

State:	Arkansas
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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?

Ark. Code Ann. § 20-17-107

- (a) A dead body is not required to be embalmed.
- (b) A dead body that is not buried within forty-eight (48) hours after death shall either be embalmed or refrigerated.
- (c) Embalming or refrigeration is not required when a dead body is to be cremated within forty-eight (48) hours after death.

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

Ark. Code Ann. § 20-17-102

(C) “Final disposition” means the burial, interment, cremation, removal from Arkansas, or other authorized disposition of a dead body or fetus.

Inquiry 4: Are there any circumstances under which I would be required to wait before final disposition?

Ark. Code Ann. § 12-12-319

- (a) It shall be unlawful to embalm a dead body when the body is subject to examination by the State Medical Examiner or his or her associates, assistants, or deputies as provided for in this subchapter, unless authorized by the examiner or his or her associates, assistants, or deputies or unless authorized by the prosecuting attorney of the jurisdiction in which the death occurs to so embalm.
- (b) When a body subject to examination by the examiner or his or her associates has been embalmed without authorization by or prior notice to the examiner or his or her associates, assistants, or deputies as provided for in this subchapter, the Director of the State Crime Laboratory may, at his or her discretion, require an order from the circuit court of the jurisdiction in which death occurred before proceeding with his or her duties and responsibilities under this subchapter.
- (c) Persons violating the provisions of this section shall be deemed guilty of a Class C misdemeanor.

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

Ark. Code Ann. § 20-18-601

(a)(1) A death certificate for each death that occurs in this state shall be filed with the Division of Vital Records or as otherwise directed by the State Registrar of Vital Records within ten (10) days after the death or the finding of a dead body and shall be registered if the death certificate has been completed and filed in accordance with this section.

...

(b) The funeral director or the person acting as the funeral director who first assumes custody of the dead body shall:

(1) File the death certificate and fact-of-death record;

(2) Obtain the personal data from the next of kin or the best qualified person or source available;

(3) Obtain the medical certification from the person responsible for the medical certification, as set forth in subsection (c) of this section; and

(4) Provide a death certificate that contains sufficient information to identify the decedent to the certifier.

(c)(1)(A)(i) The medical certification shall be completed, signed, and returned to the funeral director within three (3) business days after receipt of the death certificate by the physician in charge of the patient's care for the illness or condition that resulted in death, except when inquiry is required by § 12-12-315, § 12-12-318, or § 14-15-301 et seq.

(ii) Except as provided in subsection (i) of this section, a medical certification shall be completed using the electronic process or system designated by the division.

(B)(i) In the absence of the physician or with his or her approval, the certificate may be completed and signed by his or her associate physician, by the chief medical officer of the institution in which death occurred, by the pathologist who performed an autopsy upon the decedent, or by a registered nurse as provided in this subsection, if the individual has access to the medical history of the case and has reviewed the coroner's report, if required, and if the death is due to natural causes.

(ii) The individual completing the cause-of-death section of the certificate shall attest to its accuracy either by a signature as authorized under subsection (i) of this section or by approved electronic process.

(2)(A) The Arkansas State Medical Board shall enforce by rule subdivision (c)(1) of this section concerning the time period in which the medical certification shall be executed.

(B)(i) If a physician refuses or otherwise fails to complete, sign, and return the medical certification to the funeral director within three (3) business days as required by subdivision (c)(1) of this section, the funeral director may notify the board of the failure to complete, sign, or return the medical certification within three (3) business days as required by subdivision (c)(1) of this section.

(ii) The board shall assess against a physician described in subdivision (c)(2)(B)(i) of this section a fine not to exceed two hundred fifty dollars (\$250) unless the physician shows good cause for the refusal or failure.

(3)(A) A registered nurse employed by the attending hospice may complete and sign the medical certification of death and pronounce death for a patient who is terminally ill, whose death is anticipated, who is receiving services from a hospice program certified under § 20-7-117, and who dies in a hospice inpatient program or as a hospice patient in a nursing home or hospital.

(B) An advanced practice registered nurse may complete and sign the medical certificate of death and pronounce death of a patient in a hospital setting if the advanced practice registered nurse is given authority by the medical staff of the hospital and a physician other than an emergency department physician is not immediately available.

(4)(A) If the hospice patient dies in the home, the registered nurse may make pronouncement of death.

(B) However, the coroner and the chief law enforcement official of the county or municipality where death occurred shall be immediately notified in accordance with § 12-12-315.

(5)(A) The Department of Health shall provide hospitals, nursing homes, and hospices with the appropriate death certificate forms, which will be made available to the certifier of death through an approved electronic process or system or another process designated by the division under subsection (i) of this section.

(B) When death occurs outside these health facilities, the funeral home shall provide the death certificate to the certifier of death through an approved electronic process or system or another process designated by the division under subsection (i) of this section.

(d)(1) If the cause of death appears to be other than the illness or condition for which the deceased was being treated

or if inquiry is required by either of the laws referred to in subsection (c) of this section, the case shall be referred to the office of the State Medical Examiner or coroner in the jurisdiction where the death occurred or the body was found for investigation to determine and certify the cause of death through an approved electronic process or system or another process designated by the division under subsection (i) of this section.

(2) If the State Medical Examiner or county coroner determines that the case does not fall within his or her jurisdiction, he or she shall within twenty-four (24) hours refer the case back to the physician for completion of the medical certification.

(e)(1) When inquiry is required by either of the laws referred to in subsection (c) of this section, the State Medical Examiner or coroner in the jurisdiction where the death occurred or the body was found shall determine the cause of death and shall complete and sign the medical certification within forty-eight (48) hours after taking charge of the case.

(2) A medical certification completed and signed by the State Medical Examiner or coroner shall be completed using an approved electronic process or system or another process designated by the division under subsection (i) of this section.

(f)(1) If the cause of death cannot be determined within the time periods under subsection (c) or subsection (e) of this section, the medical certification shall be completed as provided by rule.

(2) The attending physician, State Medical Examiner, or county coroner shall give the funeral director or person acting as the funeral director notice of the reason for the delay, and final disposition of the dead body shall not be made until authorized by the attending physician or State Medical Examiner or county coroner.

(g) When a death is presumed to have occurred within this state but the dead body cannot be located, a death certificate may be prepared by the state registrar only upon receipt of an order of a court of competent jurisdiction, which shall include the finding of facts required to complete the death certificate. Such a death certificate shall be marked "PRESUMPTIVE" and shall show on its face the date of death as determined by the court and the date of registration and shall identify the court and the date of the decree.

(h) Upon receipt of autopsy results or other information that would change the information in the cause-of-death section of the death certificate from that originally reported, the certifier immediately shall file a supplemental report of cause of death with the division in order to amend the record.

(i)(1) Upon request, the department may grant a waiver from the requirement of subdivision (c)(1)(A)(ii) of this section that a medical certification be completed using an electronic process or system if a person requesting the waiver:

(A) Regularly signs fewer than ten (10) medical certifications per year; or

(B) Shows other good cause for a waiver as determined by the department in its discretion.

(2) A physician who is granted a waiver under subdivision (i)(1) of this section:

(A) Shall not be fined under subdivision (c)(2)(B) of this section for failure to submit medical certification using an electronic process or system; and

(B) Is liable for failure to submit a medical certification in a timely manner under subdivision (c)(1)(A)(i) of this section.

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?

Ark. Code Ann. § 20-18-604

(a) The funeral director **or the person acting as the funeral director** who first assumes custody of a dead body shall obtain authorization for final disposition of the dead body as provided in the rules.

(b) Prior to final disposition of a dead fetus, irrespective of the duration of pregnancy, the funeral director, the person in charge of the institution, **or other person assuming responsibility for final disposition** of the fetus shall obtain from the parents authorization for final disposition on a form prescribed by the State Registrar of Vital Records.

- (c) With the consent of the physician or State Medical Examiner or county coroner, who is to certify the cause of death, a dead body may be moved from the place of death for the purpose of being prepared for final disposition.
- (d) An authorization for final disposition issued under the law of another state which accompanies a dead body or fetus brought into this state shall be authority for final disposition of the dead body or fetus in this state.
- (e) Authorization for disinterment and reinterment shall be required prior to disinterment of a dead body or fetus. The authorization shall be issued by the state registrar to a licensed funeral director or person acting as such upon proper application.

Inquiry 7: Personal Preference Statute

Ark. Code Ann. § 20-17-102

(b)(1)(A) Except as provided under subdivision (b)(2) of this section, an individual of sound mind and eighteen (18) or more years of age may execute at any time a declaration specifying the final disposition of his or her bodily remains at his or her death, provided the disposition is in accordance with existing laws, rules, and practices for disposing of human remains.

(B) The declaration of final disposition executed under this section shall be signed by the declarant or another at the declarant's direction and shall be witnessed by two (2) individuals.

(C) Additional consent of any other person is not required if the declaration of final disposition contains a disposition authorized under this section and is otherwise valid under this section.

Inquiry 8: Designated Agent Statute

Ark. Code § 20-17-102(d)(1)

[The statute provides that a person may appoint a Designated Agent in a declaration.]

(B) The declaration of final disposition executed under this section shall be signed by the declarant or another at the declarant's direction and shall be witnessed by two (2) individuals.

(C) Additional consent of any other person is not required if the declaration of final disposition contains a disposition authorized under this section and is otherwise valid under this section.

Inquiry 9: Right of Sepulcher Statute

Ark. Code Ann. § 20-17-102

(d)(1) The right to control the disposition of the remains of a deceased person, the location, manner, and conditions of disposition, and arrangements for funeral goods and services to be provided vests in the following in the order named if the person is eighteen (18) years of age or older and is of sound mind:

(A) First, if the decedent died while serving in any branch of the United States Armed Forces, the National Guard, or a reserve component of the armed forces, the decisions regarding the final disposition for the decedent shall be made by

the person authorized to direct disposition on the DD Form 93 completed by the decedent prior to death;

(B) Second, a person appointed by the decedent in the decedent's declaration of final disposition executed before his or her death, in accordance with this section;

(C) Third, the surviving spouse;

(D) Fourth, the sole surviving child of the decedent or if there is more than one (1) child of the decedent, the majority of the surviving children;

(E)(i) Fifth, the surviving parent or parents of the decedent.

(ii) If one (1) of the surviving parents is absent, the remaining parent shall be vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving parent;

(F) Sixth, the surviving brother or sister of the decedent or if there is more than one (1) sibling of the decedent, the majority of the surviving siblings;

(G) Seventh, the surviving grandparent of the decedent or if there is more than one (1) surviving grandparent, the majority of the grandparents;

(H) Eighth, the surviving grandchild of the decedent or if there is more than one (1) surviving grandchild, the majority of the grandchildren;

(I) Ninth, the guardian of the person of the decedent at the time of the decedent's death, if one had been appointed;

(J)(i) Tenth, 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.

(ii) If there is more than one (1) person of the same degree, any person of that degree may exercise the right of disposition;

(K) Eleventh, any representative of state government or a political subdivision of state government that has the statutory obligation to provide for the disposition of the remains of the decedent, including, but not limited to, any entity authorized to take possession of the remains under § 20-17-701 et seq.; and

(L) Twelfth, if the decedent is a veteran of any branch of the United States Armed Forces, the National Guard or a reserve component of the armed forces, a representative of the Department of Veterans Affairs, the United States Department of Veterans Affairs, or a veterans service organization as defined in the Missing in America Project Act, § 20-17-1401 et seq., that has statutory authority to direct or provide for the disposition of the remains of the decedent or to take possession of the remains under the Missing in America Project Act, § 20-17-1401 et seq.

(2) In the absence of any person under this subsection, any other person willing to assume the responsibilities to act and arrange the final disposition of the decedent's remains, including without limitation the personal representative of the decedent's estate or the funeral 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 under this subsection.

(3)(A) Within each class, less than the majority of the class shall be vested with the rights of this section if they have used reasonable efforts to notify all other members of the class of their instructions and are not aware of any opposition to those instructions on the part of more than one-half (½) of all surviving children.

(B) In this subdivision (d)(3), "class" means surviving children, siblings, grandparents, or grandchildren, where applicable.