

State:	South Dakota
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Inquiry 1: How long can I keep the body at home after death and under what conditions?
<p>S.D. Codified Laws § 34-26-15</p> <p>Except in the cases in which the right to dissect a dead body is expressly conferred by law, every dead body of a human being lying within this state must be decently buried within a reasonable time after the death. Nothing herein shall affect the right to remove from or carry through this state, a dead human body or parts thereof for the purpose of burying the same in another place.</p> <p>S.D. Admin. R. 20:45:02:07</p> <p>Within twenty-four hours from the time of death, the body must be refrigerated, embalmed, or buried in the ground. Any deviation from the foregoing requirements may only occur by an order of a court of competent jurisdiction or written directive of a coroner.</p>

Inquiry 2: Does my state require the body to be embalmed? Refrigerated?
<p>S.D. Admin. R. 20:45:02:07</p> <p>Within twenty-four hours from the time of death, the body must be refrigerated, embalmed, or buried in the ground. Any deviation from the foregoing requirements may only occur by an order of a court of competent jurisdiction or written directive of a coroner.</p>

Inquiry 3: What methods of disposition are legal in my state?
South Dakota 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?
<p>S.D. Codified Laws § 34-25-22</p> <p>If the county coroner has reason to believe that the death may have been due to other than natural causes, he shall then refer the case to the state's attorney, sheriff, or police for further investigation.</p>

S.D. Codified Laws § 34-25-22.1

The county coroner of each county shall take or cause to be taken blood samples of any person who has died from apparent violence, fire, suicide, or motor vehicle, agricultural, or industrial accident. The samples shall be taken as soon as practicable after the death has been discovered and forthwith transmitted to a laboratory certified to examine the sample for toxicology levels.

S.D. Codified Laws § 34-25-24.1

For deaths occurring in a health care facility licensed under chapter 34-12, the health care facility shall notify the funeral director, or person acting as such who first assumes custody of the dead body, if the body at the time of death had a communicable disease or condition that is the subject of a declared public health emergency pursuant to § 34-22-42 or the subject of a declaration of the Governor pursuant to chapter 34-48A.

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

S.D. Codified Laws § 34-25-25

The funeral director, or person acting as such, who first assumes custody of a dead body shall file a fact of death record. The funeral director shall obtain the personal data from the next of kin or the best qualified person or source available.

A fact of death record for each death which occurs in this state shall be filed with the department within five days after such death.

S.D. Codified Laws § 34-25-21

If a death occurs without the attendance of a licensed physician, physician assistant, or certified nurse practitioner, the person in charge of the body shall notify the county coroner and sheriff of the death. Upon notification, the county coroner shall complete the medical certificate from the statement of relatives or other persons having adequate knowledge of the facts. The coroner, or deputy coroner in the absence of the coroner, shall complete, sign, and file the medical certificate with the department within five days of the date of death, unless an autopsy or investigation is pending, in which case the pending autopsy or investigation shall be noted on the medical certificate. In the absence of a coroner or deputy coroner, or if the coroner is unable to act, and only in such case, the local registrar shall prepare the medical certificate from the statement of relatives or other person having knowledge of the facts.

Unless good cause is shown, a person in charge of a body who fails to notify the county coroner and sheriff of the death no later than twenty-four hours following the death is guilty of a Class 2 misdemeanor.

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.D. Codified Laws § 34-25-24

No body of any person whose death occurs in this state or which is found in this state or of a fetus after a gestational age of not less than twenty completed weeks may be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from the state unless, prior to the disposition, a permit for disposition is obtained electronically from the department or on paper from the registrar of the registration district in which the death, or fetal death occurred or the body was found.

S.D. Codified Laws § 34-25-33

The funeral director or person acting as such shall, within ten days after final disposition, file or transmit the original burial or removal permit to the local registrar of the district in which final disposition was made.

S.D. Codified Laws § 34-25-39

The funeral director, or person acting as such, when burying a body in a cemetery or burial ground, having no person in charge, shall complete the burial or removal permit.

Inquiry 7: Personal Preference Statute

S.D. Codified Laws § 34-26-1

Every person has the right to direct the manner in which his body or any part thereof shall be disposed of after his death, and to direct the manner in which any part of his body which becomes separated therefrom during his lifetime shall be disposed of. The provisions of §§ 34-26-4 to 34-26-7, inclusive, of §§ 34-26-17 to 34-26-19, inclusive, and of §§ 34-26-75 to 34-26-80, inclusive, do not apply where such person has given directions for the disposal of his body or any part thereof inconsistent with those provisions.

S.D. Codified Laws § 34-26-74

A person, who is 18 years of age or older and of sound mind, by entering into a preneed contract as defined by § 55-11-1, 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. The disposition directions and funeral prearrangements that are contained in a preneed contract are not subject to cancellation or substantial revision unless the cancellation or substantial revision has been ordered by a person who the decedent has appointed in the preneed contract as the person authorized to cancel or revise the terms of the

preneed contract, or unless any resources set aside to fund the preneed contract are insufficient under the terms of the preneed contract to carry out the disposition directions and funeral prearrangements contained therein.

S.D. Codified Laws § 34-26-77

A person who is 18 years or older and of sound mind wishing to authorize another person to control the disposition of his or her remains as referenced in § 34-26-75, may execute an affidavit before a notary public in substantially the following form:

State of _____ }

County of _____ }

I, _____, do hereby designate _____ with the right to control the disposition of my remains upon my death. I ___ have/ ___ have not attached specific directions concerning the disposition of my remains which the designee shall substantially comply with, provided such 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 _____.

_____ (signature of notary public)

Inquiry 8: Designated Agent Statute

S.D. Codified Laws § 34-26-77

A person who is 18 years or older and of sound mind wishing to authorize another person to control the disposition of his or her remains as referenced in § 34-26-75, may execute an affidavit before a notary public in substantially the following form:

State of _____ }

County of _____ }

I, _____, do hereby designate _____ with the right to control the disposition of my remains upon my death. I ___ have/ ___ have not attached specific directions concerning the disposition of my remains which the designee shall substantially comply with, provided such 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 _____.

_____ (signature of notary public)

Inquiry 9: Right of Sepulcher Statute

S.D. Codified Laws § 34-26-75

Except as provided in §§ 34-26-74 and 34-26-76, the right and the duty to control the disposition of a decedent's remains, including the location, manner, and conditions of disposition, and arrangements for the provision of funeral goods and services, vests in the following, in the order named, provided the person is eighteen years or older and is of sound mind:

- (1) A person designated by the decedent, in accordance with § 34-26-77;
- (2) A person designated in the federal Record of Emergency Data Form DD 93 or its successor form, by a member of the military who dies while under active-duty orders, as described in 10 U.S.C. § 1481, in effect on January 1, 2022;
- (3) The decedent's spouse;
- (4) The child of the decedent or the majority of the decedent's children, provided that a lesser number must suffice if they have made reasonable efforts to notify the other children of their instructions and are not aware of any opposition on the part of the majority;
- (5) The parents of the decedent or one parent of the decedent, if reasonable efforts to locate the other parent have been unsuccessful;
- (6) The sibling of the decedent or the majority of the decedent's siblings, provided that a lesser number must suffice if they have made reasonable efforts to notify the other siblings of their instructions and are not aware of any opposition on the part of the majority;
- (7) The grandparent of the decedent or the majority of the decedent's grandparents, provided that a lesser number must suffice if they have made reasonable efforts to notify the other grandparents of their instructions and are not aware of any opposition on the part of the majority;
- (8) The person named as personal representative in the decedent's last will and testament;
- (9) The decedent's guardian at the time of the decedent's death, if one had been appointed;
- (10) The person in the classes of the next degree of kinship, in descending order, under the laws of descent and distribution, provided if there is more than one person of the same degree, any person of that degree may control the disposition;
- (11) The public officer, administrator, or employee responsible for final dispositions, if the decedent was the responsibility of the state or a political subdivision of this state; or
- (12) Any other willing person, including the funeral director with custody of the body, provided the person attests that reasonable efforts have been made to contact other persons listed in this section.

For the purposes of this section, the right and the duty to control disposition includes providing authorization for a cremation.