to carry out the directions. Subscribed and sworn to before me this day of the month of of the year

Inquiry 9: Right of Sepulcher Statute

Mont. Code Ann. § 37-19-904 (2)

Except as provided in 37-19-903, 37-19-907, and subsection (1) of this section, the right to control the disposition of the remains of a deceased person, including the location, manner, and conditions of the disposition and arrangements for funeral goods and services, vests in the following persons in the order named if the named person is 18 years of age or older and is of sound mind:

- (a) for a decedent who was on active duty in the armed forces of the United States, a member of the Montana national guard, or a member of the federal reserves of the armed forces of the United States at the time of the decedent's death, any person named by the decedent as the person with the right to control the decedent's disposition in a department of defense form 93;
- (b) a person designated by the decedent as the person with the right to control the decedent's disposition in an affidavit or written instrument executed in accordance with subsection (1);
- (c) the surviving spouse;
- (d) the sole surviving child of the decedent or, if there is more than one child of the decedent, the majority of the surviving children. However, less than one-half of the surviving children may be vested with the rights and duties provided in this section if those surviving children have used reasonable efforts to notify all other surviving children of their instructions and they are not aware of opposition to their instructions on the part of more than one-half of all surviving children.
- (e) the surviving parent or parents of the decedent. If one of the surviving parents is absent, the remaining parent may be vested with the rights and duties provided in this section if that parent's reasonable efforts have been unsuccessful in locating the absent surviving parent.
- (f) the surviving sibling of the decedent or, if there is more than one sibling of the decedent, the majority of the surviving siblings. However, less than one-half of the surviving siblings may be vested with the rights and duties provided in this section if those siblings have used reasonable efforts to notify all other surviving siblings of their instructions and they are not aware of any opposition to their instructions on the part of more than one-half of all surviving siblings.
- (g) the surviving grandparent of the decedent or, if there is more than one surviving grandparent, the majority of the grandparents. However, less than one-half of the surviving grandparents may be vested with the rights and duties provided in this section if those grandparents have used reasonable efforts to notify all other surviving grandparents of their instructions and are not aware of any opposition to their instructions on the part of more than one-half of all surviving grandparents.
- (h) the guardian of the decedent at the time of the decedent's death, if a guardian had been appointed;
- (i) the personal representative of the estate of the decedent;

(j) the person in classes of the next degree of kinship, in descending order, under the laws of descent and distribution to inherit the estate of the decedent. If there is more than one person of the same degree, any person of that degree may exercise the right of disposition.

(k) if the disposition of the remains of the decedent is the responsibility of the state or a local government, the public officer, administrator, or employee responsible for arranging the disposition of the decedent's remains; and

(l) in the absence of any person provided for in subsections (2)(a) through (2)(k), any other person, including the mortician with custody of the remains, who is willing to assume the responsibility to act and arrange the disposition of the decedent's remains after attesting in writing that a good faith effort has been made to contact the individuals provided for in subsections (2)(a) through (2)(k).