

State:	North Dakota
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Inquiry 1: How long can I keep the body at home after death?

N.D. Cent. Code Ann. § 23-06-04

1. The dead body of a human being must be disposed of by the person charged with that duty within eight days after the death of such person except when any of the following occur:
 - a. The right to dissect the body is expressly conferred by law.
 - b. The body is being carried through this state.
 - c. The body is being removed from this state for the purpose of final disposition in some other state.
 - d. A permit is obtained from the local health officer or the department of health and human services allowing a longer time during which the body need not be disposed. The permit shall state the additional length of time during which the body need not be disposed.
 - e. The body is being stored for an extended period of time in a vault determined suitable by the department of health and human services, but the body may not be stored in a vault for a period of more than eight days during the months of June through October unless a permit is obtained from the local health officer or the department of health and human services.
2. The date of final disposition must be the date of the committal service or date of placement in a storage vault or school of medicine.

Inquiry 2: Does my state require the body to be embalmed? Or when? What about refrigeration?

N.D. Admin. Code 33-06-15-01

1. **Communicable diseases.** The following requirements shall be met by funeral directors for bodies dead from these contagious or infectious diseases - anthrax, cholera, meningococcus meningitis, plague, smallpox, and tuberculosis:
 - a. Only a licensed funeral practitioner or an intern embalmer who is closely supervised by a licensed funeral practitioner shall accept and prepare the body.
 - b. In the preparation of the body, appropriate outer garments and rubber gloves shall be worn.
 - c. The body shall be thoroughly embalmed with an approved disinfecting fluid by arterial and cavity injection, all orifices and any discharging sinuses closed with absorbent cotton, and the body washed with an appropriate disinfecting fluid.

No embalming fluid containing compounds of arsenic, mercury, zinc, or other highly poisonous metals shall be sold or used in North Dakota for the embalming of dead human bodies for burial.
 - d. Following the preparation, the instruments shall be sterilized by boiling or placing in an antiseptic solution, and the hands shall be washed with soap and water.

e. Without delay, the body shall receive the finishing preparation, placed in a casket, and the casket permanently closed. The casket may be provided with transparent material of sufficient dimensions to disclose the face.

f. Bodies prepared as herein stated may be accepted for transportation.

2. Embalming and transportation.

a. A burial-transit permit may be issued for the bodies of those dead from causes listed under subsection 1 only if the body has been embalmed.

b. A burial-transit permit may be issued for the bodies of those dead from causes other than those listed under subsection 1 without embalming or refrigeration, provided they reach their destination within forty-eight hours from the time of death. If the body cannot reach its destination within the prescribed forty-eight hours, it must be embalmed.

c. A burial-transit permit may be issued for the bodies of those dead from causes other than those listed under subsection 1 without embalming if they are refrigerated to a temperature of between thirty-eight and forty degrees Fahrenheit, provided they reach their destination within seventy-two hours from the time of death. If the body cannot reach its destination within the prescribed seventy-two hours with constant refrigeration, it must be embalmed.

d. Destination shall be considered the burial, cremation, or final disposition of the body. Storage of a body during the winter months when burial is difficult shall not be considered final disposition.

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

North 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?

There are no statutes or regulations that address this question.

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

North Dakota has an electronic death registration system.

N.D. Cent. Code Ann. § 23-02.1-19

1. A death record for each death that occurs in this state must be filed with the state registrar in accordance with the rules and regulations set forth by the department of health and human services **using the electronic death registration system**. All registration and issuing of copies of death records will be completed by the department of health and human services.

2. **The funeral director** shall obtain the facts of death from the next of kin or the best qualified individual or source available and must file the facts of death information using the electronic death registration system within three days after assuming custody of the dead body. The funeral director shall obtain the medical certification of death from the individual responsible for the medical certification.
3. The medical certification must be completed and filed using the electronic death registration system within ten days after death by the physician, physician assistant, or nurse practitioner in charge of the patient's care for the illness or condition which resulted in death except when inquiry is required by the local health officer or coroner.
4. When death occurred without medical attendance or when inquiry is required by the local health officer or coroner, the county coroner shall investigate the cause of death, and shall obtain medical information about the individual from the individual's medical records or last-known physician or physician assistant, and shall complete and file the medical certification within ten days after taking charge of the case using the electronic death registration system.
5. If the cause of death cannot be determined within ten days after death, the medical certification may be filed after the prescribed period, in accordance with rules adopted by the department of health and human services. The attending physician, physician assistant, nurse practitioner, or coroner shall give the funeral director in custody of the body notice of the reason for the delay and final disposition may not be made until authorized by the attending physician, physician assistant, nurse practitioner, or coroner.

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?

N.D. Cent. Code Ann. § 23-06-09

The funeral practitioner, or individual acting as funeral practitioner, shall secure the final disposition-transit permit from the subregistrar. The funeral practitioner, or person acting as funeral practitioner, shall deliver such permit to the sexton or person in charge of the place of final disposition before interring the body, cremating the body, donating the body to a medical school, or otherwise disposing of the body as authorized by law, or shall attach it to the box containing the corpse when the same is shipped by any transportation company. Such permit must be accepted by the sexton or person in charge as authority for the final disposition of the body. A body may not be accepted for carriage by a common carrier unless the permit is attached as required in this section.

N.D. Cent. Code Ann. § 23-06-10

Each sexton or person in charge of the burial ground shall endorse the date of interment upon the final disposition-transit permit over the person's signature, and return the final disposition-transit permit to the county recorder. The subregistrar or sexton shall file all completed permits, so endorsed, with the county recorder within ten days after the date of interment or within the time prescribed by the local board of health.

The sexton shall keep a record of all interments made in the premises under the sexton's charge, stating the name of the deceased individual, the place of death, the date of burial, and the name and address of the funeral practitioner. Such record at all times must be open to public inspection.

In the absence of a sexton, the funeral director making the burial shall endorse and return the final disposition-transit permit to the subregistrar.

N.D. Cent. Code Ann. § 23-06-11

It is unlawful for a person, acting as a funeral practitioner, to inter, remove, or otherwise dispose of as authorized by law the body of any deceased individual without having received a final disposition-transit permit.

N.D. Cent. Code Ann. § 23-06-12

It is unlawful for a transportation company or common carrier to transport, or accept for transportation, the body of any deceased individual unless that body is accompanied by a final disposition-transit permit issued in accordance with the provisions of this chapter.

Inquiry 7: Personal Preference Statute

N.D. Cent. Code Ann. § 23-06-31

1. A legally competent adult may prepare a written statement directing the cremation or other lawful disposition of that adult's own remains pursuant to section 23-06-03. The written statement must be signed and dated by the legally competent adult and may be part of the legally competent adult's will.

2. A document that conforms to this section authorizes a crematorium or funeral establishment to carry out the instructions of the legally competent adult who is the subject of the document. It is not necessary for a crematorium or funeral establishment to obtain the consent or concurrence of any other person when the crematorium or funeral establishment cremates or otherwise provides for the lawful disposition of a body pursuant to instructions contained in a document that conforms to this section.

3. This section does not mandate that a crematorium or funeral establishment cremate or otherwise provide for the lawful disposition of a body pursuant to the document unless the legally competent adult who executed the document articulated and funded in a pre-need funeral service contract the legally competent adult's instructions as expressed in the document.

4. A crematorium or funeral establishment that cremates or otherwise provides for the lawful disposition of a body in good-faith reliance upon instructions of a decedent or an individual to whom the crematorium or funeral establishment reasonably believes is entitled to control final disposition pursuant to section 23-06-03 or on an apparently genuine document executed pursuant to this section is not subject to criminal prosecution, civil liability, or professional discipline. The decision of a crematorium or funeral establishment to cremate or otherwise provide for the lawful disposition of a body in reliance on a document executed pursuant to this section is presumed to be made in good faith.

Inquiry 8: Designated Agent Statute

N.D. Cent. Code Ann. § 23-06-31

1. A legally competent adult may prepare a written statement directing the cremation or other lawful disposition of that adult's own remains pursuant to section 23-06-03. The written statement must be signed and dated by the legally competent adult and may be part of the legally competent adult's will.
2. A document that conforms to this section authorizes a crematorium or funeral establishment to carry out the instructions of the legally competent adult who is the subject of the document. It is not necessary for a crematorium or funeral establishment to obtain the consent or concurrence of any other person when the crematorium or funeral establishment cremates or otherwise provides for the lawful disposition of a body pursuant to instructions contained in a document that conforms to this section.
3. This section does not mandate that a crematorium or funeral establishment cremate or otherwise provide for the lawful disposition of a body pursuant to the document unless the legally competent adult who executed the document articulated and funded in a pre-need funeral service contract the legally competent adult's instructions as expressed in the document.
4. A crematorium or funeral establishment that cremates or otherwise provides for the lawful disposition of a body in good-faith reliance upon instructions of a decedent or an individual to whom the crematorium or funeral establishment reasonably believes is entitled to control final disposition pursuant to section 23-06-03 or on an apparently genuine document executed pursuant to this section is not subject to criminal prosecution, civil liability, or professional discipline. The decision of a crematorium or funeral establishment to cremate or otherwise provide for the lawful disposition of a body in reliance on a document executed pursuant to this section is presumed to be made in good faith.

Inquiry 9: Right of Sepulcher Statute

N.D. Cent. Code Ann. § 23-06-03

1. The duty of final disposition of the body of a deceased individual devolves upon the following individual in the order of priority:
 - a. Any legally competent adult given the duty of final disposition by the deceased individual in a statement conforming with section 23-06-31, except the legally competent adult specified in the statement conforming with section 23-06-31 may decline the duty of final disposition unless the individual would otherwise have the duty of final disposition under this section;
 - b. The surviving spouse if:
 - (1) The deceased was married;
 - (2) The surviving spouse has not been arrested for, or pled guilty or nolo contendere to, or has been found guilty of intentionally and feloniously killing the deceased; and

(3) The surviving spouse has not admitted to or been charged with intentionally and feloniously killing the deceased.

c. If the deceased was not married or was intentionally and feloniously killed by the surviving spouse, or the surviving spouse was arrested for, admitted to, or was charged with intentionally and feloniously killing the deceased, and left kindred, upon the majority of the adult children of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the child who represents to be the sole surviving child or the children who represent to constitute a majority of the surviving children;

d. The surviving parent or parents of the decedent, each having equal authority;

e. The adult sibling or the majority of the adult siblings of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the sibling who represents to be the sole surviving sibling or the siblings who represent to constitute a majority of the surviving siblings;

f. The adult grandchild or the majority of the adult grandchildren of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a grandchild who represents to be the only grandchild reasonably available to control final disposition of the decedent's remains or the grandchildren who represent to constitute a majority of grandchildren reasonably available to control final disposition of the decedent's remains;

g. The grandparent or the grandparents of the decedent, each having equal authority;

h. The adult nieces and nephews of the decedent or a majority of the adult nieces and nephews; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a niece or nephew, who represents to be the only niece or nephew reasonably available to control final disposition of the decedent's remains or the nieces and nephews who represent to constitute a majority of the nieces and nephews reasonably available to control final disposition of the decedent's remains;

i. An individual who was acting as the guardian of the decedent with authority to make health care decisions for the decedent at the time of death;

j. An adult who exhibited special care and concern for the decedent;

k. An individual respectively in the next degree of kinship in the order named by law to inherit the estate of the decedent; or

l. The appropriate public or court authority, as required by law. For purposes of this subdivision, the appropriate public or court authority includes the human service zone of the county in which the death occurred if the individual dies without apparent financial means to provide for final disposition or the district court in the county in which the death occurred. If the duty of final disposition devolves to this level, the appropriate public or court authority may direct final disposition to a mortician or funeral director after the coroner notifies the appropriate public or court authority in writing that no individuals identified in subdivisions a through k have accepted the duty of final disposition. A person identified under this subdivision who exercises the duty of final disposition of the body of a deceased individual is immune from civil liability for any act or omission arising out of the duty of final disposition.

2. If there is only one individual in a degree of relationship to the decedent described in subsection 1, and a district court determines the person and the decedent were estranged at the time of death, the right to control and the duty of disposition devolves to the next degree of relationship under subsection 1. For purposes of this subsection, "estranged" means having a relationship characterized by mutual enmity, hostility, or indifference.