



# Guide for After Someone Passes Away

## **About This Guide**

The Volunteers of Legal Service (VOLS) Senior Law Project created this guide to provide information for people after the death of a family member or loved one who resided in New York City. This guide is meant to provide information on how to handle a deceased person's remains, notify family and friends, arrange funeral services, access someone's apartment, and handle their belongings, property, and money. Losing someone you love is difficult and managing someone's affairs can be overwhelming. This guide will provide information on the steps to manage someone's personal and legal affairs after they die.

## **About VOLS**

VOLS provides pro bono civil legal services to low-income New Yorkers in partnership with volunteer attorneys. You can learn more about VOLS by visiting our website at [www.volsprobono.org](http://www.volsprobono.org).

## **About the VOLS Senior Law Project**

The VOLS Senior Law Project helps eligible low-income seniors who live in New York City and are age 60+ obtain wills and advance directives (power of attorney, health care proxy, living will, and control of remains) free of charge along with our law firm partners. If you have any questions about this guide or if you or someone you care for is interested in preparing their wills or advance directives, you can call our Senior Law Project helpline at (347) 521-5704.

\*\*\*This guide is for informational purposes only and does not constitute legal advice.\*\*\*

### Getting a legal pronouncement of death

After someone dies, you will need to get an official declaration of death.

If person died in hospital	Staff or medical professionals can make official declaration of death.
If person died in nursing facility	Staff or medical professionals can make official declaration of death.
If person was under hospice care	Call 911, staff or medical professionals at hospital can make official declaration of death. Hospice nurse can also make official declaration of death.
If person died at home	Call 911, staff or medical professionals at hospital can make official declaration of death.

### Death Certificates

There are two types of death certificates: A standard death certificate and a confidential cause of death, which includes a confidential medical report and the cause of the death.

The following people are allowed to get both a death certificate and a confidential cause of death:

- Spouse or domestic partner,
- Parent,
- Child,
- Sibling.
- Grandparent.
- Grandchild,
- Person listed on certificate, or
- Person in control of disposition of remains (if you are listed as the “agent” on an Appointment of Agent to Control Disposition of Remains form).

The following people are able to get only a death certificate:

- Niece/nephew,

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- Aunt/uncle,
- Great grandchild and great-great grandchild, or
- Grandniece/grandnephew.

### **How do I get a death certificate?**

The funeral home, funeral parlor, or cremation service that is handling the funeral, burial or cremation arrangements, can issue a death certificate.

You can also get a copy from the NYC Office of Vital Records either by mail or online.

For an online or phone order, the cost is \$45 plus vendor processing fee. For a mail order, it is \$30.<sup>1</sup>

[Death Certificates - New York State Department of Health \(ny.gov\)](https://www.health.ny.gov/death-certificates/)

### **Telling friends and family**

After someone dies, you should notify their friends, family, clergy or religious leaders if they attended a place of worship, and their employer if they were employed.

You should also notify the Social Security Administration (SSA). Call the SSA at 1-800-772-1213 to report the death or visit your local SSA office. The SSA will inform Medicare of the death. Additionally, as a spouse or child, you may be eligible for death benefits from social security. To claim those benefits, you will need a copy of the death certificate.

### **Funeral and burial plans**

Is there a pre-paid funeral or burial plan? If so, contact that funeral home or service provider.

Did the deceased person prepare end of life planning documents during their life? If so, look for that paperwork. If they named you in any legal documents, such as

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<sup>1</sup> Guide reflects costs as of 1/26/2024.

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a Last Will & Testament, they may have given you the documents or they may have the legal documents in their home.

## **Did they have a document called an “Appointment of Agent to Control Disposition of Remains”?**

### **APPOINTMENT OF AGENT TO CONTROL DISPOSITION OF REMAINS**

I, Jane Doe, residing at 123 Address, New York, NY, being of sound mind, willfully and voluntarily make known my desire that, upon my death, the disposition of my remains shall be controlled by the following person:

My Agent

With respect to that subject only, I hereby appoint such person as my agent with respect to the disposition of my remains.

SPECIAL DIRECTIONS: Set forth below are any special directions (such as: Cremation; Burial at a Particular Cemetery, etc.), limiting the power granted to my agent as well as any instructions or wishes desired to be followed in the disposition of my remains:

**I wish to be cremated.**

If the deceased person signed an “Appointment of Agent to Control Disposition of Remains” or AACDR form (example above), this form should include who they named as their “agent” to make funeral, burial, or cremation arrangements, and information about their wishes. If the deceased person named you as their agent, you should sign the last page of the form and date it. You can present the original or a copy of the signed form to the morgue, funeral home etc. as proof that you were designated to control the disposition of the deceased person’s remains.

On the AACDR form, they may have included directions or references to a pre-paid funeral or burial plan. If there is a pre-paid plan, contact that funeral home or service provider.

If the deceased person did not have an AACDR form, the following people can make funeral or burial arrangements under New York State Law:<sup>2</sup>

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<sup>2</sup> NY Public Health Law Section 4201 Disposition of Remains

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- Surviving spouse or surviving domestic partner;
- Surviving children 18 years or older;
- Surviving parents;
- Surviving siblings 18 years or older;
- Appointed Article 81 guardians;
- Other descendants who would be entitled to the deceased's estate and property;
- Administrator or executor of decedent's estate appointed by the court;
- A close friend or relative, if they were familiar with the decedent's religious or moral beliefs, and there is no one higher on the list available; or
- Public administrator

If you discussed funeral or burial arrangements with the deceased person, you should follow those directions.

### **What if I am a distant relative or a friend of the decedent?**

If the deceased person named you on their AACDR form, this form gives you authority to make arrangements. However, if they did not complete that form, is there someone higher on the list willing and able to make the arrangements for the deceased person's body?

If there is no one else willing or able to make arrangements, you can inform the morgue and funeral home the following: You are a close friend or relative, you are willing and able, you are familiar with the deceased's wishes including religious or moral beliefs, there is no one else available (include any documentation that you can provide such as your own identification, letters from other family members who are not available to make arrangements, etc.)

### **Did the decedent serve in the military?**

Contact the U.S. Veterans Administration to see if it offers burial benefits or funeral services. There are also benefits available to deceased veterans and their survivors.

We have two guides that may be helpful.

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[VOLS Guide to Veterans' Burial Benefits \(volsprobono.org\)](http://volsprobono.org)

[A-Guide-for-Friends-Family-of-Recently-Deceased-New-Yorkers.2.pdf \(volsprobono.org\)](#) (pages 14-16; 19-20)

### **Donating body to science**

If the deceased person wished to donate their body to science, look to see if they made any pre-arrangements with a medical school.

You can either contact Associated Medical Schools of New York or a medical school directly in New York. Generally, they will cover the costs related to transport and donation. We have the contact information for medical schools in New York in our Guide for Friends and Family and Recently Deceased New Yorkers on pages 32-34.

[A-Guide-for-Friends-Family-of-Recently-Deceased-New-Yorkers.2.pdf \(volsprobono.org\)](#)

### **Handling money, property, assets, accounts**

Did the deceased person have a will? If they had a will, look at the will and see who they nominated as executor. The executor can go to the Surrogate's Court in their county to file for probate or, for small estates, voluntary administration.

If you are the executor, you will take the original will to the Surrogate's Court in the county where the deceased person lived at the time of their death. The Surrogate's Court is the court that handles what happens to a person's property, money, and assets after they die.

These are the addresses and contact information for each county's Surrogate's Court:

#### **Surrogate's Court New York County (Manhattan)**

31 Chambers Street, Room 311

New York, NY 10007

Tel: (646) 386-5000

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### **Surrogate's Court Bronx County**

851 Grand Concourse

Bronx, NY 10451

Tel: (718) 618-2300

### **Surrogate's Court Kings County (Brooklyn)**

2 Johnson Street

Brooklyn, NY 11201

Tel: (347) 404-9670

### **Surrogate's Court Queens County**

88-11 Sutphin Boulevard

Jamaica, NY 11435

Tel: (718) 298-0500

### **Surrogate's Court Richmond County (Staten Island)**

18 Richmond Terrace

Staten Island, NY 10301

Tel: (718) 675-8500

### **Probate**

If someone has a will, the executor nominated in the will can file for probate. This happens at the Surrogate's Court. The executor will need to file the original will with the Surrogate's Court. The court will not accept copies in most cases.

To file the right paperwork for probate, you can contact the court's self-help. You may also want to hire a lawyer. You can file for probate without a lawyer and proceed *pro se*. If you want to hire a lawyer, you may call the New York City Bar legal referral service to connect with a private attorney.

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## **Administration**

If someone does not have a will, you will need to file for administration. Administration happens at the Surrogate's Court. When people do not have a will, New York law decides who will get to inherit their property. The people who can inherit when there is no will are the heirs at law. People inherit in the following order: spouses and children, parents, siblings, other more distant relatives.

*The NY Court has a helpful table that explains who gets to inherit if someone dies without a will.*

<https://nycourts.gov/courthelp/whensomeonedies/intestacy.shtml>

## **Voluntary Administration**

If the deceased person had less than \$50,000 in assets (this includes savings and investments owned by the deceased person) and did not own a house, condo, or land, excluding that which was jointly owned, and the joint owner is still alive, you can file for voluntary administration. If they owned a coop, you can still file for voluntary administration unless the cooperative shares value is so high that the shares plus the decedent's other assets are more than \$50,000.

Voluntary administration is easier than regular probate or administration. You will need to go to the Surrogate's Court to file the paperwork.

Here is a checklist for voluntary administration:

[https://www.nycourts.gov/LegacyPDFS/courts/1jd/surrogates/a\)%201.%20%20NY%20County%20Checklist-%20Small%20Estates-Voluntary%20Administration.pdf](https://www.nycourts.gov/LegacyPDFS/courts/1jd/surrogates/a)%201.%20%20NY%20County%20Checklist-%20Small%20Estates-Voluntary%20Administration.pdf)

You can also contact the self-help office of the Surrogate's Court and/or use the DIY forms:

[Small Estate Affidavit - DIY Forms | NY CourtHelp \(nycourts.gov\)](#)

We have a guide that explains in more detail how to file for voluntary administration.

[VOLS Guide to Voluntary Administration \(volsprobono.org\)](#)

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If the deceased person owned a house, condo, or land, and/or their assets were more than \$50,000 (including value of any cooperative apartment shares), then you will need to file for probate or administration.

### **Non-probate assets**

Some assets are considered non-probate assets. For example, if you are named a beneficiary of a payable on death bank account, you can go to the bank with identification and a death certificate to claim the account. If the decedent had a trust, the trust will dictate who gets to inherit the items in the trust. If the decedent had life insurance and you are the beneficiary, you should contact the life insurance policy holder. You will need copies of death certificates to make these claims as a beneficiary.

Review the kinds of assets, money, accounts, and property, the decedent had to see if they had a trust, any payable on death accounts, or life insurance policies.

### **Cleaning out an apartment or home**

You might need to empty the apartment of a deceased person after they die. This is easier if you shared the apartment or home, but if you cannot access the apartment, you will need to do this after filing with the court.

If you are the appointed executor, administrator, or voluntary administrator, you can do this once you get your letters from the court. If the estate is going through probate, you will receive testamentary letters. If the estate is going through administration or voluntary administration, you will receive letters of administration.

If you need to access the apartment and it's closed off with police tape or locked, you will need to get an order to unseal the residence from the Surrogate's Court to get permission to enter the apartment or home. Once the order is issued, you can call the police precinct with the keys to the apartment. Reasons to unseal a residence include looking for a will, burial deed, insurance or other information you may need to handle the deceased person's affairs. This is only temporary

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access. The residence will then be sealed until you get your letters of administration or testamentary letters.

### **Receiving benefits after someone dies.**

You may be entitled to benefits after someone one dies, some examples are included in this section. We have more specific information in our Guide for Friends and Family of Recently Deceased New Yorkers on pages 13-21:

[A-Guide-for-Friends-Family-of-Recently-Deceased-New-Yorkers.2.pdf \(volsprobono.org\)](#)

### **Social Security Administration**

There is a one-time benefit to surviving spouse if they were living with the deceased person.

You also may be entitled to spousal benefits to receive your deceased spouse's social security instead of your own social security check.

### **HRA**

The HRA may cover up to \$1,700 towards burial costs if total cost is less than \$3,400.

You must fill out the application within 120 days of the deceased person's death.

Application:

[https://www.nyc.gov/assets/hra/downloads/pdf/benefits/burial\\_claim\\_app\\_en.pdf](https://www.nyc.gov/assets/hra/downloads/pdf/benefits/burial_claim_app_en.pdf)

Any asset owned by the deceased person or legally responsible relative (a parent of minor or spouse) will be subtracted from the \$1,700 if they are eligible for the benefit.

### **Veterans**

If the deceased person was a veteran, you may be entitled to benefits. See [VOLS Guide to Veterans' Burial Benefits \(volsprobono.org\)](#).

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### **Workers Compensation**

If the deceased person died during a work-related injury, you may be entitled to workers compensation.

### **Crime Victims**

If the deceased person was a victim of a crime, contact the New York State Office of Victim Services.

### **Additional information:**

You will want to close accounts, forward mail by putting in a forwarding order at the post office, cancel the deceased person's driver's license, delete or memorialize social media accounts, if any, close email accounts, update voter registration, and send copies of death certificates to a major credit bureau. This can help avoid any identity theft of the deceased person in the future.

If you have questions about the content of this manual or would like to apply for life planning documents, please contact the VOLS Senior Law Project at (347) 521-5704.

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