



A Guide for Friends & Family of Recently Deceased New Yorkers

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About This Guide

The Volunteers of Legal Service (VOLS) Elderly Project/Veterans Initiative created this guide to provide information on how low-income persons and their social workers and other service providers can make arrangements pertaining to the disposition of bodily remains after death. It includes information regarding burial assistance and funeral planning, as well as information about alternative arrangements, like body/organ donation, etc.

You can download a copy of the Guide by going to www.volsprobono.org/projects/elderly.

This guide was compiled and edited by the staff of the Volunteers of Legal Service Elderly Project, including Peter Kempner, Jess Penkoff, Alyssa Villareal, and Gloria Rosario.

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About VOLS

VOLS provides *pro bono* civil legal services to low income New Yorkers in partnership with volunteer attorneys. We identify areas of legal need, develop programs to meet these needs, and recruit and train volunteer lawyers to provide the necessary legal services. You can learn more about VOLS by visiting our website at www.volsprobono.org.

About the VOLS Elderly Project and Veterans Initiative

The VOLS Elderly Project and Veterans Initiative provides free civil legal services to low income New Yorkers age 60+ by partnering with pro bono attorneys to provide wills, powers of attorney, and other essential life planning documents free of charge. These documents enable our clients to maintain income and avoid homelessness, ensure that their dying wishes are fulfilled, and enable our clients' caregivers to provide the care and services necessary for our clients to access health care and age in place. Elderly Project staff attorneys also provide advice and counsel on landlord-tenant issues, as well as providing advice and referrals on a range of other issues. We also provide trainings and ongoing support to social workers, senior center staff, and pro bono attorneys to address clients' legal needs.

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Part 1 – Advance Directives and Long Term-Planning

Volunteers of Legal Service provides the documents in this section free of charge to low-income New Yorkers and Veterans who are age 60 or older. We also provide these documents free of charge to essential workers on the frontlines of the COVID-19 crisis. To apply for our services and obtain these documents, please contact us:

- Visit volsprobono.org/elderly and download our intake form
- Call (347) 521-5704 (seniors and essential workers) or (347) 521-5725 (senior veterans)

Last Will & Testament

If you have a Last Will & Testament in place at the time of your death, in the eyes of the law, you have died “**testate**” and you are the “**testator**.” Your Will then describes how to distribute your estate amongst whomever you choose to be your beneficiary, meaning all property solely owned by you. Your Will may also designate an executor/s to be in charge of carrying out your wishes.

If you die without a Will, you will have died “**intestate**,” which means that the New York Estates Powers and Trusts Law will dictate how your estate shall be distributed, as well as who may petition to become the administrator of your estate to distribute your assets. The administrator may not be someone that you would have chosen yourself.

Choosing an Executor

Drafting a Last Will & Testament allows you to choose the person who takes on the responsibilities of fulfilling your wishes. This person is called the executor. You should choose someone who is not only trustworthy and dependable, but has the time and energy to fulfill the important duties you are entrusting to them. You may designate more than one executor (called “co-executors”). You may also choose a backup executor/s in the event your executor or co-executors become unable or unwilling to serve in this role.

Advance Directives

Advance directives - such as a health care proxy, living will, and power of attorney - help those you trust to know what extraordinary medical measures you wish to accept or refuse.

Health Care Proxy¹ – With this form, you can select a person to make health care decisions on your behalf if you become unable to make or communicate your own decisions. You may

¹ N.Y. PUB. HEALTH LAW § 2980 *et seq.* Copies of the official Health Care Proxy forms in six languages can be found at https://www.health.ny.gov/professionals/patients/health_care_proxy/index.htm.

appoint anyone over 18 to serve as your health care agent, except you may not select your attending physician, certain staff members of the hospital or assisted living facility where you are admitted, and likely any home health aides or social workers of yours. Only one person can serve as your health care agent, but you may pick an alternate in case your first choice cannot serve. When your Health Care Proxy goes into effect, your doctors must respect the decisions of your health care agent as if they were your own decisions. You must expressly give your health care agent the power to make decisions about artificial nutrition and hydration on your behalf, which you can do on the Health Care Proxy form. The form requires the signatures of two witnesses over the age of 18. You may revoke the Health Care Proxy at any time.

You should also execute a HIPAA release along with your Health Care Proxy. The release will enable your health care providers to share information about your medical record with the agent under your Health Care Proxy.

Living Will² – This is a document where you can lay out the type of care that you do or do not want to receive in the event that you are in a terminal condition. In this document you may indicate, for example, whether or not you wish to be intubated, or whether or not you wish to receive maximum pain relief, or whether or not you wish to receive antibiotics, etc. It is often used in conjunction with your Health Care Proxy form. It requires the signatures of two witnesses over the age of 18 and can be revoked at any time.

Power of Attorney³ – With this form, you can give someone – your agent - the ability to make financial and other non-health care related decisions on your behalf during your lifetime. You can give this person broad or very limited powers. Both you and your agent must sign the document in the presence of a notary before the document can be used. It can be revoked by completing a Revocation of Power of Attorney and by informing your agent/s in writing.

Appointment of Agent to Control Disposition of Remains⁴ – This form allows you to appoint an agent to oversee the disposition of your remains, regardless of family relationships. If you appoint an agent, you should make sure that you fully trust this person to carry out your final wishes. Appointing someone as an agent does not obligate them to pay for the funeral expenses in any way. You may also appoint successors in case the agent dies, resigns, or cannot act on your wishes. Two witnesses over the age of eighteen must witness the signing of the form before it may be used.

² New York does not have a law providing for Living Wills, but the New York Court of Appeals has held that Living Wills are valid as long as they provide “clear and convincing” evidence of the person’s wishes. *See In re Westchester County Med. Ctr. ex rel. O’Connor*, 72 N.Y.2d 517 (Ct. App. 1988).

³ N.Y. GEN. OB. LAW § 5-1501 *et seq.*

⁴ N.Y. PUB. HEALTH LAW § 4201.

Pre-Paid Funeral Plans & Pre-Planned Funerals

Pre-Paid Funeral Plans

It is possible to establish a pre-paid funeral plan with a funeral home. This allows one to review and decide on burial choices before the need to do so becomes urgent, and spares relatives and loved ones the emotional distress that can accompany decisions made after your passing which are sometimes made in haste.

There are a lot of advantages to pre-paying for your funeral. However, there are also some disadvantages, the main one being that your money will be in control of the funeral home. While there are extensive laws protecting your money, the fact that you are not in control can still be risky.⁵

There are several steps to be taken to further protect your money when prepaying for your funeral:

1. Make sure you have a pre-need agreement for services.
2. Let someone you trust know that you have pre-paid for your funeral arrangements, and tell them the name of the funeral home that controls your money. Give this person as much knowledge as necessary to make sure that your agreed-upon arrangements are being carried out.
3. Always deal with a funeral home with which you know and are comfortable with, or that someone you trust knows and is comfortable with.
4. Know how and where your money is being deposited.
5. Keep a receipt in a safe place, especially if you pay in cash.

When creating a pre-paid funeral plan, you will see three key documents:

1. The funeral director must show you a **General Price List** before you select services or items, just as it must when you prepare for a funeral postmortem.
2. You will fill out a **Pre-Need Itemization Statement** indicating your choices. Some areas can be left blank and filled in later by you or your next of kin when the need arises.
3. You will be furnished with a **Pre-Need Agreement** stating your rights and obligations. This document must state how the principal and the interest will be applied against the cost of the funeral.

Note: Pre-paid plans typically do *not* cover third-party costs such as cemetery or crematory fees, death certificates, and clergy fees. While some funeral homes might allow you to pre-pay for these services, most will not, as they are not in control of the prices or price increases. You may be able to contact the cemetery, clergy, and others directly to pre-pay or pre-arrange these services.

⁵ N.Y. GEN. BUS. LAW § 453; N.Y. PUB. HEALTH LAW § 3442.

What happens with your money?

The funeral director must deposit your money within ten days in an interest-bearing account or a government-backed investment, such as U.S. treasury bills. The funeral director then must notify you within 30 days of when your money has been deposited, as well as where it has been deposited.

Every January, you will receive an IRS form 1099-INT (or equivalent) that will tell you the state of your pre-paid account. Make sure to review this information each year.

Upon your written request, the funeral home must tell you the total value of your account, including principal and interest. You will be responsible for paying income taxes on the interest earned by this account, as it is still your money.⁶

Guaranteed and non-guaranteed funerals:

Your pre-paid plan can provide for either a **guaranteed** or **non-guaranteed** funeral.

A **guaranteed** funeral means the funeral home commits to supplying the services you chose for the amount of money available in your account. The principal and interest constitute full payment for the chosen services. A guaranteed plan is not affected by any future increase in prices, so your estate will not have to pay anything extra.

A **non-guaranteed** funeral will be billed at the *current* cost when the funeral is performed. Any additional costs that might have accrued since prepaying will be billed to the estate. The funeral home does not commit to accepting the amount available in your prepaid funeral account at the time of death as full payment for the goods and services selected as part of the prepaid agreement.

Irrevocable and revocable pre-paid funeral plans:

Pre-paid plans can be either **revocable** or **irrevocable**. Both types are monitored by the New York State Department of Health to insure compliance with the law.

A **revocable** pre-paid funeral agreement is changeable or revocable at any time, allowing you to get a refund if your wishes change.

An **irrevocable** pre-paid funeral agreement is non-changeable and non-refundable. You may still change funeral homes if you have an irrevocable plan. Any leftover funds after your selected services are provided will go to the indigent care burial fund for the county in which you reside at the time death.⁷

Your pre-paid funeral agreement must be irrevocable if you are applying for Medicaid or Supplemental Security Income (SSI).⁸ These funds will not count toward your assets for eligibility determinations.⁹ Both SSI and Medicaid have strict financial eligibility requirements. Establishing a pre-paid irrevocable account with a funeral home allows one to contract in

⁶ N.Y. GEN. BUS. LAW § 453.

⁷ N.Y. GEN. BUS. LAW § 453 (11)(a)

⁸ N.Y. GEN. BUS. LAW § 453(1)(d); N.Y. SOC. SERV. LAW §§ 209(6), 366(2)(a)(3).

⁹ 20 C.F.R. § 416.1231.

advance for their exact burial/cremation wishes and, at the same time, not compromise Medicaid and SSI eligibility.

An irrevocable agreement may contain both “burial space” items and “non-burial space items.” **Burial space items** include a casket, burial plot, and the cost of opening and closing the gravesite. **Non-burial space items** include embalming, funeral transportation, burial clothes, death notices, flowers, and the like.

Supplemental burial funds:

Additionally, if you do not have an irrevocable pre-need funeral agreement or have less than \$1,500 designated for non-burial space items in your pre-need funeral agreement, you may establish a supplemental burial fund that will not affect SSI eligibility. This money must be set aside in specifically designated account and cannot be used for any other purpose. The supplemental fund can have a maximum initial value of \$1,500 (or \$3,000 for a couple).

If the pre-paid funeral plan covers non-burial space items, the maximum amount you can place in the supplemental burial fund without affecting your eligibility for benefits will be reduced by the amount spent on non-burial space items. If you have life insurance, the total combined face value of the life insurance and the supplemental burial fund cannot exceed \$1,500.¹⁰

PrePlan accounts:

Many local funeral homes use PrePlan Trust, the pre-paid planning service used by the New York State Funeral Directors Association. Here’s how it works:

1. You meet with a funeral director who offers PrePlan.
2. You select the funeral and merchandise of your choice.
3. You receive a fully itemized statement and preneed agreement.
4. All preneed agreements are revocable unless you are an applicant for or recipient of SSI/Medicaid benefits.
5. You give the funeral director a check payable to PrePlan. (If you are SSI/Medicaid eligible, notify your caseworker that you have properly preserved assets for your burial expenses through PrePlan. This will be an irrevocable account.)
6. Within ten days, the funeral director sends the agreement and the check to PrePlan for deposit.
PrePlan funds are placed in FDIC-insured Certificates of Deposit held in a New York financial institution.
7. You receive a deposit acknowledgment within 30 days after the account has been opened.
8. Your account begins earning interest. A minimal fee is charged to your PrePlan account for its administration, similar to other investments.
9. At the end of the year, you receive an annual summary statement, as well as a form from the IRS for your tax reporting.
10. Upon completion of your funeral, PrePlan sends the payment directly to the funeral home.

¹⁰ 11 OHIP/ADM-4 - Treatment of Irrevocable Pre-Need Funeral Agreements, N.Y. DEP’T OF HEALTH (July 11, 2011), https://www.health.ny.gov/health_care/medicaid/publications/adm/11adm4.htm.

Pre-Planned Funerals

Even if you do not pre-pay for your funeral, it is possible to pre-plan your funeral. This allows you to decide for yourself the type of ceremony you would like. It will also relieve those you leave behind of the stress of arranging a funeral when the occasion arises. You can speak to a funeral director for assistance in pre-planning your funeral. Funeral directors will be able to assist you in pre-planning your funeral in the same way they help those planning for a loved one who has passed away.

Feel free to contact several funeral homes before settling on one. Many will be willing to send you a brochure with the services they offer and a description of their facilities. They may also send their General Price List to you for consideration. You should bear in mind that the prices of the services you are considering may rise before you need them.

Also, the funeral home of your choice may go out of business or be bought by a corporation. You should select a funeral home with a good reputation. Speak to family and friends before making a decision.

Once you have selected a funeral home, the funeral director must, by law, furnish you with a General Price List *before* you make your selection of services and items.¹¹ Although prices may change, it will give you a good idea of the prices, as well as a relative pricing of the items. Bear in mind that even if selecting the funeral home for its services, you may purchase a casket from a third party.

Once you have decided on a funeral plan, make sure to let your family and loved ones know. This will avoid confusion and delay. As arrangements are usually made soon after passing, if your plans are not pre-known, they might not be found until after the funeral has taken place. Make sure the name of the funeral home, its phone number, and the specific plans you have settled upon are known to anyone who may be involved in the decision making process after you pass. These may include your spouse, children, parents, social workers, aides, and medical professionals.

You should consider providing a written instrument to appoint an agent to control the disposition of your remains, discussed above in the section regarding the Appointment of Agent to Control Disposition of Remains. Absent this agreement, the New York Public Health Law dictates who is given control.¹²

Payment from the deceased's bank account:

It may be possible to pay funeral expenses from the deceased's bank account before going to Surrogate's Court (described in Part IV). This will depend on the individual bank's policy on this issue. Some banks will allow the next of kin to authorize this kind of payment, and some will not. Ask the funeral director for more information about this possibility.

Some paperwork will likely be required, including the name, address, and signature of *all* authorized next of kin on a "Funeral Expense Indemnification Agreement." The heirs will have to give assurances that there are no pending conflicts over the estate of the recently deceased

¹¹ 16 C.F.R. § 453.

¹² N.Y. PUB. HEALTH LAW § 4201.

person and that no one will protest the allocation of funds for funeral expenses by the bank. Any money will have to be paid directly from the bank to the funeral home and only for receipted expenses. Therefore, an itemized expense list will have to be given to the bank, as well as a Death Certificate.

Funeral insurance:

There is no standard type of funeral insurance. However, if you do not have life insurance, you can purchase final expense insurance with the intention of using the proceeds to cover funeral expenses. Through this method, you can name a family member as a beneficiary of your final expenses insurance and discuss with them how you want this insurance money to go towards your funeral.

A car insurance policy that includes death benefits may cover the cost of a funeral, as well as other expenses. A death benefit will be paid out to your beneficiary, and they can then use the money to fund your funeral plans. Death benefit claims must be submitted to the insurer with proof of death and proof of the deceased's coverages. However, car insurance death benefits will only be paid out when the death clearly occurred as a result of a car accident. Check the deceased's insurance agreement to see if he/she qualifies for any death benefits.

Part II - Government Agencies Providing Assistance

Obtaining Death Certificates

When someone passes away, those they leave behind can apply for government benefits to assist with the cost of the burial and/or funeral. Before applying for such benefits you should obtain death certificates.

The NYC Health Department issues death certificates for all people who die in one of the five boroughs of New York City. The Health Department also fulfills requests to correct death certificates.

Note that there are two parts to the death certificate:

- The standard certificate of death
- The part that includes a confidential medical report of the cause of death

Either can be ordered — for the same cost — but who can order it and how it can be ordered varies.

The following relations to the deceased may request both a death certificate and the confidential cause of death medical report:

- Spouse
- Domestic partner
- Parent
- Child
- Sibling
- Grandparent
- Grandchild
- Informant listed on the certificate
- Person in control of disposition

The following relations may only request a death certificate, not the cause of death:

- Niece/Nephew
- Aunt/Uncle
- Great grandchild and great-great grandchild
- Grandniece/Grandnephew
- If you are not listed above as an entitled party, you must document your right to get a death certificate.

It is generally best to obtain more than one copy as they are required to be submitted with most applications. Many funeral homes, funeral parlors, and cremation services will provide death certificates for around \$15. If the burial service you select does not provide a death certificate, you can obtain one online at [vitalchek.com](https://www.vitalchek.com), or by mail from the New York City Office of Vital Records. You must provide photo identification. Currently, the Department of Health is experiencing significant delays in order processing. Online orders are filled fastest.

Online: <https://www.vitalchek.com/death-certificates/new-york/ny-state-vital-records>

By Mail: You can fill out the death certificate application form online at <https://www1.nyc.gov/assets/doh/downloads/pdf/vr/death-certificate-application.pdf>.

Otherwise, you can call 311 to request one by mail.

Prior to the pandemic shutdown you could pick an application up Monday to Friday from 9 am to 3:30 pm at:

New York City Office of Vital Records
125 Worth Street, CN-4, Room 133
New York, NY 10013

As of July 2020 in-person ordering of NYC death certificates is suspended until further notice. This service will remain suspended through at least Phase Three of the NYC RESTART.

Along with the application, send a check for \$15 per death certificate copy requested, payable to the NYC Department of Health and Mental Hygiene. Include a self-addressed, stamped envelope with your application. You also will need to provide a photocopy of your identification.

Federal Agencies Providing Assistance

United States Social Security Administration

Assistance Provided: Survivors' Benefits

A one-time payment of \$255 may be paid to one of the following:

1. The surviving spouse of the deceased if they were living with the deceased.
2. The surviving spouse if they were eligible for the payment for the month of death based on the beneficiary's earning record, or
3. To a spouse, or child, who in the month of death, is eligible for a Social Security benefit based on the beneficiary's earning record.
4. Additionally, if the deceased worked long enough to qualify for benefits, members of the deceased's family may be able to receive Social Security benefits starting the month after death. These include widows, widowers (and divorced widows and widowers), children and dependent parents.¹³

Eligibility Requirements:

As a person works and pays a portion of their income into Social Security, they earn credits toward their Social Security Benefits. The number of years someone needs to work for their family to be eligible for Social Security Survivors' Benefits depends on their age when they pass away. The younger a person is, the fewer credits they need to have earned to be eligible. No one needs more than 10 years of work credits (40 credits) to be eligible for any Social Security benefit. If a person has worked for only one and one-half years in the three years just before their death, benefits can be paid to their children and to a spouse who is caring for their children.¹⁴

¹³ 42 U.S.C. § 402.

¹⁴ *Id.* § 414.

How to Apply:

You can apply by telephone or at any Social Security office. The following documents, either originals or copies certified by the issuing agency, are needed. Do *not delay* applying if you do not have everything (the Social Security office may be able to help you get what you need):

1. Proof of death—either from a funeral home or death certificate.
2. Your and the deceased's Social Security numbers.
3. Your birth certificate.
4. Your marriage certificate (if you are a widow or widower).
5. Your divorce papers (if you are applying as a divorced widow or widower).
6. Dependent children's Social Security numbers and their birth certificates.
7. Deceased worker's W-2 forms or federal self-employment tax return for the most recent year.
8. The name of your bank and your account number so your benefits can be deposited directly into your account.

Contact:

Call 1-800-772-1213 to be connected to a 24-hour automated telephone service with recorded information. If you cannot handle your business through the automated service, you can speak to a Social Security representative between 7 a.m. and 7 p.m. Monday through Friday.

Generally, you'll have a shorter wait time if you call during the week after Tuesday. If you are deaf or hard of hearing, call the toll-free TTY number, 1-800-325-0778, between 7 a.m. and 7 p.m. Monday through Friday.

(See website or call to locate your local office)

www.ssa.gov

Note:

Notify Social Security as soon as possible when a person dies. In most cases, a funeral director can report the person's death to Social Security if you provide the funeral director with the deceased's Social Security number. Apply for survivors' benefits (potential life insurance) promptly as, in some cases, benefits will be paid from the time of application and not from the time when the worker died.

U.S. Department of Veterans Affairs Veterans Benefits Administration**Assistance Provided:**

United States veterans (from all branches of the military) who received a discharge other than dishonorable are entitled to several benefits.¹⁵ Reservists who were entitled to retirement pay (or would have been if over age 60) are also entitled to these benefits. These include: burials at a national cemetery, headstones and markers (even if not buried at a national cemetery), monetary assistance, presidential memorial certificates, burial flags, and bereavement counseling (if a loved one passes away).

¹⁵ 38 U.S.C. § 2301 *et seq.*; 38 C.F.R. § 3.1704 *et seq.* The amounts listed in this section, other than the \$300, change annually based on the Veteran's date of death. The latest information can be found at <https://www.va.gov/burials-memorials/veterans-burial-allowance>.

If the death is service-connected, the VA will reimburse up to \$2,000 of burial costs and pay some of the cost of transportation of the remains of the veteran to the nearest National Cemetery.

If it is a non-service-related death, VA will pay up to \$300 toward burial and funeral expenses and \$780 for a burial plot. If the death happened while the veteran was in a VA hospital, the VA will provide up to a \$796 burial allowance and \$796 for a burial plot. The VA may also reimburse some or all of the costs of moving the Veteran's remains if they were in a VA hospital or a VA-contracted nursing home at the time of death, or died while traveling to VA-authorized care.

Veteran's spouses, and children below 21 or 23 if in a VA-approved school (or children who became disabled before being disqualified), are entitled to burial plots (even if the veteran is not interred at a national cemetery) and may be entitled to survivors benefits or a death pension. Documentation may be required to prove disability. A spouse does not lose their eligibility by remarriage, but does through annulment or by divorce.

Veterans of foreign armies allied with the United States are entitled to burial at a national cemetery at no cost if they were U.S. citizens at the time they entered military service and at their time of death.

If being buried outside of a national cemetery, a \$300 burial expense may be reimbursed and a \$300 "plot-interment allowance" paid if one of the following conditions is met:

1. The veteran died due to a service-related disability.
2. The veteran died in a VA medical or VA nursing facility (or one approved by the VA).
3. The veteran had been receiving compensation from the VA, or was eligible to receive compensation.

You must file a claim for a non-service-connected burial allowance within two years after the veteran's burial or cremation. If a veteran's discharge was changed after death from dishonorable to another status, you must file for an allowance claim within two years after that change. There is no time limit to file a claim for a service-connected burial, plot, or interment allowance.

Burial Allowance Eligibility Requirements:

The VA bases their decision of whether or not you qualify for burial in a VA national cemetery on your service history—or the service history of the veteran or service member who's sponsoring your application for burial as a spouse, surviving spouse, or unmarried adult child.

You may be eligible for a VA burial allowance if you are paying for the burial and funeral costs, if you are not receiving reimbursement from another government agency or organization, such as the veteran's employer, and you are:

- The veteran's surviving spouse (Note: same-sex marriages are recognized), **OR**
- The surviving partner from a legal union (a relationship made formal in a document issued by the state recognizing the union), **OR**
- A surviving child of the veteran, **OR**
- A parent of the veteran, **OR**
- The executor or administrator of the veteran's estate (someone who officially represents the veteran).

In addition, at least one of the following conditions must be met:

- The veteran died because of a service-related disability, **OR**
- The veteran died while hospitalized by VA, or while receiving care under VA contract at a non-VA facility, **OR**
- The veteran died while traveling under proper authorization and at VA expense to or from a facility for an examination, treatment, or care, **OR**
- If an original or reopened claim for VA compensation or pension was pending at the time of death, if the veteran would have been entitled to benefits before death, **OR**
- The veteran was receiving VA pension or compensation at the time of death, **OR**
- The veteran was entitled to receive VA pension or compensation, but instead decided not to reduce their military retirement or disability pay.

How To Apply:

To apply, you will need the following information about the deceased veteran:

- Social Security number or VA file number
- Date and place of birth
- Date and place of death
- Military status and service history (like service dates, discharge character, and rank—commonly found on the DD214 or other separation documents)
- Discharge papers (DD214 or other separation documents)
- And you will need to include the following documents:
 - The veteran's military discharge papers (DD214 or other separation documents)
 - The veteran's death certificate
 - Any documents you have for the cost of transporting the veteran's remains, if you're claiming reimbursement for transportation costs
 - A statement of account (preferably with the letterhead of the funeral director or cemetery owner) that has this information:
 - The veteran's name, and
 - The type of service or item purchased, and
 - Any credits, and
 - The unpaid balance.
- **If you're applying as a spouse, surviving spouse, or unmarried adult child you'll also need your personal information**, including your Social Security number.
- **If you're applying on behalf of someone else**, you'll also need supporting documents showing you have the authority to apply for that person.
- **If you're applying for an unmarried adult child of a veteran or service member**, you'll also need to provide supporting documents with information about the child's disability.

You can submit your application in one of the following ways:

- **Online** (takes approximately 20 minutes): Visit <https://www.va.gov/burials-and-memorials/application/530/introduction>
- **Mail:** Apply by mail using an Application for Pre-Need Determination of Eligibility for Burial in a VA National Cemetery (VA Form 40-10007). The VA Form can be downloaded on the webpage. **Once the form is completed, send it, along with copies of your supporting documents to:**

National Cemetery Scheduling Office
PO Box 510543
St. Louis, MO 63151

- **Fax:** You can also fax your application to 1-855-840-8299.
- If the veteran has already died, **do not fill out the Pre-Need form.** Instead, instead, call the National Cemetery Scheduling Office at 1-800-535-1117 or contact your local funeral home to expedite processing.

Contact:

245 W. Houston Street
New York, NY 10014
(800) 827-1000 (M-F 8:00 a.m. - 9 p.m.)
Fax (212) 807-4024
<https://www.va.gov/burials-memorials/veterans-burial-allowance>
(New York Office: <https://www.benefits.va.gov/newyork>)

U.S. Railroad Retirement Board

Assistance Provided:

The Board provides a lump sum payment for burial expenses for qualifying railroad personnel. There is also a survivors' benefit for a surviving spouse.¹⁶

Benefits differ based on how long the employee has worked:

1. Employees who worked ten years (120 months) *prior* to January 1, 1975
 - These employees are entitled to a lump sum payment of \$180-1,400.
 - The benefit is payable to the surviving spouse if the spouse was living in the same household as the employee at the time of death. If there is no such person, the lump sum may be paid to the funeral home or the payer of the funeral expenses.
2. Employees worked for less than ten years but five of those years are after 1995, and the employee meets Social Security's insured status requirements.
 - These employees are entitled to a lump sum payment of \$255
 - The benefit is payable only to the surviving spouse, and only if the spouse was living in the same household as the employee at the time of death.

The average across all types of lump sums was \$921 in fiscal year 2016.

Eligibility Requirements:

The deceased must have been employed by a railroad for either:

1. 120 months before January 1, 1975, or
2. 60 months after 1995.

How to Apply:

¹⁶ 45 U.S.C. § 231 *et seq.*

To gain a sense of the size of the payment, applicants may call a Field Service Representative. Applicants can schedule visits to their local office by calling (877) 772-5772. The local offices are listed above.

Applicant must fill out form AA-21. Proof of past employment is necessary.

Contact:

Phone: (877) 772-5772

<http://www.rrb.gov>

All boroughs other than Queens:

26 Federal Plaza

Room 3404

New York, NY 10278

Fax: (212) 264-1687

Queens:

490 Federal Plaza

Central Islip, NY 11722

Fax: (631) 232-5701

State and City Agencies Providing Assistance

The City of New York Human Resources Administration - Office of Burial Services

What HRA Can Cover:

For applications received on or after March 12, 2020, HRA will pay up to \$1,700 towards burial expenses, but total burial expenses must be no more than \$3,400. The cost of the burial plot, cremation and grave opening charges are excluded from the calculation of the \$3,400 total cost; however, the cost of burying the cremation ashes is not excludable. If the total funeral bill exceeds \$3,400, HRA will make no payment. Any asset (whether or not previously assigned to HRA) that was available to the deceased or any amount that a legally responsible relative (LRR) (e.g., a spouse or parent of a minor child) may have had on the Date of Death (DOD) is deemed available, and any amount paid or to be paid by any other source will be subtracted from the \$1,700 payment if the claim is determined eligible for payment. Any assets or resources left by the decedent on the date of death will be subtracted from the \$1,700, if the claim is otherwise determined to be eligible.¹⁷

To Apply:

The individual who makes the funeral arrangements or his/her representative must file an application within 120 days from the date of the decedent's death with the Office of Burial Services by mail, in person at 33-28 Northern Boulevard, 3rd Floor, Long Island City, NY, by email at BurialServices@hra.nyc.gov, or by fax at 917-639-0476.¹⁸ That individual should file any supporting documentation with the application or bring it to the initial interview, and may submit the remainder of documentation needed by U.S. Mail.

¹⁷ 68 R.N.Y.C. § 2-01 *et seq.* The application form is available at https://www1.nyc.gov/assets/hra/downloads/pdf/benefits/burial_claim_app_en.pdf.

¹⁸ Due to the COVID-19 pandemic, the office hours of the NYC HRA Office of Burial Services are limited to Wednesdays between 9:00 a.m. and 5:00 p.m.

Required Documentation:

- A Burial Application Form completed and signed by the applicant.
- One original certified copy of the Death Certificate (it will be returned to the applicant).
- A copy of the Funeral Contract also known as the Statement of Goods and Services Selected. The contract must be signed by the Funeral Director and by the party who made the funeral arrangements. The required sequential invoice number must appear on the document.
- A copy of the cemetery or crematory bill, itemizing all charges.
- Original itemized funeral bills signed by the Funeral Director and notarized in the presence of a Notary Public. The funeral bill must be stamped "Paid-in-Full" if the charges have been paid.
- Original fully completed Funeral Director's Affidavit forms signed by the Funeral Director and notarized in the presence of a Notary Public, if there is money still owed to the funeral establishment.
- Information and documentation regarding the decedent's available assets/income as of the date of death, and those of the applicant (if the applicant is an LRR) is required on each case.
- Note: During the pandemic an electronic signature can be used in lieu of a hand signature.

The Office of Burial Services may request any other documentation which may be necessary to make an eligibility determination based upon the particular facts and circumstances of each case. For cases where the burial or cremation has not taken place and assistance is needed, contact the office.

Contact:

33-28 Northern Blvd., 3rd Floor

Long Island City, NY 11101

Tel.: 929-252-7731

Fax.: (917) 639-0476

Email: BurialServices@hra.nyc.gov

<https://www1.nyc.gov/site/hra/help/burial-claims-application-process.page>

New York State Division of Veterans' Affairs Supplemental Burial Allowance**Assistance Provided:**

New York State supplies a *supplemental* burial benefit for members of the armed forces who are killed in combat or duty subject to hostile fire or imminent danger. This benefit to defray funeral and burial costs can be up to \$6,000.¹⁹

Eligibility Requirements:

Funds are *only* for service members who die in combat or while on duty from hostile fire or other imminent danger. Federal funds must be first obtained and deducted from funeral costs before state funds will be available. Funds will only be paid to the family member responsible for the expenses.

¹⁹ N.Y. EXEC. LAW § 354-B.

How to Apply:

Fill out the online form at: https://veterans.ny.gov/sites/default/files/supplementalburial-application_04apr2019.pdf.

You will need a document proving the servicemember's combat-related death (such as a casualty report from the military, a death certificate listing cause of death, etc.), and a document proving either that the servicemember was New York State resident at the time of death, or was a member of the New York Army National Guard or Air National Guard when he or she entered active duty status, during which the servicemember died.

For assistance, call the Division of Veterans' Services hotline at (888) 838-7697, or by email at DVASupplementalBurialAllowance@veterans.ny.gov. You can also contact the veterans' service representatives at the local office for your county or city. In *New York City*, contact the state office listed above.

Contact:

423 East 23rd Street, Room 2202N

New York, NY 10010

(888) 838-7697

Fax: (212) 951-5961

<https://veterans.ny.gov/content/new-york-state-supplemental-burial-allowance>

Workers' Compensation Death Benefits

Assistance provided:

If the worker dies from a compensable injury, the surviving spouse and/or minor children, and, lacking such, other dependents as defined by law, are entitled to weekly cash benefits. The amount is equal to two-thirds of the deceased worker's average weekly wage for the year before the accident. The weekly compensation may not exceed the weekly maximum, despite the number of dependents.²⁰

If there are no surviving children, spouse, grandchildren, grandparents, brothers or sisters, parents or grandparents entitled to compensation, the surviving parents or the estate of the deceased worker may be entitled to payment of a sum of \$50,000. Funeral expenses may also be paid. For all deaths on and after June 8, 2016, the maximum amount for funeral expenses was increased from \$6,000 to \$12,500 in Metropolitan New York counties, and from \$5,000 to \$10,500 in all other counties.

Eligibility Requirements:

When there is a death caused due to an "on-the-job" mishap, the spouse, dependent children up to the age of 21 (up to age 23 if they attend an accredited educational institution full time or of any age if they are totally blind or totally and permanently disabled), siblings, dependent grandchildren, and dependent grandparents *may* be entitled to substantial weekly compensation benefits.

If there is neither a spouse nor children, then the estate of the worker may be eligible for a lump sum payment of \$50,000 plus the cost of funeral expenses.

²⁰ N.Y. WORKERS' COMP LAW § 16; *see also Death Benefits, Rates and Awards, WORKERS' COMPENSATION BOARD*, http://www.wcb.ny.gov/content/main/forms/C500_1.pdf.

How to Apply:

For information on obtaining and completing the necessary paperwork, call the Workers' Compensation Board at (877) 632-4996 or the Office of the Advocate for Injured Workers at (800) 580-6665.

An affidavit form must be filled out, signed in front of a notary public, and mailed to:

NYS Workers' Compensation Board

Centralized Mailing

PO Box 5205

Binghamton, NY 13902-5205

The affidavit form can be found at <http://www.wcb.ny.gov/content/main/forms/AFF-1.pdf>.

Along with the affidavit, it is best to include a medical report from the deceased's attending physician, a death certificate, proof of relationship (birth certificate, adoption papers or marriage certificate), and an itemized funeral bill. If this information is missing you may apply anyway.

There is a two-year time limit *after* the date of death for applying.

Contact:

PO Box 5205

Binghamton, NY 13902-5205

(877) 632-4996

Hours: Monday to Friday, 8:30 AM to 4:30 PM

<http://www.wcb.ny.gov>Email: General_Information@wcb.ny.gov**Manhattan District Office:**

215 W. 125th Street

New York, NY 10027

Brooklyn District Office:

111 Livingston Street, 22nd Floor

Brooklyn, NY 11201

Queens District Office:

168-46 91st Avenue, 3rd Floor

Jamaica, NY 11432

New York State Office of Victim Services**Assistance Provided:**

If the deceased person was murdered (or otherwise died as the victim of a crime) and the family is determined by the Crime Victim Board to be indigent, the Crime Victims Board may contribute up to \$6,000 to offset burial and funeral expenses (or \$3,000 in emergency burial

assistance).²¹ \$500 may be provided initially. Additional funds may be authorized to the funeral home. In some infrequent instances, loss of wages may be considered. Applicants are considered on a “case-by-case” basis. Counseling is also available.

Eligibility Requirements:

1. The deceased person was murdered or otherwise died as a crime victim in the City of New York.
2. Family or estate is indigent (if seeking more than the \$500 emergency assistance).
3. Residency in the State of New York of both the victim *and* the applicant.

How to Apply:

Relatives or friends of the deceased person can mail an application. Applications are available online at: <https://ovs.ny.gov/sites/default/files/general-form/ovs-claim-appl-instr.pdf>.

Mail application to:
New York State Office of Victim Services
AE Smith Building
80 S. Swan Street
Albany, NY 12210

With the formal application, send or bring the following documents:

- Police reports
- Medical bills
- Correspondence with insurance companies, or benefits plan saying if they will cover your loss
- Insurance cards
- Receipts for essential personal property
- Death certificate and funeral contract
- Victim’s birth certificate
- Proof of age (driver’s license, birth certificate etc.)
- Legal guardianship papers

Contact:

55 Hanson Place
10th Floor
Brooklyn, NY 11217
(718) 923-4325
<https://ovs.ny.gov>

Albany:
AE Smith Building, 80 S. Swan Street
Albany, NY 12210
(518) 457-8727

²¹ N.Y. EXEC. LAW § 620 *et seq.*

Part III -Funeral Homes, Cemeteries, and Anatomical Gifts

After an individual has passed away and the necessary funds have been obtained, the person in charge of the disposition of remains—either an appointed agent or the next of kin—will carry out the individual’s final wishes. This part first discusses who may carry out the individual’s final wishes and, if applicable, how to transport their body. Then, it describes the various arrangements individuals may choose: funeral homes, cremation, cemeteries, ceremonies at sea, and organ or whole-body donation.

New York State Laws Relating to the Disposition of Remains

The deceased may have appointed an Agent to Control the Disposition of Remains. This person may or may not be a family member. To be valid, the form must have been signed and dated by the deceased person and the agent and properly witnessed, as discussed in Part I.²²

Absent a written instrument stating who should take over the funeral arrangements of the deceased person, the state will select a succession of next of kin. In order, state law gives priority to the deceased person’s surviving spouse or domestic partner, followed by adult children, parents, siblings, appointed guardians, then others listed in the statute.²³

No funeral director, undertaker, embalmer, or other person in the business who also controls the deceased person’s disposition of remains is allowed to receive compensation for disposing of the remains.²⁴

If there is a dispute relating to the disposition of the remains, a court of competent jurisdiction can resolve it.²⁵

General Information on the Transportation of Remains

Deaths which occur while out of state can cause additional financial hardship. The price for transporting remains from one state to another can be high.

If there is not a need for a local funeral, consider having the funeral at the place of death. This can save several thousand dollars in transportation costs. You only need to consider this possibility if the place of death is far from the desired resting spot and therefore would cost much to transport the body. However, if there is a prepaid funeral plan, contact that specific home about potentially moving the funds from that home to another.

If transferring the remains to another location, contact the *receiving* funeral home first. The funeral director at the receiving funeral home will be able to help arrange for the transportation of the remains to their facility. Contacting a funeral director in the place of death and having them deal with the shipping can greatly increase the transportation price. Most funeral homes

²² N.Y. PUB. HEALTH LAW § 4201(2)(a), (3)

²³ *Id.* § 4201(2)(a).

²⁴ *Id.* § 4201(2)(d).

²⁵ *Id.* § 4201(8).

charge high fees to transfer a body to another funeral home. If transferring the remains into New York, a licensed funeral director or undertaker must oversee the transportation.²⁶

Airlines require that the remains be embalmed prior to shipping, and that the body be shipped in an approved container, or an “air-tray.” Typically, documents such as the death certificate, embalming report, passport, burial permit and a letter from the physician stating that the deceased did not die from a communicable disease must accompany the body.

Most domestic airlines will allow you to carry on cremains, but you should bring the death certificate with you and carry the cremains in a temporary plastic container rather than an urn that could set off the metal detector.

Funeral Homes

In New York State, a funeral director is necessary for the disposition of a body. The director must be licensed and registered with the state. They can assist with transporting the remains, getting death certificates, and coordinating with the cemetery or crematory. They will set up an Arrangement Conference with the next of kin.

Funeral homes are licensed and regulated by the State of New York. For information, or to file a complaint, write to the New York State Department of Health at:

New York State Department of Health
Bureau of Funeral Directing
875 Central Avenue
Albany, NY 12206
https://www.health.ny.gov/professionals/funeral_director
Tel.: (518) 402-0785
Email: funeral@health.ny.gov

Also available on the Department of Health’s website are two guides for funerals at: <https://www.health.ny.gov/publications/0704>.

While funeral homes are profit-making business entities, it is not uncommon for funeral home directors to reduce charges to assist needy individuals and families when costs cannot be fully paid. Of course, funerals of this type will be basic.

Many funeral homes offer options to reduce costs. These options often include a “direct burial” which means a burial without a formal viewing, visitation, or ceremony, except for a graveside service. Another option is cremation, discussed below.

In general, you should apply the same smart consumer practices to a funeral that you would to any other major purchase. Since prices can vary considerably, it makes sense to call several funeral homes to compare rates. Funeral home directors are required by law to give accurate quotes of prices of goods and services, by telephone or otherwise.

Be sure to ask for a price list from the funeral homes you are considering. Resist pressure to buy more expensive or unnecessary items. Avoid overspending in response to stress. By planning

²⁶ N.Y. PUB. HEALTH LAW § 4145.

ahead of time, you can help avoid some of the stress which may lead to overspending. By knowing your rights, you can avoid unnecessary purchases. For example, embalming is *not* required by law. If the funeral home requires embalming for an open casket funeral, consider a closed casket funeral, or use another funeral home which does not require embalming.

What is Needed to Make Funeral Arrangements?

When going to the funeral home to make arrangements, you should bring along any paperwork the funeral director may need to assist you. These usually include the following:

- The deceased's Social Security number
- The deceased's Military Service Records (if a veteran)
- Cemetery deeds
- Insurance policies
- The deceased's personal information: (place and date of birth, names of parents and survivors, etc.)
- Any other paperwork you have concerning the cemetery, burial plots, etc.
- Any special requests that you or the deceased might have had.

Federal Law Relating to Funeral Homes

The "Funeral Rule,"²⁷ enforced by the Federal Trade Commission, regulates funeral homes in several important ways:

- Funeral providers *must* make available a written price list of all options, including the least expensive ones, before actually showing you any caskets.
- You have the right to choose the funeral goods and services you want. The funeral provider must state your selection in writing on the General Price List.
- Over the phone, the funeral provider *must* tell you price information, give you prices and any other information from the price lists to reasonably answer your questions.
- You have the right to select services and products individually and cannot be made to select packages which include items you do not want. If an item is required by law, it must be identified on the price list, with a reference to the specific law.
- The funeral provider may not refuse, or charge a fee, to handle a casket you bought elsewhere. (Often third-party retailers are more affordable.)
- A funeral provider that offers *cremation* must make alternative, unfinished, less expensive containers available. A coffin **is not** necessary for cremation.

²⁷ 16 C.F.R. § 453.

- The law does not require a burial vault or liner, and funeral providers may not tell you otherwise.

New York State Laws Relating to Funeral Homes

There are also New York State laws which regulate funeral homes in several important ways:²⁸

- The funeral director must provide an itemized list of the services and merchandise purchased, and the total price of the funeral, in writing.
- Embalming is not required by state law. The funeral director must obtain permission to embalm. However, they may require embalming if certain services, such as open casket viewing, are chosen.
- Even if someone has died of an infectious disease, the funeral home may not refuse to embalm the body or charge extra for handling the body.
- Casket rentals are permitted.
- It is illegal for the funeral director or staff to imply in any way that they think your decisions are poor or unsatisfactory. It is also illegal for a funeral director to pressure the customer in any way to make certain decisions concerning funeral planning.
- It is illegal to charge additional fees for filing a death certificate or getting it medically certified.
- It is illegal to charge a fee for handling a casket provided by the customer.
- It is illegal for a funeral director to refuse viewing of the body, although the funeral director has the right to advise against viewing for whatever reason. Even if no viewing was selected, the body may be seen briefly for identification purposes. If the viewing is prolonged, the funeral home can charge for a viewing.
- Interest on an outstanding bill cannot be charged unless such a charge was disclosed on the Itemized Statement.

Funeral Arrangement during COVID-19

COVID-19 does not require changes to the wishes of the decedent. According to the CDC guidelines, people who have died from COVID-19 or from other causes can be buried or cremated, and generally there is no need to delay funeral services and visitations due to COVID-

²⁸ More information is available at <https://www.health.ny.gov/publications/0704.pdf>; see also N.Y. PUB. HEALTH LAW § 3440-A.

19. ²⁹ It is illegal for funeral homes to add a surcharge or additional fees for services to those who died of COVID-19, or any other infectious disease. Funeral homes may not refuse to embalm or otherwise handle the body of a deceased loved one, regardless of the cause of death.³⁰

As of June 23, 2020, indoor services are limited to 25% of the maximum capacity of the buildings in New York. ³¹ Outdoor services are limited to 10 people for locations in Phase 2 of reopening and 25 people for locations in Phase 3 of reopening.³² Any time employees, volunteers, and/or attendees must come within 6 ft. of one another (or 12 ft., if singing), they must wear acceptable face coverings, unless they are members of the same household.³³

Cremation

Individuals are able to pre-plan for their own cremation. Some families may elect to have a loved one cremated. Embalming is not necessary prior to cremation.

It may be possible to rent a casket from the funeral home for viewing and funeral services. This will eliminate the cost of purchasing a casket. Funeral directors are obligated by law to offer an inexpensive container for cremation.³⁴ Alternative containers can be made of heavy cardboard, pressed wood, or composition materials (with or without an outside covering), or may be pouches of canvas or other materials.

“**Direct cremation**” is a common affordable option. It is a cremation without a viewing or other ceremony where the body would be present. Memorial services are still possible.

After cremation, an urn is not required by law. Remains (called “**cremains**”) may be buried in a cemetery lot or cremation garden, placed in an urn in a columbarium, kept at home, or scattered. Most states specify that there must be some sort of carrying container, but this can be any rigid, combustible container.³⁵ The crematory usually puts the cremains in a heavy-duty plastic bag, which is then placed in a rigid cardboard box. Prices of direct cremations are substantially less than traditional burial; prices of additional services and options will vary.

There can be a substantial difference between funeral homes on the cost of a direct cremation. All funeral homes are required to give prices over the telephone.

Requests for cremation must be approved by the Office of Chief Medical Examiner as per the City of New York Charter. Please consult with the funeral director providing services for compliance with this requirement.

²⁹ <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/funeral-guidance.html>

³⁰ <https://ag.ny.gov/sites/default/files/funeralarrangements-v2.pdf>

³¹

<https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/ReligiousandFuneralServicesSummaryGuidance.pdf>

³² <https://www.governor.ny.gov/news/governor-cuomo-announces-gatherings-25-people-will-be-allowed-phase-three-reopening-0#:~:text=Governor%20Andrew%20M.%20Cuomo%20today,North%20Country%2C%20the%20Southern%20Tier.>

³³

<https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/ReligiousandFuneralServicesSummaryGuidance.pdf>

³⁴ 16 C.F.R. § 453.4(a).

³⁵ New York City requires a sealable container, of any sort. 19 N.Y.C.R.R. § 203.9.

Questions to ask for a simple cremation:

1. First, ask for the price of “a direct cremation with a minimum alternative container.” That means with a cardboard box or other unfancy box.
2. Once you have that price, ask, “Does that include the crematory fee?”

If the funeral home doesn't own the crematory, the crematory fee may be extra. Then ask if there are any additional charges for anything, such as a permit.

New York has no statewide laws restricting where the scattering of ashes is permitted. In New York City, the NYC Parks Department allows scattering of ashes on its land, but requires special events permits if more than twenty people will gather.³⁶ For scattering ashes at sea and in bodies of water, see page 28.

Cemeteries

General Information on Cemeteries

Pick a cemetery that is a convenient distance for the majority of family members to visit. If family members are spread out, consider the person's hometown. Honor any special requests if the deceased has chosen where they want to be buried. Try to pick a cemetery where other family members are buried so visitors can go to the graves of their loved ones during one visit. Look at the upkeep of the cemetery and pick one that is maintained properly and has significant staff to care for the grounds. Ask if the cemetery has vaults or liners for the caskets to provide protection. Last, get a price quote before you choose a cemetery. Most cemetery costs include a casket, plot, opening and closing of the grave, a grave liner or vault and a memorial or headstone.

While cemetery plot costs sometimes include perpetual care, this is not always the case. If it is not otherwise included, there will be an additional endowment care fee for maintenance and groundskeeping. This should be clarified with the cemetery *before* making any purchase.

Regulation of Cemeteries

In New York, cemeteries and crematories are regulated by the New York State Department of State, Division of Cemeteries. You can send a complaint to:

**NYS Department of State
Division of Cemeteries**
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231
Albany: (518) 474-6226

³⁶ For more information, visit *Scattering Ashes and Cremated Remains in NYC Parks*, NYC PARKS, <https://www.nycgovparks.org/facility/rules/cremation>.

New York City: (212) 417-5713
Fax: (518) 473-0876
Deaf, hard of hearing, and speech-disabled callers, please use 7-1-1
<https://www.dos.ny.gov/cmtly/index.html>

If the cemetery is owned by a religious organization or is municipally-owned, it may not be subject to regulation. A list of cemeteries and crematories regulated by the Department of State and additional information on the regulation of cemeteries in New York State is available at the link above. A list of non-profit cemeteries is available here: <https://www.dos.ny.gov/cmtly/pdfs/Cemetery%20List%20-%20Webpage%202018.01%20Final%20by%20Alpha.pdf>.

City Burials in New York City (Potter's Field)

When a death occurs in New York City and the body remains unclaimed, the body will be taken to the Office of Chief Medical Examiner (OCME) and kept in their morgue for a reasonable amount of time before it is taken to a location to be buried. As of July 2020, there is no formal timeframe for claimed decedents to be retrieved from City morgues. The City is providing families with sufficient, longer timing needed to make funeral or cremation arrangements. To contact the Office of Chief Medical Examiner, call (212) 447-2030.

“Potter's Field,” officially called City Cemetery, is the burial place for deceased people, not known to be Jewish, who are not claimed by any relative, whose family could not afford burial costs, or whose family preferred city burials facilitated by OCME. When the Medical Examiner's office believes an unclaimed deceased person to be Jewish, they forward the name to the Public Administrator's Office, which contacts the Hebrew Free Burial Association. The Association then buries the deceased in a Jewish cemetery, in accordance with Jewish ritual law. The City Cemetery is located on Hart Island, sixteen miles from Manhattan on the eastern edge of Bronx County, and is administered by the Department of Correction (DOC). Prison labor is used to perform the burials. Due to security concerns, the DOC does not allow public access to Hart Island except by appointment. Visitors are not permitted to visit an actual gravesite. Gravesite visits are reserved for those with close personal ties to a decedent, including family members, chosen family members, close friends, and partners.

The registers can be found at the New York City Municipal Archives, 31 Chambers Street, Room 103, New York, NY 10007. The archives can be reached at (212) 788-8580 and archives@records.nyc.gov.

Public burials in New York City are more common than most people think. All human remains that are not handled privately by funeral directors are buried on Hart Island. Bodies used for medical research that are not returned to the family are buried on Hart Island. Families are generally unaware of this process. If nothing is listed on a death certificate under cemetery, the person is likely buried on Hart Island.

If a family was not sufficiently notified by the hospital or New York City, a disinterment can be ordered with the assistance of a licensed funeral director. If the family wishes for the body to be moved out of state, a second funeral director is required at the receiving location.

The Hart Island Project is creating an interactive database of public burials at <http://hartisland.net>. The burial records contain useful information such as burial permit numbers, permit dates, dates of death, and hospital information. This information greatly assists families, who can then contact the Office of the Medical Examiner for more information.

Ceremonies at Sea

Because of environmental concerns, you need permission from the New York State Department of Environmental Conservation to scatter ashes in a body of water such as the Hudson River. Scattering ashes in the ocean and burials at sea must occur at least three nautical miles (3.5 miles) from shore, according to Environmental Protection Agency regulations.³⁷ Anyone may perform burials at sea provided they follow EPA regulations.

U.S. Navy

The U.S. Navy will conduct free sea burials for people providing “notable service or outstanding contributions to the United States” and protocol also allows sea burials of the children of decorated Navy veterans. There are five points of embarkation: Norfolk, VA, Jacksonville, FL, San Diego, CA, Bremerton, WA and Honolulu, HI. You can contact the Burial-At-Sea program at 1-866-787-0081.

More information is available at <http://www.navy.mil/navydata/questions/burial.html>

U.S. Coast Guard

The U.S. Coast Guard will dispose of ashes in the ocean at no charge. The service is available to military personnel, dependents of military personnel, and civilians. Where appropriate, the Coast Guard will provide military honors. The ashes will be taken aboard a U.S. Coast Guard ship. As such, carrying the next-of-kin aboard the vessel for the burial ceremony is at the discretion of the ship’s commanding officer. Even without the next-of-kin, a small ceremony will be performed and the ashes will be scattered at sea. The area of the ocean where the cremains will be scattered is not predetermined, but the Coast Guard may accommodate a special request that does not create extra work.

Procedure:

The next of kin must send:

- 1) Cremation Certificate
- 2) Death Certificate
- 3) (Military only) A copy of form DD- 214, or equivalent discharge certificate or retirement order, or form DD- 1300
- 4) Cremains
- 5) Burial at sea request form, from the person authorized to dispose of remains (usually the next of kin), found at

³⁷ 40 C.F.R. § 229.1.

<https://www.dcms.uscg.mil/Portals/10/DOL/BaseBoston/MFH%20Request%20Form.pdf?ver=2017-03-30-133631-210>.

Send the request form to the Boston Coast Guard Base, which covers New York City, at BaseBostonhonorguard@uscg.mil.

Note: The Coast Guard strongly urges one to *call to confirm* and pre-plan all aspects of this service **before** sending the letter and the cremains to the U.S. Coast Guard. The Boston Burial-At-Sea Coordinator is CWO Andrew Armistead, reachable at (617) 223-3468.

For more information, visit <https://www.dcms.uscg.mil/Portals/10/CG-1/PPC/RAS/Personnel%20Casualty%20Procedure%20-%20Burial%20at%20Sea%20Program%20Guide.pdf?ver=2017-03-08-130359-350>.

Anatomical Gifts

The number of people who decide to donate their body – or that of their next of kin – to science is increasing. Such a donation could either be for the purpose of providing donor organs or to aid medical research and education. In either case, once accepted for donation, disposition of the body is usually without cost to the grieving, and often the medical school or private organization will provide free cremation and return the ashes to your loved ones. If only tissue is donated, the funeral home can still embalm the body in order to have an open casket.

If one wishes to ensure that their body is donated – or to ensure that it is not – there are means of documenting and guaranteeing that one’s wishes will be honored. One way of making your intentions known is to talk with your next of kin and doctor and inform them of your decision. Also, make sure your intention is noted on any medical or hospital record. You may also include your wishes by appointing an agent to control disposition of remains.

General Information on Organ Donation

The **New York State Donate Life Registry** oversees the state’s registry of individuals who have authorized the donation of their organs, eyes, and tissues. You can register by filling out the form available online at the registry’s website, through the DMV (such as when registering for or renewing a driver’s license or non-driver identification card), when enrolling in health insurance through the New York State Department of Health and the Marketplace, or when registering to vote.³⁸

In the absence of any clear indication of the deceased person’s wishes, the next of kin may decide to make an anatomical gift with few legal obstacles.³⁹ If so, the proper personnel need to be notified very quickly – probably within the first 24 hours after death. Once notified, they will offer assistance in satisfying any legal requirements. Ordinarily, organ and tissue donation requires some coordination with the supervising physician.

³⁸ Information on the registry and how to enroll is available at *Become an Organ Donor*, N.Y. STATE, <https://www.ny.gov/services/become-organ-donor>.

³⁹ See N.Y. PUB. HEALTH LAW § 4300 *et seq.*

The **New York Organ Donor Network** is the nonprofit organization serving as the federally designated organ procurement organization for the New York City area. In addition to advocacy and outreach efforts, they provide support for donors and their families. They can be contacted at:

New York Organ Donor Network
460 W 34th St., 15th Floor
New York, NY 10001
Tel.: (646) 291-4444
Fax: (646) 291-4600
24/7 Donor Center Referral Line: 800-GIFT-4-NY
<https://www.liveonny.org>

They will answer questions or concerns. Donated organs will be matched with a suitable recipient based on need, blood type, and geographical restraints.

Donations of Specific Organs

To donate eyes:

The Eye-Bank for Sight Restoration, a nonprofit based in New York City, is the world's first eye bank. The organization donates eyes, corneas, and eye tissue to help restore sight, as well as for medical research. To register as a donor, enroll with the New York Donate Life Registry, discussed above. Almost anyone can donate. You can still have an open-casket funeral or donate your whole body to science if you choose to donate your eyes. You may contact the Eye-Bank at:

The Eye-Bank for Sight Restoration
120 Wall Street
New York, NY 10005
Tel.: (212) 742-9000
Email: info@ebsr.org
www.eyedonation.org

To donate a brain:

Brain donations are invaluable to researchers of neurological, neuropsychiatric, and neurodevelopmental disorders. Brains are most suitable for research purposes within 24 hours of death, since deterioration begins immediately after death. Make sure to talk to your family and make your wishes well known, as whoever has the responsibility for your body will have the final say in whether or not you are a brain donor.

Registering as an organ donor, such as on your driver's license, does *not* include brain donation. To donate your brain, you must enroll separately.⁴⁰

The central brain research network is the National Institutes of Health's NeuroBioBank, founded in 2013. The NeuroBioBank is a national network of brain banks. For more information, visit <https://neurobiobank.nih.gov/donors-how-become-donor>. The NeuroBioBank works with the Brain Donor Project to register prospective donors. To enroll, visit <https://braindonorproject.org>.

⁴⁰ <https://neurobiobank.nih.gov/donors-faqs/>

The NeuroBioBank works with brain banks across the country. The New York-area brain bank is:

Mount Sinai/JJ Peters VA Medical Center NIH Brain and Tissue Repository

130 West Kingsbridge Road

Room 5F-04

Bronx, NY 10468

Tel.: (718) 584-9000

24-Hour Autopsy Hotline (Time of Death): (212) 807-5541

Fax: (718) 741-4746

Email: NBTR@mssm.edu

<https://icahn.mssm.edu/research/adrc/research/donation-program>

The NIH Brain and Tissue Repository (NBTR) distributes donated brain tissue to Mount Sinai and other laboratories for research into conditions such as schizophrenia, depression, autism, Alzheimer's, Parkinson's, Huntington's, multiple sclerosis, and traumatic brain injury. This research relies on donations from persons both with and without brain disease. Donors can register with the Brain Donor Project, mentioned above, or directly with the NBTR by filling out the _____ form _____ at <https://icahn.mssm.edu/files/ISMMS/Assets/Research/NIH%20Brain%20Tissue/AntemortemDonationPackageforEmail-NY-fillable.pdf>.

Whole-Body Donation

Gifts of the deceased's body for the purpose of medical research or education are usually possible. However, if organs have been donated for medical purposes, the body can no longer be donated to a medical school. Medical schools require that the entire body be donated intact. Many medical schools will accept bodies from which the corneas alone have been donated.

Generally, medical schools will cover the entire cost of disposition of the body. This will include transporting the body to the school, any embalming which is necessary, cremating the body after research is finished (usually two years after donation), and final disposition of the remains. If the family wishes the cremains to be returned, this can sometimes be accommodated. Speak to the medical school about this *before* deciding on a donation. If donation of one's body is desired, one may make a donation to whichever medical school one wishes, or to a central agency that will provide the body to an appropriate medical institution.

Donations to New York medical schools:

The Associated Medical Schools of New York works with universities across New York state to distribute donated bodies according to need. They can be contacted at:

Associated Medical Schools of New York

1270 Avenue of the Americas

New York, NY 10020

Tel.: (212) 218-4610

Fax: (212) 218-4278

<https://amsny.org/initiatives/anatomical-donations>

Many medical schools can be contacted directly to make a donation. Following is a list of schools in the New York City area that can be contacted to make a donation:

Albert Einstein College of Medicine

Anatomical Donations Program
Forchheimer Building Room 627N
1300 Morris Park Avenue
Bronx, NY 10461

Tel.: (718) 430-3142 (7 a.m.-3 p.m.)
Emergency (after hours): (347) 920-0847
Fax: (718) 430-8996

Anatomical.Gifts@Einstein.YU.edu

<https://www.einstein.yu.edu/departments/anatomy-structural-biology/anatomical-gift.aspx>

(Transportation is covered up to 100 miles.)

City University of New York School of Medicine

Anatomical Donor Program
160 Convent Avenue 138th St.
Harris Hall, H-205-F
New York, NY 10031

Tel.: (212) 650-6877 or (212) 650-6962

Email: kmatthews@med.cuny.edu or warner@med.cuny.edu

(Transportation is covered within the Greater New York City area.)

Columbia University Vagelos College of Physicians & Surgeons

Department of Pathology & Cell Biology
630 West 168th Street
New York, NY 10032
Tel.: (212) 305-3600

Email: anatomic-gift@columbia.edu

<https://www.pathology.columbia.edu/about-us/anatomical-donor-program>

(Transportation is covered up to 60 miles.)

Icahn School of Medicine at Mt. Sinai

Anatomical Gift Coordinator
One Gustave L. Levy Place, Box 1002
New York, NY 10029
Tel.: (212) 241-7276
Fax: (212) 860-1174

Email: torrence.wilson@mssm.edu or frankie.steinberg@mssm.edu

<https://icahn.mssm.edu/research/body-donation>

(Transportation is covered up to 120 miles.)

New York University Grossman School of Medicine

Body Donation Program
550 First Avenue, MS G52
New York, NY 10016
Tel.: (212) 263-5378
Fax: (646) 501-6826

Email: body.donation@nyulangone.org

<https://med.nyu.edu/education/md-degree/md-curriculum/office-medical-education/body-donation-program>

(Transportation is covered within New York City limits or Nassau County.)

State University of New York Downstate Medical Center

Department of Cell Biology

450 Clarkson Avenue

Brooklyn, NY 11203

Tel.: (718) 270-1419

Fax: (718) 270-3732

<https://www.downstate.edu/cellbiology/anatomical-gift.html>

(Transportation is covered up to 70 miles.)

Weill Cornell Medicine

Department of Anatomy and Cell Biology

1300 York Avenue, A-518

New York, NY 10065

Tel.: (212) 746-5677

Fax: (212) 746-8175

<https://radiology.weill.cornell.edu/education/anatomy-division/how-donate-body-donor-program>

(Transportation is covered within the Greater New York City area.)

Donations while outside of New York:

Most medical schools will not cover the cost of transportation from out of state to the medical school. You should discuss transportation limits with the medical school before donating your body. If you wish to donate your body and are out of state, you can contact a nearby medical school, which may cover transportation costs within the area. If you have registered as a donor with Associated Medical Schools of New York, they can help facilitate an out-of-state donation.

Part IV - General Information on Estates

Surrogate's Court

Surrogate's Courts handle all probate and estate proceedings in New York City. For answers to frequently asked questions, visit <https://www.nycourts.gov/courts/nyc/surrogates/faqs.shtml>. If you are responsible for handling one of these proceedings, contact the court in the Borough where the deceased resided:

Surrogate's Court New York County (Manhattan)

31 Chambers Street, Room 311
New York, NY 10007
(646) 386-5000

Surrogate's Court Bronx County

851 Grand Concourse
Bronx, NY 10451
(718) 618-2300

Surrogate's Court Kings County (Brooklyn)

2 Johnson Street
Brooklyn, NY 11201
(347) 404-9670

Surrogate's Court Queens County

88-11 Sutphin Boulevard
Jamaica, NY 11435
(718) 298-0500

Surrogate's Court Richmond County (Staten Island)

18 Richmond Terrace
Staten Island, NY 10301
(718) 675-8500

Office of the Public Administrator (In Each Borough)

The Office of the Public Administrator deals with estates of deceased people where no person entitled to take or to share in the estate will accept the responsibility to act, or where the deceased leaves no Will or Personal Representative entitled by law to act. These offices are located in the Surrogate's Court of each borough.

Among other things, the Public Administrator investigates the affairs of the deceased person. The Public Administrator's Office may authorize a funeral as well as the amount of money permitted for the funeral out of the estate of the deceased person. Additionally, the Public Administrator's office may search for relatives, pay debts of the estate from the deceased's resources and perform other duties. When a relative is located, the Public Administrator

determines whether that individual is prepared to accept responsibility for the estate of the deceased.

Checklist of What Needs to be Done

- Notify family and friends of the deceased.
- If the deceased attended a place of worship, notify the clergy or office personnel.
- Check to see if the deceased left any funeral, burial or cremation instructions, or had a pre-paid funeral arrangement.
- Check to see if the deceased left a Will.
- Contact a licensed funeral director to take custody of the body and make arrangements.
- Obtain death certificates. The funeral director can assist you with this. It is best to obtain more than one copy, as you will need to give certified copies to insurance companies, banks, etc.
- Have an Arrangement Conference with the funeral director.
- Choose a cemetery/crematory and employ their services. The funeral director can assist you with this.
- Contact Social Security concerning death benefits and to cancel payment being received by the deceased. The funeral director can assist you with this.
- If the deceased was a veteran, contact the U.S. Veterans Administration for burial and benefit information. Have military discharge papers available.

If the deceased was a crime victim, contact the New York State Crime Victim Board. Notify the deceased's employer, attorney, insurance companies, banks, stock brokerage firms, lenders, credit card companies, utility companies, accountant

If you have questions about the content of this manual or would like to apply for life planning documents (Last Will & Testament, Power of Attorney, Living Will, Health Care Proxy, and Control of Remains forms all described in Part 1 of this manual), please contact the VOLS Elderly Project at (347) 521-5704 (seniors and frontline workers) or (347) 521-5725 (veterans).