



FORT SILL LEGAL ASSISTANCE



FUNERALS IN OKLAHOMA

What can be done prior to death occurring?

Record your wishes and advise family members. Any person has the right to direct the manner in which his or her body shall be disposed of after death by executing a sworn affidavit according to Title 21, Oklahoma Statutes, Section 1151.

Who is responsible to make the funeral arrangements?

A spouse, next of kin or legal representative generally can make arrangements for disposition of the deceased. Title 21, Oklahoma Statutes, Section 1158 provides succession laws regarding the next of kin. Generally the next of kin are in the following order: spouse, adult children, parents, and brother(s) and/or sister(s). Exceptions may apply in certain situations; you may wish to consult an attorney in these cases.

What are the available methods of disposition?

Human remains can be buried, entombed, cremated, or donated for scientific study.

What is embalming and its purpose?

Embalming is the use of chemicals, internally and externally, to disinfect and temporarily preserve the body for open casket viewing and/or for the removal of the body to distant destinations.

Does the law require that a dead human body be embalmed?

No. It does require un-embalmed dead bodies shall be buried or otherwise disposed of within 24 hours after death unless refrigeration facilities are available. Although not a state law, many funeral homes will require a body be embalmed if you select a service that includes viewing of the remains. Likewise most airlines and other common carriers will require that a body be embalmed prior to shipping and the laws of the destination state will apply.

How are remains donated for scientific study?

Donation of human bodies to medical institutions can be made to the State Anatomical Board at P.O. Box 26901, Oklahoma City, OK 73190-3040, telephone (405) 271-2424.

Can a body be cremated immediately following death?

No. In addition to cremation authorization signed by the next of kin, Oklahoma requires a special permit from the State Medical Examiner before a body can be cremated.

What is done with cremated remains?

Cremated remains may be disposed of in a number of ways: buried in a cemetery, placed in a niche in a columbarium, kept by the family in their home, or scattered on private land with the consent of the property owner.

Can a family bury on their own property?

The Oklahoma Funeral Board does not have jurisdiction over cemeteries. Generally, local ordinances, zoning laws, or deed restrictions prohibit burials outside a cemetery within city limits. If you anticipate burial on private property, contact your attorney for guidance. The requirements to establish a cemetery are found in Title 8, Oklahoma Statutes, Section 181, et seq.

How can I learn about funeral costs?

Inquire by telephone or visit the funeral home in person. Any consumer entering a funeral home making inquiries is entitled to receive the General Price List itemizing the costs of funeral services and the merchandise for sale. When comparing prices, evaluate similar goods and services as well as total price, quality, and value. Depending upon the arrangements you select, the total cost can vary from several hundred to several thousand dollars. The price for a direct cremation or direct burial without any ceremonies can be quite a bit less than a funeral service with visitation, embalming and a casket. Some funeral directors offer "package pricing" in addition to, not in place of, itemized pricing. The package should list individually each of the goods and services included in the package and state the package price. At the conclusion of the arrangement conference you must be given a written Statement of Funeral Goods and Services Selected. It lists the items you selected and the cost of each item. In addition to the funeral homes charges for service and merchandise, the funeral director may help in coordinating items provided by a third party as a convenience to their clients. These may include such things as cemetery or crematory services, permits, transportation, honorariums, flowers, obituary notices, certified death certificates etc. You may have to pay these other parties directly prior to the funeral or final disposition of the body.

Choosing a casket and outside enclosure

Caskets and outside enclosures are not required by law. A casket or alternative container (such as a cardboard box or unfinished wood box) is a practical necessity for transporting the body for burial or cremation. There is no direct relationship between the protective features of the casket and the preservation of the body. Outside enclosures are designed to enclose the casket and support the weight of the grave and are required by most cemeteries.

What should I know about prepaid funerals?

Prepaid contracts for funerals are governed by Title 36, Oklahoma Statutes, Section 6121 et seq., and are under the jurisdiction of the Oklahoma Insurance Department. The contracts vary in terms and coverage and should be reviewed carefully before signing. You can find additional information regarding funeral laws in Oklahoma at the Oklahoma Funeral Board's web site <http://ok.gov/funeral/>.

Who do I contact for complaints against a funeral director, embalmer, or a funeral establishment?

First, discuss your problem with the funeral director and/or management of the funeral establishment. Next, you may contact the State Board of Embalmers and Funeral Directors. Complaints must be filed in writing, signed by the complainant, and specify the exact nature and circumstances of the problem, as well as how the problem may be corrected. Enclose copies of all pertinent documents you may have received from the funeral establishment. After receiving the complaint, the complaint will be acknowledged in writing, and respondent given the opportunity to respond to the allegations. The Board's executive committee will review the complaint and response to determine whether an investigation is warranted. If warranted, an investigation will be made and a summary of the complaint sent to Board members. If there are reasonable grounds for belief that a violation may have occurred, the matter will be forwarded to the State Attorney General. It may be set for a hearing before the Board. There is a possibility that the person who filed the complaint and other parties will need to appear at the hearing, but this is not always the case. You will be given ample notice should your presence at the hearing be required. This process may take up to three months or longer in certain situations. The Board will make findings of fact and conclusions of law based on the evidence presented at the hearing and will enter an order. The maximum penalty the Board may impose is a \$10,000 fine and revocation of license. The Board does not have the authority to award damages, settle contractual disputes, or offer legal advice. Contact an attorney regarding these matters.

If I have a complaint against a cemetery, monument company, vault company or grave digger who should I contact?

You should contact the Consumer Protection Division, Attorney General of Oklahoma, State Capitol, Room 112, Oklahoma City, OK 73105. Telephone: (405) 521-4274. The State Board of Embalmers and Funeral Directors does not have jurisdiction over cemeteries, monument companies, vault companies, or grave diggers in Oklahoma.

If I have a complaint regarding a prepaid funeral who should I contact?

Contact the Oklahoma Insurance Department, Prepaid Funeral Benefits Division, 2401 NW 23rd, Ste. 28, Oklahoma City, OK 73107. Telephone: (405) 521-2828 or (800) 522-0071. Also see www.oid.state.ok.us.

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This Information Paper provides only basic information and is not intended to serve as a substitute for personal consultation with a Legal Assistance Attorney. To schedule an appointment with a Legal Assistance Attorney, please contact the Legal Assistance Office at (580) 442-5058. The Fort Sill Legal Assistance Office is located on the 4th Floor of Building 4700 (Welcome Center) at 4700 Mow-Way Road, Fort Sill, Oklahoma 73503.