

Some Regulations on Final Disposition and Procedures in MD, DE, and DC – by John Rizos

Death Certificates

Maryland. In Maryland, there are two ways to obtain a death certificate: a) through a funeral director; b) by application to the Department of Health & Human Services, Division of Vital Records, from a personal representative, legal guardian, family member, or person designated by the deceased in an advance directive.

If you are an individual designated by the deceased in his or her advance directive, then you may complete and file the death certificate yourself. The death certificate must be filed with the Department of Health and Mental Hygiene within 72 hours of the death. The doctor, assistant, nurse, medical examiner must complete medical portion of death certificate within 24 hours of its filing.

Washington, DC. On the other hand, in Washington, DC, only a funeral director may complete a report of death to the local office of vital records. The medical portion must be completed within 48 hours of its filing by a doctor, chief medical officer, or an approved medical provider.

DC now uses an electronic death registration system, but you can still obtain paper death certificates from the attending physician or a medical examiner. This person will supply the date, time, and cause of death before returning the certificate for completion and filing.

Delaware. In Delaware, the funeral home, mortuary, cremation organization, or other person in charge of the deceased person's remains will prepare and file the death certificate with the local or state vital records office within three days and before the body is buried or cremated.

When an official death investigation is not required, the attending physician or registered nurse must complete the medical certification on the death certificate within 48 hours after death. If the cause of death cannot be determined within 48 hours, the attending physician or medical examiner files a pending death certificate and orders a toxicology study. In that case, the Division of Forensic Science assumes custody of the body and completes a revised death certificate.

In all of these jurisdictions, if an official death investigation is required by law, the medical examiner determines the cause of death, completes the death certificate, and files it with the Office of Vital Statistics.

Final Disposition of the Body

Maryland requires that bodies be buried in an established cemetery or in a family burial plot or other area allowed by a local ordinance. Before establishing a family cemetery, check with the county health department and the county or town clerk for any local laws you must follow.

In Maryland and Delaware, most bodies are buried in established cemeteries, but there are no state laws that prohibit burial on private property. Local governments may have rules and zoning ordinances governing private burials. Before burying a body on private land or establishing a family cemetery, you should check county and city zoning ordinances and obtain a burial permit. (16 Delaware Health and Social Services Administrative code, Part 4204 5 2.0). In Washington, DC, on the other hand, bodies must be buried in established cemeteries.

In the District of Columbia, bodies must be buried in established cemeteries. (D.C. Code 5 43121 (2019).) Because of D.C.'s urban environment, home burial which would require establishing a new family cemetery -- probably won't be possible. The funeral director will need to obtain a permit before transporting the body. Additionally, the funeral director must obtain a separate permit from the medical examiner before a body can be cremated. D. C. Code 5 7-231-17 (2019).) However, there are no laws in D.C. restricting the disposition of the ashes. (D.C. Municipal Regulations 5 29-2815 (2019).)

Is a casket necessary for burial or cremation?

Burial. No law in Maryland, Delaware, or Washington, DC requires a casket for burial in most instances. Maryland law merely holds that a simple container may be necessary (Maryland Code, Health-General, 5 5-505).

However, you should check with the cemetery; it may have rules requiring a certain type of container. Additionally, in Delaware, if you are shipping the body and it will not reach its destination within 24 hours of death, you must use a metal and permanently sealed casket or outside case. The same rule applies if the person died from an infectious disease. (16 Delaware Health and Social Services Administrative Code, Part 4204 55 6.0 and 7.0)

Cremation. No law requires a casket for cremation. On the contrary, federal law requires a funeral home or crematory to inform you that you may use an alternative container, and to make such containers available to you. **An alternative** container may be made of unfinished wood, pressed wood, fiberboard, or cardboard.

Some crematories require that you use a funeral director to arrange cremation. If you don't want to use a funeral director, make sure the crematory is willing to accept the body directly from the family.

The burial-transit permit also authorizes cremation no additional permit is required. (Maryland Code, Health-General, 5 4-215 (2018).) However, there is a required waiting period of 12 hours before cremation may occur. (Code of Maryland Regulations 09.34.08.07 (2018).)

Storing or Scattering Ashes

Storing. There are no laws in Maryland, Delaware, or Washington, DC that restrict the storage or disposition of ashes. According to Delaware state law, cremated remains may be "disposed

of in such a way as is desired by the person receiving them." (16 Delaware Code 5 3161.) Maryland and DC laws mirror the language in Delaware. Additionally, ashes may be stored in a crypt, niche, grave, or container at home.

Scattering. If you wish to scatter ashes, you have many options. Cremation renders ashes harmless, so there is no public health risk involved in scattering ashes.

If scattering ashes at sea, the federal Clean Water Act requires that cremated remains be scattered at least three nautical miles from land. If the container will not easily decompose, you must dispose of it separately. The EPA does not permit scattering at beaches or in wading pools by the sea. Finally, you must notify the EPA within 30 days of scattering ashes at sea. The Clean Water Act also governs scattering in inland waters such as rivers or lakes. For inland water burial, you may be legally required to obtain a permit from the state agency that manages the waterway.

While there are no state laws on scattering ashes by air, federal aviation laws do prohibit dropping any objects that might cause harm to people or property. The U.S. government does not consider cremains to be hazardous material; all should be well so long as you remove the ashes from their container before scattering.

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