

January 2026: Changes and additions highlighted in blue

State:	Delaware
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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?
Delaware statutes mention burial, entombment, cremation, and natural organic reduction.

Inquiry 4: Are there any circumstances under which I would be required to wait before final disposition?
There are no statutes or regulations that address this question.

Inquiry 5: What do I need to do to get a death certificate?
<p>Del. Code Ann. tit. 16, § 3123</p> <p>(a) A certificate of death for each death which occurs in this State shall be filed with the Office of Vital Statistics, or as otherwise directed by the State Registrar, within 3 days after death, or as soon as possible after a death under subsections (e) and (f) of this section, and prior to final disposition of the dead body, and shall be registered if it has been completed and filed in accordance with this section.</p> <p>(1) If the place of death is unknown but the dead body is found in this State, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it may be determined by approximation.</p> <p>(2) When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this State, the death shall be registered in this State and the place where it is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or airspace or in a foreign country or its airspace and the body is first removed from the conveyance in this State, the death shall be registered in this State but the certificate shall show the actual place of death insofar as can be determined.</p> <p>(b) The funeral director who assumes custody of the dead body shall file the certificate of death with the Office of Vital Statistics unless an official death investigation is required. The funeral director shall obtain the personal data from the next-of-kin or best qualified person or source available and send that data to the attending physician or medical examiner for certification.</p>

- (c) When no official death investigation is required, the medical certification shall be completed, signed and returned to the funeral director within 48 hours after death, or as soon as possible after a death under subsections (e) and (f) of this section, by the attending physician; or a registered nurse or an advanced practice registered nurse (APRN) acting in accordance with § 1902(s) of Title 24. In the absence of the attending physician, the certificate may be completed and signed by the attending physician's designated physician or the chief medical officer of the institution in which death occurred if such individual has knowledge about the medical history of the case.
- (d) When an official death investigation is required pursuant to § 4706(a) of Title 29, the medical examiner shall assume custody of the dead body, determine the manner and cause of death and shall complete and sign the certificate of death and shall file the certificate of death with the Office of Vital Statistics.
- (e) If the cause of death cannot be determined within 48 hours after death, the attending physician or medical examiner shall file with the Office of Vital Statistics a pending certificate of death and a toxicology study shall be performed. If a cause of death cannot be determined after the toxicology study is performed, the remains and all reports or studies shall be turned over to the Division of Forensic Science for review. When the cause of death is determined a revised certificate of death shall be issued and presented to the funeral director or the funeral director's agent, who in turn shall file the certificate with the Office of Vital Statistics.
- (f) When a death is presumed to have occurred within this State but the body cannot be located, a certificate of death may be prepared by the State Registrar upon receipt of a court order which shall include the finding of facts required to complete the certificate of death. Such certificate of death shall be marked "By Court Order" and shall show on its face the date of registration and shall identify the court and the date of decree.
- (g) One of the following individuals shall pronounce a death:
- (1) The attending physician.
 - (2) The medical examiner.
 - (3) A registered nurse or an advanced practice registered nurse (APRN) acting in accordance with § 1902(s) of Title 24.
 - (4) The medical control physician under § 1760(b) of Title 24.
- (h) All medical certifications of death, required pursuant to subsections (c)-(e) of this section shall be electronically prepared, certified and signed by 1 of the individuals designated in subsection (g) of this section.
- (i) All certificates of death shall be electronically filed with the Delaware Vital Events Registration System (DeIVERS).

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?

Del. Code Ann. tit. 16, Code § 3151

When a death or a fetal death occurs or a dead body is found, the body may not be disposed of until the burial or transit permit is completed. The burial or transit permit must accompany the body and must be:

- (1) Given to the sexton of the cemetery when the body is interred.
- (2) Retained by the funeral director when the cemetery has no sexton.
- (3) In cases of cremation or natural organic reduction:
 - a. Retained with the final remains.
 - b. Retained by the funeral director if so desired.

Del. Code Ann. tit. 16, § 3159

(a) A body may be cremated or subjected to natural organic reduction only after the preparation of a special cremation or natural organic reduction permit signed by the chief medical examiner or an assistant or deputy medical examiner.

Inquiry 7: Personal Preference Statute

Del. Code Ann. tit. 12, § 262

The declarant may specify, in a declaration instrument, any 1 or more of the following:

- (1) The disposition to be made of the declarant's last remains;
- (2) Who may direct the disposition of the declarant's last remains;
- (3) The ceremonial arrangements to be performed after the declarant's death;
- (4) Who may direct the ceremonial arrangement after the declarant's death; or
- (5) The rights, limitations, immunities, and other terms of third parties dealing with the declaration instrument.

Del. Code Ann. tit. 12, § 265

The following declaration of disposition of final remains must be substantially in the following form:

DECLARATION OF DISPOSITION OF FINAL REMAINS

I, _____ (Name of Declarant), being of sound mind and lawful age, hereby revoke all prior declarations, wills, codicils, trusts, powers of appointment, and powers of attorney regarding the disposition of my final remains, and I declare and direct that after my death the following provisions be taken:

1. If permitted by law, my body shall be (Initial ONE choice):

_____ Buried. I direct that my body be buried at _____.

_____ Cremated. I direct that my cremated remains be disposed of as follows: _____.

_____ Subjection to natural organic reduction. I direct that my remains following natural organic reduction be disposed of as follows: _____.

_____ Entombed. I direct that my body be entombed at _____.

_____ Other. I direct that my body be disposed of as follows: _____.

_____ Disposed of as _____

_____ (Name of Designee) shall decide in writing.

If _____ is unwilling or unable to act, I nominate _____ as my alternate designee.

2. I request that the following ceremonial arrangements be made (initial desired choice or choices):

I request _____ (Name of designee) make all arrangements for any ceremonies, consistent with my directions set forth in this declaration. If _____ is unwilling or unable to act, I nominate _____ as my alternate designee.

_____ Funeral. I request the following arrangements for my funeral:

_____ Memorial Service. I request the following arrangements for my memorial service:

3. Special Instructions.

In addition to the instructions above, I request (on the following lines you may make special requests regarding ceremonies or lack of ceremonies): _____

Note: Those persons or entities asked to carry out a declarant's intent regarding disposition of final remains and ceremonial arrangements need do so only if the declarant's intent is reasonable under the circumstances. "Reasonable under the Circumstances" may take into consideration factors such as a known prepaid funeral, burial, cremation, or natural organic reduction plan of the declarant, the size of the declarant's estate, cultural or family customs, the declarant's religious or spiritual beliefs, the known or reasonably ascertainable creditors of the declarant, and the declarant's financial situation prior to death.

I may revoke or amend this declaration in writing at any time. I agree that a third party who receives a copy of this declaration may act according to it. Revocation of this declaration is not effective as to a third party until the third party learns of my revocation. My estate shall indemnify any third party for costs incurred as a result of claims that arise against the third party because of good-faith reliance on this declaration.

I execute this declaration as my free and voluntary act, on

.

(Declarant)

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The following section regarding organ and tissue donation is optional. To make a donation, initial the option you select and sign below.

In the hope that I might help others, I hereby make an anatomical gift, to be effective upon my death, of:

A. _____ Any needed organs/tissues.

B. _____ The following organs/tissues:

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Donor signature:

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Notarization Optional:

State of Delaware

County of _____:

Acknowledged before me by _____, Declarant, on _____, _____. My commission expires:

(Stamp or Seal) Notary Public

Inquiry 8: Designated Agent Statute

Del. Code Ann. tit. 12, § 262

The declarant may specify, in a declaration instrument, any 1 or more of the following:

(1) The disposition to be made of the declarant's last remains;

(2) Who may direct the disposition of the declarant's last remains;

(3) The ceremonial arrangements to be performed after the declarant's death;

(4) Who may direct the ceremonial arrangement after the declarant's death; or

(5) The rights, limitations, immunities, and other terms of third parties dealing with the declaration instrument.

Del. Code Ann. tit. 12, § 265

The following declaration of disposition of final remains must be substantially in the following form:

DECLARATION OF DISPOSITION OF FINAL REMAINS

I, _____ (Name of Declarant), being of sound mind and lawful age, hereby revoke all prior declarations, wills, codicils, trusts, powers of appointment, and powers of attorney regarding the disposition of my final remains, and I declare and direct that after my death the following provisions be taken:

1. If permitted by law, my body shall be (Initial ONE choice):

_____ Buried. I direct that my body be buried at _____.

_____ Cremated. I direct that my cremated remains be disposed of as follows: _____.

_____ Subjection to natural organic reduction. I direct that my remains following natural organic reduction be disposed of as follows: _____.

_____ Entombed. I direct that my body be entombed at _____.

_____ Other. I direct that my body be disposed of as follows: _____.

_____ Disposed of as _____

_____ (Name of Designee) shall decide in writing.

If _____ is unwilling or unable to act, I nominate _____ as my alternate designee.

2. I request that the following ceremonial arrangements be made (initial desired choice or choices):

I request _____ (Name of designee) make all arrangements for any ceremonies, consistent with my directions set forth in this declaration. If _____ is unwilling or unable to act, I nominate _____ as my alternate designee.

_____ Funeral. I request the following arrangements for my funeral:

_____ Memorial Service. I request the following arrangements for my memorial service:

3. Special Instructions.

In addition to the instructions above, I request (on the following lines you may make special requests regarding ceremonies or lack of ceremonies): _____

Note: Those persons or entities asked to carry out a declarant's intent regarding disposition of final remains and ceremonial arrangements need do so only if the declarant's intent is reasonable under the circumstances.

"Reasonable under the Circumstances" may take into consideration factors such as a known prepaid funeral, burial, cremation, or natural organic reduction plan of the declarant, the size of the declarant's estate, cultural or family customs, the declarant's religious or spiritual beliefs, the known or reasonably ascertainable creditors of the declarant, and the declarant's financial situation prior to death.

I may revoke or amend this declaration in writing at any time. I agree that a third party who receives a copy of this declaration may act according to it. Revocation of this declaration is not effective as to a third party until the third party learns of my revocation. My estate shall indemnify any third party for costs incurred as a result of claims that arise against the third party because of good-faith reliance on this declaration.

I execute this declaration as my free and voluntary act, on

(Declarant)

The following section regarding organ and tissue donation is optional. To make a donation, initial the option you select and sign below.

In the hope that I might help others, I hereby make an anatomical gift, to be effective upon my death, of:

A. _____ Any needed organs/tissues.

B. _____ The following organs/tissues:

Donor signature:

Notarization Optional:

State of Delaware

County of _____:

Acknowledged before me by _____, Declarant, on _____, _____. My commission expires:

(Stamp or Seal) Notary Public

Inquiry 9: Right of Sepulcher Statute

Del. Code Ann. tit. 12, § 264

(a) The right to control disposition of the last remains or ceremonial arrangements of a decedent vests in and devolves upon the following persons, at the time of the decedent's death, in the following order:

(1) The decedent if acting through a declaration instrument;

(2) The surviving spouse of the decedent, if not legally separated from the decedent;

(3) Either the appointed personal representative or administrator of the decedent's estate if such person has been appointed; or the nominee for appointment as personal representative under the decedent's will if a personal representative or administrator has not been appointed;

(4) A majority of the surviving adult children of the decedent whose whereabouts are reasonably ascertainable;

(5) The surviving parents or legal guardians of the decedent whose whereabouts are reasonably ascertainable;

(6) A majority of the surviving adult siblings of the decedent whose whereabouts are reasonably ascertainable;

(7) The person in the 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 1 person of the same degree, any person of that degree may exercise the right of disposition;

(8) In the absence of any person under paragraphs (a)(1) through (a)(6) of this section, any other person willing to assume the responsibilities to act and arrange the final disposition of the decedent's remains, including the personal representative of the decedent's estate or the funeral director with the custody of the body, after

attesting in writing that a good faith effort has been made to no avail to contact the individuals under paragraphs (a)(1) through (a)(6) of this section;

(9) The public administrator for the decedent's estate.

(b) To exercise the right to control final disposition pursuant to paragraph (a)(5) of this section, the majority of parents and guardians shall act in writing.

(c) If the assent of multiple persons under paragraph (a)(4), (a)(5), or (a)(6) of this section cannot be obtained, a final judgment of the Chancery Court of the county of the decedent's residence shall be required to exercise the right to control final disposition. Such final judgment shall be consistent with the decedent's last wishes to the extent they are reasonable under the circumstances.

(d) Notwithstanding any provision of this subchapter to the contrary, a United States Department of Defense Record of Emergency Data Form (DD Form 93) executed by a declarant who thereafter dies while serving in any branch of in the United States Military, as defined 10 U.S.C. § 1481, shall constitute a valid form of declaration instrument and shall govern the disposition of such declarant's last remains, unless a subsequent declaration instrument has been executed by the declarant.