

Funeral Arrangements

- In Arkansas, you may name an agent for handling funeral arrangements in your declaration for disposition if you wish someone other than your next-of-kin to be in charge.
- It is legal for a family or designated agent to handle everything without a funeral director. You may want to look for a home funeral guide: <http://homefuneraldirectory.com/>
- If you will be using a funeral home, prices must be given over the telephone. You must be given a General Price List (GPL) if you visit in person and *before* discussing any services.
- You must be shown a Casket and Outer Burial Container Price List before selecting either.
- You must be given a Statement of Funeral Goods and Services Selected with the total cost before any services are provided.
- Cash advance items may not be marked up with a commission for the mortuary.
- **Do not sign any contract for more than you can afford to pay.** There is no state money for indigent assistance, and county funds are limited. No other organization helps with funeral costs.
- There is one nonprofit Funeral Consumers Alliance group in Fayetteville that does a price survey: www.funerals.org

Autopsy

- If the death was unexpected or the cause of death uncertain, the state will probably require an autopsy.
- If you have questions about the death, you may request and pay for a private autopsy.
- If a viewing is planned, there will likely be extra charges to repair the body for embalming.

Organ, Body, and Tissue Donation

- If death occurs in a hospital, you are likely to be asked about organ donation. Only about 1% of the deaths are eligible for major organ donation. The organ procurement organization (OPO) will pay for any extra body preparation needed if you plan a viewing. Decline any such charge you might find on the GPL.

- After-death donation of eyes, skin, and long bones may be considered. Ask the hospital social worker or the funeral director about this.
- Whole body donation to a medical school is one way to lower costs, but the donor's family pays for arterial embalming if there is a delay in transportation and no refrigeration. After medical study, the school will pay for cremation and can return the cremated remains to the family if requested. You should have back-up funeral plans if your body cannot be accepted for any reason.
- There are also non-academic companies that accept whole bodies for research and education. Various body parts will likely be shipped around the country and possibly internationally. This state has no laws regulating these companies. Note that this is an entirely different category of body donation from the traditional cadaver donation to a medical school.
- To find the nearest body donation option, the cost if any, and the reasons for body rejection check:

www.finalrights.org

Embalming and Other Requirements

- Embalming or refrigeration is required after 24 hours. That can be delayed to 48 hours if cremation is planned.
- If the body is to be shipped out of state or by common carrier, it must be embalmed. But if the body is in a state of decomposition and can't be embalmed, a sealed container must be used. This option should be available when there are religious or personal objections to embalming.
- Many funeral homes have a policy that requires embalming for a public viewing. Embalming does not protect the public health. It merely delays decomposition.

Caskets, Liners, and Vaults

- Neither is required by state law for burial. A rigid combustible container is required for cremation.
- A casket will not prevent natural decomposition.
- You may build your own or purchase from a casket retailer. Vault dealers rarely sell to the public.

- The purpose of a vault is to keep the ground from caving in. It facilitates maintenance for the cemetery. It has no preservative qualities regardless of how much you spend.

Burial

- All burials must be in an established cemetery. Family graveyards are exempt from taxation and must be registered with the county clerk before burials occur. A good practice is 150 feet from a water supply and 25 feet from a power line with two or three feet of earth on top. You should draw a map of the land showing where the family cemetery is and have it recorded with the deed, as well. To establish a burial plot on private land, contact the Health Department at 501-661-2654.
- If you purchase a lot in a commercial, town, or religious cemetery, you will also have the opening and closing costs in addition to the cost of the plot.
- Some cemeteries have restrictions on the kind of monuments or plantings and adornment that are permitted at the grave site.
- If you wish to sell a cemetery plot, it must be offered to the cemetery first at the going rate.
- A disinterment permit must be obtained from the state registrar and under the supervision of a licensed funeral director when requested by next-of-kin. The casket may not be opened except by court order.

Cremation

- Cremation must occur in a licensed crematory.
- A pacemaker must be removed.
- Some crematories will let the family witness the cremation.
- Crematories may not contract directly with the public.
- One may authorize one's own cremation prior to death.
- The cremation process takes about two-and-a-half hours for an average adult. The crematory will remove any metal and pulverize the cremated remains to small particles, similar to white or gray coarse sand, about 5-10 pounds.

- Cremated remains may be kept at home, scattered on private land with the land-owner's permission, interred in a cemetery or memorial garden, or placed in a mausoleum niche.
- If scattering on public land or water, don't ask, don't tell. Park service people are concerned that some may want to create a shrine at the site and would prefer not to know your plans. Be discreet. The Environmental Protection Agency (EPA) says they must be scattered three miles out to sea. That's because the federal agency has no jurisdiction over the first three miles; the bordering state does. Most states (except for California and South Dakota) have no restrictions on the disposition of cremated remains, and there are no "cremains police" in any state. Do as you wish.
- If flying with cremated remains, be sure they are in a non-metal container to pass through the scanner.
- Cremated remains may be sent only by U.S. Postal Service. Use Priority Mail Express and ask for delivery confirmation. FedEx and UPS will not knowingly accept cremated remains.

Veterans and Their Dependents

- The VA cemetery in Little Rock is closed to new interments. However, there is space in Fayetteville and Fort Smith where interment and marker are free of charge for the veteran, spouse, and certain dependents. There are also two state veterans cemeteries: in North Little Rock and Bird-eye. There is likely to be a small charge for the non-veteran spouse or dependent (\$300)
- You will need a copy of the DD214 discharge papers for gaining benefits.
- The U.S. Department of Veterans Affairs (VA) provides markers for veterans no matter where they are interred. Markers can be upright or flat, and they come in bronze, marble, and granite: (800) 697-6947.
- A free flag can be ordered through the U.S. Postal Service.
- A comprehensive list of veterans benefits can be found here:

<http://www.funerals.org/faq/60-veterans-funeral-and-burial-benefits>

Your Funeral Consumer Rights in Arkansas

Prepaying for a Funeral

- All prepaid funerals are at a guaranteed price; the interest is supposed to cover funeral inflation. But many investments do not appreciate as fast as the prices climb. You have a right to insist on no extra charges if it is clearly identified in the contract as "price guaranteed." Any substitutions should be of equal *quality* to that described in the contract.
- Prices of third-party items such as the crematory fee or obituary usually cannot be guaranteed.
- Setting aside assets for Medicaid eligibility is the one time it makes sense to prepay for a funeral. There is no limit on the amount in an irrevocable funeral trust. Be sure to ask if you will be getting an annual report of your prepaid funds and let those who will be handling your affairs know that you have prepaid and where.

Social Security Death Benefit

- There is a \$255 death benefit for a surviving spouse. There is no similar benefit when that spouse dies.
- Dependent children are entitled to survivor benefits when a parent dies.

The state Board of Funeral Directors and Embalmers has seven members. Two are consumer representatives, and five are funeral directors or embalmers. This board also regulates crematories. The Department of Insurance regulates preneed sales. The Arkansas Cemetery Board has seven members, at least two of which are consumers. Coroners are elected, and some are funeral directors with a conflict of interest.

Complaints

- Valid complaints include dishonesty, misrepresentation, unprofessional conduct, negligence, breach of contract, violation of state or federal laws. For how to file a complaint, see: www.funerals.org/your-legal-rights/complaint
- Contact the Funeral Board here: www.arkansas.gov/fdemb
- Contact the Cemetery Board here: www.cemeteryboard.arkansas.gov
- Contact the Department of Insurance here: <http://iinsurance.arkansas.gov/>

Much of the information for this brochure was taken from *Final Rights: Reclaiming the American Way of Death* (Upper Access, 2011) www.finalrights.org
Additional information can be found at www.funerals.org

Prepaying the Funeral Home

Pros

Cons

	Pros	Cons
Pay on Death Savings Account or Bank CD	<ul style="list-style-type: none"> ❖ You have total control of the funds. ❖ Can easily change plans or use for emergencies. ❖ Can make time payments easily. 	<ul style="list-style-type: none"> ❖ Asset for Medicaid purposes. ❖ You must declare interest on you tax return. ❖ Penalty to cash CD prior to death.
Qualified Funeral Trust	<ul style="list-style-type: none"> ❖ If irrevocable, it won't be an asset for Medicaid. ❖ The trust pays taxes on the interest. ❖ There is a guarantee fund to protect against embezzlement. 	<ul style="list-style-type: none"> ❖ The funeral home may keep the interest if you move or cancel. ❖ Taxes paid on interest that wouldn't be taxed if you're low-income.
Master or Simple Trust	<ul style="list-style-type: none"> ❖ If irrevocable, it won't be an asset for Medicaid. ❖ You are supposed to receive an annual report of the interest earned which will serve as reassurance your funeral funds are safe. ❖ There is a guarantee fund to protect against embezzlement. 	<ul style="list-style-type: none"> ❖ The funeral home may keep the interest if you move or cancel. ❖ You will have to declare the interest on your tax return. ❖ Can be converted to insurance without your permission. (See below.)
Funeral or Life Insurance	<ul style="list-style-type: none"> ❖ Easily portable. ❖ If the funeral home is the beneficiary, it won't be considered an asset for Medicaid eligibility. ❖ The insurance company pays the taxes. 	<ul style="list-style-type: none"> ❖ If you need to cancel, you may not get back more than half you paid. ❖ If paying over time, you may pay twice the face value. ❖ There may be a 30-day delay in receiving funds for which the funeral home may charge an extra fee.

Funeral Ethics Organization
87 Upper Access Rd.
Hinesburg, VT 05461
<http://www.funeraethics.org>

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