

This information is for bureaucrats who may not be familiar with the Texas laws giving family members the legal right to take possession of a body after death.

Claiming the Body of the Deceased in Texas

In Texas, it is possible for “regular” people to claim the body of a deceased friend or relative; it does not have to be a funeral director or government official. This is a great relief to those who wish to care for loved ones at home, prior to the final disposition of their remains. It may be that a home funeral or wake is desired, as is frequently done in other countries, and was done in the United States in years gone by.

As interest in home funerals become more common, institutions where death occurs (hospital, hospice) may be reluctant to release the body to a family member or friend. This is usually because they are used to dealing with funeral home personnel, and may not know it is legal for others to assume responsibility for the deceased. Naturally, the institution may be concerned with legal issues.

This document contains Texas state laws from the Texas Administrative Code and the Texas Health and Safety Code that clarifies who may claim a body. There is also a form as part of this document called the “Report of Death” form which is the only item necessary to take custody of a deceased person.

Texas Administrative Code
TITLE 25: HEALTH SERVICES
PART 1: TEXAS DEPARTMENT OF HEALTH
CHAPTER 181: VITAL STATISTICS
SUBCHAPTER A: MISCELLANEOUS PROVISIONS

RULE §181.2 Assuming Custody of Body

(a) The funeral director, **or person acting as such**, who first assumes custody of a dead body or fetus shall within 24 hours either mail or otherwise transmit a report of death to the local registrar of the district in which the death occurred or in which the body was found. The report of death form shall be prescribed and furnished by the Department and a copy of such report shall serve as authority to transport or bury the body or fetus within this state.

(b) If a dead body or fetus is to be removed from this state, transported by common carrier within this state, or cremated, the funeral director, **or person acting as such**, shall obtain a burial-transit permit from the local registrar of the district in which the death occurred or in which the body was found. The local registrar shall not issue a burial-transit permit until a certificate of death, completed in so far as possible, has been presented (See §181.6 of this title (relating to Disinterment)).

(c) The funeral director, **or person acting as such**, shall furnish the sexton or other person in charge of a cemetery with the information required.

Source Note: The provisions of this §181.2 adopted to be effective January 1, 1976; amended to be effective July 3, 2003, 28 TexReg 4904

HEALTH & SAFETY CODE
SUBTITLE B. DISPOSITION OF THE BODY
CHAPTER 691. ANATOMICAL BOARD OF THE STATE OF TEXAS
SUBCHAPTER B. DONATION AND DISTRIBUTION OF BODIES AND ANATOMICAL SPECIMENS

§ 691.024. PERSONS WHO MAY CLAIM BODY FOR BURIAL.

(a) An officer, employee, or representative of the state, of a political subdivision, or of an institution is not required to give notice or deliver a body as required by Section 691.023 if the body is claimed for burial.

(b) A relative, bona fide friend, or representative of an organization to which the deceased belonged may claim the body for burial. The person in charge of the body shall release the body to the claimant without requiring payment when the person is satisfied that the claimed relationship exists.

(c) A claimant alleging to be a bona fide friend or a representative of an organization to which the deceased belonged must present a written statement of the relationship under which the claimant qualifies as a bona fide friend or organization representative.

(d) For purposes of this section, a bona fide friend means a person who is like one of the family, and does not include:

- (1) an ordinary acquaintance;
- (2) an officer, employee, or representative of the state, of a political subdivision, or of an institution having charge of a body not claimed for burial or a body required to be buried at public expense;
- (3) an employee of an entity listed in Subdivision (2) with which the deceased was associated; or
- (4) a patient, inmate, or ward of an institution with which the deceased was associated.

(e) A person covered by Subsection (d) may qualify as a bona fide friend if the friendship existed before the deceased entered the institution.

Acts 1989, 71st Leg., ch. 678, § 1, eff. Sept. 1, 1989.

**Texas Department of Health “Handbook on Death Registration”
Report of Death Form (VS-115) Revised September 2004,
Texas Department of Health, Bureau of Vital Statistics**

[25 TAC '181.2 (a)]

The funeral director **or person acting as such**, who first assumes custody of a dead body or fetus, shall within 24 hours either mail or otherwise transmit a Report of Death to the local registrar of the district in which the death occurred or the body was found.

A copy of the Report of Death form shall serve as authority to transport or bury the body within Texas.

Instructions for Completing a Report of Death Form

1. Legibly type or print the full name of the deceased and the date of death in durable blue or black ink.
2. Enter the county and city, or precinct number, in which the death occurred.
3. Enter the sex and race of the deceased.
4. Enter the deceased's age in years at his or her last birthday. If the deceased is under one (1) year, enter the age in months or days. If the deceased is under 24 hours, enter the age in hours or minutes.
5. Enter the date the Report of Death form was mailed to the local registrar.
6. Provide the typed or printed name and signature of the funeral director **or person acting as such**.
7. Enter the funeral director's license number (if applicable) and full address.

The Report of Death Form (VS-115) can be found online at
<https://www.dshs.state.tx.us/vs/field/vsforms/funeralforms.shtm>.

**Texas Attorney General Ruling
Opinion No. JM-808**

It clearly states in the third paragraph before the Summary that “**next of kin have right to possession of dead body** as well as duty to provide for burial.” Here is a direct link to the ruling:

<https://www.texasattorneygeneral.gov/opinions/opinions/47matttox/op/1987/htm/jm0808.htm>