

State:	Utah
--------	------

Inquiry 1: How long can I keep the body at home after death and under what conditions?

Utah Admin. Code r. R436-8-4

No human body may be held in any place or be in transit more than 24 hours after death and pending final disposition, unless either maintained at a temperature of not more than 40 degrees Fahrenheit. or embalmed by a licensed embalmer in a manner approved by the State Board of Embalming, or by an embalmer licensed to practice in the state where the death occurred.

Utah Code Ann. § 26B-8-205

Upon notification under Section 26B-8-206 or investigation by the medical examiner's office, the medical examiner shall assume jurisdiction over a deceased body if it appears that death:

- (1) was by violence, gunshot, suicide, or accident;
- (2) was sudden death while in apparent good health;
- (3) occurred unattended, except that an autopsy may only be performed in accordance with the provisions of Subsection 26B-8-207(3);
- (4) occurred under suspicious or unusual circumstances;
- (5) resulted from poisoning or overdose of drugs;
- (6) resulted from a disease that may constitute a threat to the public health;
- (7) resulted from disease, injury, toxic effect, or unusual exertion incurred within the scope of the decedent's employment;
- (8) was due to sudden unexpected infant death;
- (9) occurred while the decedent was in prison, jail, police custody, the state hospital, or in a detention or medical facility operated for the treatment of persons with a mental illness, persons who are emotionally disturbed, or delinquent persons;
- (10) resulted directly from the actions of a law enforcement officer, as defined in Section 53-13-103;
- (11) was associated with diagnostic or therapeutic procedures; or
- (12) was described in this section when request is made to assume custody by a county or district attorney or law enforcement agency in connection with a potential homicide investigation or prosecution.

Utah Code Ann. § 26B-8-206

- (1) When death occurs under circumstances listed in Section 26B-8-205, the person or persons finding or having custody of the body shall immediately notify the nearest law enforcement agency. The law enforcement agency having jurisdiction over the case shall then proceed to the place where the body is and conduct an investigation concerning the cause and circumstances of death for the purpose of determining whether there exists any criminal responsibility for the death.

(2) On a determination by the law enforcement agency that death may have occurred in any of the ways described in Section 26B-8-205, the death shall be reported to the district attorney or county attorney having criminal jurisdiction and to the medical examiner by the law enforcement agency having jurisdiction over the investigation.

(3) The report shall be made by the most expeditious means available. Failure to give notification or report to the district attorney or county attorney having criminal jurisdiction and medical examiner is a class B misdemeanor.

Utah Admin. Code r. R436-8-2

Before removing a dead body or fetus from the place of death, the funeral director or person acting as such shall:

(1) Obtain permission from the next of kin or the custodian of the remains to remove the body or fetus from the place of death, and obtain assurance from the attending physician that death is from natural causes, and that the physician will assume responsibility for certifying to the cause of death or fetal death.

(2) Determine whether the medical examiner has been notified if the death comes within their jurisdiction.

(3) If the medical examiner has not been notified or if that fact is unknown, make the notification and obtain authorization to remove the body.

(4) When the dead body or fetus is being removed from the hospital or other place of death by the next of kin or other person acting as the funeral director, the hospital or other custodian of the body may not release the body until they are presented with a burial-transit permit issued by the appropriate local registrar or the State Registrar.

Inquiry 2: Does my state require the body to be embalmed? Refrigerated?

Utah Admin. Code r. R436-8-4

No human body may be held in any place or be in transit more than 24 hours after death and pending final disposition, unless either maintained at a temperature of not more than 40 degrees Fahrenheit, or embalmed by a licensed embalmer in a manner approved by the State Board of Embalming, or by an embalmer licensed to practice in the state where the death occurred.

Utah Admin. Code r. R436-8-3

(1) Any body shipped by common carrier must be embalmed by a licensed embalmer in a manner approved by the State Board of Embalming.

(2) The body must be placed in either:

(a) a sound casket enclosed in a strong outside shipping case; or

(b) a metal container specifically designed for this purpose.

(3) If the body cannot be embalmed or is in a state of decomposition, it may be shipped only after enclosure in an air-tight metal casket encased in a strong outside shipping case, or in a sound casket encased in an air-tight metal, or metal-lined shipping case.

(4) When a body is to be transported by common carrier, the burial-transit permit shall be attached to the shipping case.

- (5) A body transported by means other than a common carrier must be encased in a container, such as a plastic bag, that ensures against seepage of fluid and the escape of odors.
- (6) Bodies transported by a licensed funeral director in a vehicle used for such purpose do not need to be encased.
- (7) If a dead body is to be transported by means other than a common carrier and for a purpose other than preparation or storage, the burial-transit permit shall be attached to the container in which the body is enclosed or in the possession of the person transporting the body.

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

Utah law mentions burial, cremation, entombment, alkaline hydrolysis, burial at sea, 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?

Utah Code Ann. § 26B-8-207

(2)(a) If the medical examiner has jurisdiction over a body, a person may not clean or embalm the body without first obtaining the medical examiner's permission.

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

Utah Code Ann. § 26B-8-120

- (1) **The custodial funeral service director or, if a funeral service director is not retained, a dispositioner** shall sign the certificate of death prior to any disposition of a dead body or dead fetus.
- (2) The custodial funeral service director, an agent of the custodial funeral service director, or, if a funeral service director is not retained, a dispositioner shall:
- (a) obtain personal and statistical information regarding the decedent from the available persons best qualified to provide the information;
 - (b) present the certificate of death to the attending health care professional, if any, or to the medical examiner who shall certify the cause of death and other information required on the certificate of death;
 - (c) provide the address of the custodial funeral service director or, if a funeral service director is not retained, a dispositioner;
 - (d) certify the date and place of burial; and
 - (e) file the certificate of death with the state or local registrar.
- (3) A funeral service director, dispositioner, embalmer, or other person who removes a dead body or dead fetus from the place of death or transports or is in charge of final disposal of a dead body or dead fetus, shall keep a record identifying the dead body or dead fetus, and containing information pertaining to receipt, removal, and delivery of the dead body or dead fetus as prescribed by department rule.

(4)(a) Not later than the tenth day of each month, every licensed funeral service establishment shall send to the local registrar and the department a list of the information required in Subsection (3) for each casket furnished and for funerals performed when no casket was furnished, during the preceding month.

(b) The list described in Subsection (4)(a) shall be in the form prescribed by the state registrar.

(5) Any person who intentionally signs the portion of a certificate of death that is required to be signed by a funeral service director or a disposer under Subsection (1) is guilty of a class B misdemeanor, unless the person:

(a)(i) is a funeral service director; and

(ii) is employed by a licensed funeral establishment; or

(b) is a disposer, if a funeral service director is not retained.

(6) The state registrar shall post information on the state registrar's website, providing instructions to a disposer for complying with the requirements of law relating to the disposer's responsibilities for:

(a) completing and filing a certificate of death; and

(b) possessing, transporting, and disposing of a dead body or dead fetus.

(7) The provisions of this part shall be construed to avoid interference, to the fullest extent possible, with the ceremonies, customs, rites, or beliefs of the decedent and the decedent's next of kin for disposing of a dead body or dead fetus.

Utah Code Ann. § 26B-8-101

(9) "Disposer" means:

(a) a person designated in a written instrument, under Subsection 58-9-602(1), as having the right and duty to control the disposition of the decedent, if the person voluntarily acts as the disposer; or

(b) the next of kin of the decedent, if:

(i)(A) a person has not been designated as described in Subsection (9)(a); or

(B) the person described in Subsection (9)(a) is unable or unwilling to exercise the right and duty described in Subsection (9)(a); and

(ii) the next of kin voluntarily acts as the disposer.

Utah Code Ann. § 26B-8-114

(1)(a) A certificate of death for each death that 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 days after death and prior to the decedent's interment, any other disposal, or removal from the registration district where the death occurred.

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?

Utah Code Ann. § 26B-8-121

- (1)(a) A dead body or dead fetus may not be interred or otherwise disposed of or removed from the registration district in which death or fetal death occurred or the remains are found until a certificate of death is registered.
- (b) Subsection (1)(a) does not apply to fetal remains for a fetus that is less than 20 weeks in gestational age.
- (2)(a) For deaths or fetal deaths which occur in this state, no burial-transit permit is required for final disposition of the remains if:
- (i) disposition occurs in the state and is performed by a funeral service director; or
 - (ii) the disposition takes place with authorization of the next of kin and in:
 - (A) a general acute hospital as defined in Section 26B-2-201, that is licensed by the department; or
 - (B) in a pathology laboratory operated under contract with a general acute hospital licensed by the department.
- (b) For an abortion or miscarriage that occurs at a health care facility, no burial-transit permit is required for final disposition of the fetal remains if:
- (i) disposition occurs in the state and is performed by a funeral service director; or
 - (ii) the disposition takes place:
 - (A) with authorization of the parent of a miscarried fetus or the pregnant woman for an aborted fetus; and
 - (B) in a general acute hospital as defined in Section 26B-2-201, or a pathology laboratory operated under contract with a general acute hospital.
- (3)(a) A burial-transit permit shall be issued by the local registrar of the district where the certificate of death or fetal death is registered:
- (i) for a dead body or a dead fetus to be transported out of the state for final disposition; or
 - (ii) when disposition of the dead body or dead fetus is made by a person other than a funeral service director.
- (b) For fetal remains that are less than 20 weeks in gestational age, a burial-transit permit shall be issued by the local registrar of the district where the health care facility that is in possession of the fetal remains is located:
- (i) for the fetal remains to be transported out of the state for final disposition; or
 - (ii) when disposition of the fetal remains is made by a person other than a funeral service director.
- (c) A local registrar issuing a burial-transit permit issued under Subsection (3)(b):
- (i) may not require an individual to designate a name for the fetal remains; and
 - (ii) may leave the space for a name on the burial-transit permit blank; and
- (d) shall redact from any public records maintained under this part any information:
- (i) that is submitted under Subsection (3)(c); and
 - (ii) that may be used to identify the parent or pregnant woman.
- (4) A burial-transit permit issued under the law of another state which accompanies a dead body, dead fetus, or fetal remains brought into this state is authority for final disposition of the dead body, dead fetus, or fetal remains in this state.
- (5) When a dead body or dead fetus or any part of the dead body or dead fetus has been donated under Part 3, Revised Uniform Anatomical Gift Act, or similar laws of another state and the preservation of the gift requires the immediate transportation of the dead body, dead fetus, or any part of the body or fetus outside of the registration district in which death occurs or the remains are found, or into this state from another state, the dead body or dead fetus or any part of the body or fetus may be transported and the burial-transit permit required by this section obtained within a reasonable time after transportation.

Inquiry 7: Personal Preference Statute

Utah Code Ann. § 58-9-601

(1) A person may provide written directions, acknowledged before a notary public or executed with the same formalities required of a will under Section 75-2-502, to direct the preparation, type, and place of the person's disposition, including:

- (a) designating a funeral service establishment;
- (b) providing directions for burial arrangements;
- (c) providing directions for cremation arrangements; or
- (d) providing directions for alkaline hydrolysis arrangements.

(2) A funeral service director shall carry out the written directions of the decedent prepared under this section to the extent that:

- (a) the directions are lawful; and
- (b) the decedent has provided resources to carry out the directions.

(3) Directions for disposition contained in a will shall be carried out pursuant to Subsection (2) regardless of:

- (a) the validity of other aspects of the will; or
- (b) the fact that the will may not be offered or admitted to probate until a later date.

(4) A person may change or cancel written directions prepared under this section at any time prior to the person's death by providing written notice to all applicable persons, including:

- (a) if the written directions designate a funeral service establishment or funeral service director, the funeral service establishment or funeral service director designated in the written directions; and
- (b) if the written directions are contained in a will, the personal representative as defined in Section 75-1-201.

Inquiry 8: Designated Agent Statute

Utah Code Ann. § 58-9-602

A person may designate an agent in “in a written instrument, excluding a power of attorney that terminates at death under Section 75A-2-110, if the written instrument is acknowledged before a Notary Public or executed with the same formalities required of a will under Section 75-2-502.”

Utah Code Ann. § 75-2-502

(1) Except as provided in Subsection (2) and in Sections 75-2-503, 75-2-506, and 75-2-513, a will shall be:

(a) in writing;

(b) signed by the testator or in the testator's name by some other individual in the testator's conscious presence and by the testator's direction; and

(c) signed by at least two individuals, each of whom signed within a reasonable time after he witnessed either the signing of the will as described in Subsection (1)(b) or the testator's acknowledgment of that signature or acknowledgment of the will.

(2) A will that does not comply with Subsection (1) is valid as a holographic will, whether or not witnessed, if the signature and material portions of the document are in the testator's handwriting.

Inquiry 9: Right of Sepulcher Statute

Utah Code Ann. § 58-9-602

The right and duty to control the disposition of a deceased person, which may include cremation as well as the location, manner and conditions of the disposition, and arrangements for funeral goods and services to be provided, vests in the following degrees of relationship in the order named, provided the person is at least 18 years old and is mentally competent:

(1) the person designated:

(a) in a written instrument, excluding a power of attorney that terminates at death under Section 75A-2-110, if the written instrument is acknowledged before a Notary Public or executed with the same formalities required of a will under Section 75-2-502; or

(b) by a service member while serving in a branch of the United States Armed Forces as defined in 10 U.S.C. Sec. 1481 in a federal Record of Emergency Data, DD Form 93 or subsequent form;

(2) the surviving, legally recognized spouse of the decedent, unless a personal representative was nominated by the decedent subsequent to the marriage, in which case the personal representative shall take priority over the spouse;

(3) the person nominated to serve as the personal representative of the decedent's estate in a will executed with the formalities required in Section 75-2-502;

(4)(a) the sole surviving child of the decedent, or if there is more than one child of the decedent, the majority of the surviving children; and

(b) less than one-half of the surviving children are vested with the rights of this section if they have used reasonable efforts to notify all other surviving children of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving children;

(5) the surviving parent or parents of the decedent, however:

(a) if one of the surviving parents is absent, the remaining parent is vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving parent; or

(b) if the parents are divorced or separated and the decedent was an incapacitated adult, the parent who was designated as the guardian of the decedent is vested with the rights and duties of this section;

(6)(a) the surviving brother or sister of the decedent, or if there is more than one sibling of the decedent, the majority of the surviving siblings; and

(b) less than the majority of surviving siblings, if they have used reasonable efforts to notify all other surviving siblings of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving siblings;

(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, and if there is more than one person of the same degree, any person of that degree may exercise the right of disposition;

(8) in the absence of any person under Subsections (1) through (7), the person who was the decedent's guardian at the time of death;

(9) any public official charged with arranging the disposition of deceased persons; and

(10) in the absence of any person under Subsections (1) through (9), 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 service director with custody of the body, after attesting in writing that a good faith effort has been made to no avail to contact the individuals referred to in Subsections (1) through (9).