

January 2026: Changes and additions highlighted in blue

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

Idaho Admin. Code § 16.02.10.068

The Division of Public Health Administrator or Health District Director may order a dead human body to be buried or cremated, or prohibit burial or cremation, and may specify a time frame for final disposition to prevent the spread of infectious or communicable diseases or exposure to hazardous substances.

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

Idaho Code § 54-1120

It shall be unlawful for any public transportation agent of any public transportation facility to receive a dead human body for shipment or transportation by any means of transportation or conveyance to or from any point in this state, or to a point outside this state, unless said embalmed human body is accompanied by a permit for final disposition signed by the individual authorized by law to certify the cause of death. Human remains shall not be delivered to a crematory or removed from the casket or other container without the written consent of the person giving the consent to the cremation of the body.

Idaho Administrative Code § 16.02.10.068

The Division of Public Health Administrator or Health District Director may order a dead human body to be embalmed or prohibit embalming to prevent the spread of infectious or communicable diseases or exposure to hazardous substances.

Idaho Administrative Code (IDAPA) 24.08.01.100

- ii. Delay Before Cremation. No dead human body, regardless of cause of death, is to be cremated, unless the county coroner in the county in which the death occurred gives written authorization to cremate the body.
- iii. Embalming. If a dead human body is to be held longer than twenty-four (24) hours prior to burial, cremation, or other disposition, the body must be either embalmed or refrigerated at thirty-six degrees Fahrenheit (36F) or less until buried, cremated, or otherwise disposed of.

Inquiry 3: What Methods of Disposition are Legal in my State?

There is no statute or regulation which lists the methods of disposition legal in Idaho. However, Idaho law mentions burial, entombment, and cremation. (Idaho Code § 54-1102). An Idaho regulation also mentions alkaline hydrolysis.

(Idaho Administrative Code 24.08.01.450).

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?

Idaho Code § 39-260

(1) A certificate of each death which occurs in this state shall be filed with the local registrar of the district in which the death occurs, or as otherwise directed by the state registrar, within five (5) days after the occurrence. However, the board shall, by rule and upon such conditions as it may prescribe to assure compliance with the purposes of the vital statistics act, provide for the filing of death certificates without medical certifications of cause of death in cases in which compliance with the applicable prescribed period would result in undue hardship; but provided, however, that medical certifications of cause of death shall be provided by the certifying physician, physician assistant, advanced practice registered nurse or coroner to the vital statistics unit within fifteen (15) days from the filing of the death certificate. No certificate shall be deemed complete until every item of information required shall have been provided or its omission satisfactorily accounted for. 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 the body is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international 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. 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 shall be determined by approximation. **The person in charge of interment or of removal of the body from the district shall be responsible for obtaining and filing the certificate.** Said person shall obtain the required information from the following persons, over their respective signatures:

- (a) Personal data shall be supplied by the person best qualified to supply them; and
 - (b) Except as otherwise provided, medical data shall be supplied by the physician, physician assistant or advanced practice registered nurse who attended the deceased during the last illness, who shall certify to the cause of death according to his best knowledge, information and belief within seventy-two (72) hours from time of death. In the absence of the attending physician, physician assistant or advanced practice registered nurse or with said person's approval the certificate may be completed and signed by said person's associate, who must be a physician, physician assistant or advanced practice registered nurse, the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, provided such individual has access to the medical history of the case, views the deceased at or after death, and death is due to natural causes.
- (2) The person in charge of interment or of removal of the body from the district shall refer the following cases to the coroner who shall make an immediate investigation, supply the necessary medical data, and certify to the cause of death:
- (a) When no physician, physician assistant or advanced practice registered nurse was in attendance during the last illness of the deceased;
 - (b) When the circumstances suggest that the death occurred as a result of other than natural causes; or
 - (c) When death is due to natural causes and the physician, physician assistant or advanced practice registered nurse who attended the deceased during the last illness or said person's designated associate who must be a

physician, physician assistant or advanced practice registered nurse, is not available or is physically incapable of signing.

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?

Idaho Code § 39-268

- (1) The mortician or person acting as such who first assumes possession of a dead body or stillborn fetus shall make a written report to the registrar of the district in which death or stillbirth occurred or in which the body or stillborn fetus was found within twenty-four (24) hours after taking possession of the body or stillborn fetus, on a form prescribed and furnished by the state registrar and in accordance with rules promulgated by the board. Except as specified in subsection (2) of this section, the written report shall serve as permit to transport, bury or entomb the body or stillborn fetus within this state, provided that the mortician or person acting as such shall certify that the physician, physician assistant or advanced practice registered nurse in charge of the patient's care for the illness or condition which resulted in death or stillbirth has been contacted and has affirmatively stated that said physician, physician assistant or advanced practice registered nurse or the designated associate according to section 39-260(1)(b) or (4)(a), Idaho Code, will sign the certificate of death or stillbirth.
- (2) The written report as specified in subsection (1) of this section shall not serve as a permit to:
 - (a) Remove a body or stillborn fetus from this state;
 - (b) Cremate the body or stillborn fetus; or
 - (c) Make disposal or disposition of any body or stillborn fetus in any manner when inquiry is required under chapter 43, title 19, Idaho Code, or section 39-260(2) or (5), Idaho Code.
- (3) In accordance with the provisions of subsection (2) of this section, the mortician or person acting as such who first assumes possession of a dead body or stillborn fetus shall obtain an authorization for final disposition prior to final disposal or removal from the state of the body or stillborn fetus. The physician, physician assistant, advanced practice registered nurse or coroner responsible for signing the death or stillbirth certificate shall authorize final disposition of the body or stillborn fetus, on a form prescribed and furnished by the state registrar. If the body is to be cremated, the coroner must also give additional authorization. In the case of stillbirths, the hospital may dispose of the stillborn fetus if the parent(s) so requests; authorization from the coroner is not necessary unless the coroner is responsible for signing the certificate of stillbirth.
- (4) When a dead body or stillborn fetus is transported into the state, a permit issued in accordance with the law of the state in which the death or stillbirth occurred or in which the body or stillborn fetus was found shall authorize the transportation and final disposition within the state of Idaho.
- (5) A permit for disposal shall not be required in the case of a dead fetus of less than twenty (20) weeks gestation and less than three hundred fifty (350) grams or twelve and thirty-five hundredths (12.35) ounces where disposal of the fetal remains is made within the institution where the delivery of the dead fetus occurred.

Inquiry 7: Personal Preference Statute

Idaho Code Ann. § 54-1139

(1) A person may provide written instructions as part of a prearranged funeral plan for disposition of the person's remains by any lawful means. The person shall execute the prearranged funeral plan, containing the instructions, as provided in section 54-1133, Idaho Code.

(2) As used in this section, "prearranged funeral plan" means a plan:

(a) For the final disposition of a person's remains; and

(b) That has been funded in advance of the death of the person leaving instructions for the disposition of that person's remains.

(3) A person, as part of a prearranged funeral plan, shall have the authority to sign all necessary or required forms, authorizations or agreements pertaining to the disposition of his remains including, but not limited to, a cremation authorization form.

(4) A person, as part of a prearranged funeral plan, may designate a person to make decisions regarding any substitutions under section 54-1137, Idaho Code.

(5) To the extent any provisions relating to the disposition of a person's remains are not clearly covered in a prearranged funeral plan, then the provisions of section 54-1142, Idaho Code, shall apply. The mere ownership of a burial plot, with or without a headstone or marker, does not constitute a prearranged funeral plan.

Inquiry 8: Designated Agent Statute

Idaho Code Ann. § 54-1142

(1) If the decedent has not made a prearranged funeral plan as set forth in section 54-1139, Idaho Code, or to the extent any provisions relating to the disposition of the person's remains are not clearly covered in a prearranged funeral plan, the right to control the disposition of the remains of a deceased person or to determine provisions not clearly covered in a prearranged funeral plan vests in, and devolves upon, the following in the order named:

(a) The person designated in a written document executed by the decedent and acknowledged in the same manner as required for instruments conveying real property, and subject to such limitations, restrictions, or directions, as may be set forth in such document, or the person designated by the decedent as authorized to direct disposition 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 serving in military service as described in 10 U.S.C. 1481(a)(1) through (8) in any branch of the United States armed forces, United States reserve forces or national guard;

(b) The person designated as agent under a durable power of attorney for health care executed by the decedent, unless such durable power of attorney for health care contains express and clear language denying such right;

(c) The person designated in a durable power of attorney executed by the decedent, if such power of attorney contains express and clear language granting such right to the agent named in such power of attorney;

Inquiry 9: Right of Sepulcher Statute

Idaho Code Ann. § 54-1142

(1) If the decedent has not made a prearranged funeral plan as set forth in section 54-1139, Idaho Code, or to the extent any provisions relating to the disposition of the person's remains are not clearly covered in a prearranged funeral plan, the right to control the disposition of the remains of a deceased person or to determine provisions not clearly covered in a prearranged funeral plan vests in, and devolves upon, the following in the order named:

(a) The person designated in a written document executed by the decedent and acknowledged in the same manner as required for instruments conveying real property, and subject to such limitations, restrictions, or directions, as may be set forth in such document, or the person designated by the decedent as authorized to direct disposition 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 serving in military service as described in 10 U.S.C. 1481(a)(1) through (8) in any branch of the United States armed forces, United States reserve forces or national guard;

(b) The person designated as agent under a durable power of attorney for health care executed by the decedent, unless such durable power of attorney for health care contains express and clear language denying such right;

(c) The person designated in a durable power of attorney executed by the decedent, if such power of attorney contains express and clear language granting such right to the agent named in such power of attorney;

(d) The person acting as guardian of the decedent at the time of the decedent's death, or if no guardian was then acting, the person acting as conservator of the decedent at the time of the decedent's death;

(e) The competent surviving spouse of the decedent;

(f) A majority of the competent surviving adult children of the decedent, provided that less than one-half ($\frac{1}{2}$) of the competent surviving adult children shall be vested with the right to control the disposition of the remains of the decedent if they have used reasonable efforts to notify all other competent surviving adult children of their instructions to dispose of the decedent's remains and are not aware of any opposition to those instructions on the part of more than one-half ($\frac{1}{2}$) of all competent surviving adult children;

(g) The competent surviving parents or parent of the decedent, provided that if one (1) of the competent surviving parents is absent, the remaining competent surviving parent shall be vested with the right to control the disposition of the remains of the decedent after reasonable efforts have been made and are unsuccessful in locating the absent competent surviving parent;

(h) The person appointed by a court of competent jurisdiction as the personal representative or administrator of the estate of the decedent;

(i) The person nominated as the personal representative of the estate of the decedent in the will of the decedent;

(j) The competent adult person or persons entitled to inherit from the decedent under the intestate succession laws of the state of Idaho, respectively in the next degree of kinship, provided that if there is more than one (1) competent surviving adult person of the same degree of kinship, the majority of those persons, and provided further that less than the majority of competent surviving adult persons of the same degree of kinship shall be vested with the right to control the disposition of the remains of the decedent if those persons have used reasonable efforts to notify all other competent surviving adult persons of the same degree of kinship of their

instructions to dispose of the decedent's remains and are not aware of any opposition to those instructions on the part of one-half ($\frac{1}{2}$) or more of all competent surviving adult persons of the same degree of kinship.