



**COMMISSIONERS COURT
COMMUNICATION**

COURT ORDER NUMBER _____

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DATE: 11/19/2024

**SUBJECT: CONSIDERATION OF FIRST AMENDMENT TO THE POLICY FOR THE
DISPOSITION OF DECEASED PAUPERS**

***** CONSENT AGENDA *****

COMMISSIONERS COURT ACTION REQUESTED

It is requested that the Commissioners Court consider the First Amendment to the Policy for the Disposition of Deceased Paupers.

BACKGROUND

Per Health and Safety Code Section 694.002(a), "The commissioners court of each county shall provide for the disposition of the body of a deceased pauper. The commissioners court may adopt rules to implement this section." Tex. Health & Safety Code § 694.002(a) (emphasis added). In carrying out this statutory duty, "The Commissioners Court shall consider any information, including the religious affiliation of the deceased pauper, provided by a person" with a right to control the disposition of the decedent's remains as determined by Health and Safety Code Section 711.002(a).

On October 15, 2024, the Commissioners Court, through Court Order# 144087, approved The Policy for the Disposition of Deceased Paupers.

This First Amendment clarifies what transportation costs are eligible, allows for partial payment by the County should the decedent's estate cover only a portion of burial or cremation costs, and authorizes the Director of the Tarrant County Department of Human Services to execute all documents necessary to inter remains under this Policy, pursuant to Health and Safety Code Sections 694.002 and 711.002(e).

The Criminal District Attorney's Office has reviewed and approved the First Amendment as to form.

FISCAL IMPACT

There is no net fiscal impact as a result of the Amendment.

SUBMITTED BY	Human Services	PREPARED BY:	Lisa Martin
		APPROVED BY:	Kristen Camareno



TARRANT COUNTY POLICY FOR THE DISPOSITION OF DECEASED PAUPERS

1. Introduction and Statutory Authority

Tarrant County Commissioners Court, acting as the governing body of Tarrant County in accordance with Section 694.002 of the Texas Health and Safety Code, has established the policies contained herein to govern the disposition of the body of a deceased pauper.

Per Health and Safety Code Section 694.002(a), “The commissioners court of each county shall provide for the disposition of the body of a deceased pauper. ***The commissioners court may adopt rules to implement this section.***” Tex. Health & Safety Code § 694.002(a) (emphasis added). In carrying out this statutory duty, “The commissioners court shall consider any information, including the religious affiliation of the deceased pauper, provided by a person” with a right to control the disposition of the decedent’s remains as determined by Health and Safety Code Section 711.002(a).

Under Health and Safety Code Section 711.002(a), except as provided by Subsection (1), unless a deceased pauper has left directions in writing for the disposition of the decedent’s remains, the following persons, in the priority listed, may have the right to control the disposition, including cremation, of the decedent’s remains. The commissioners court shall consider any information provided by a person listed as follows:

- (1) the person designated in a written instrument signed by the decedent;
- (2) the decedent’s surviving spouse;
- (3) any one of the decedent’s surviving adult children;
- (4) either one of the decedent’s surviving parents;
- (5) any one of the decedent’s surviving adult siblings;
- (6) any one or more of the duly qualified executors or administrators of the decedent’s estate; or
- (7) any adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent.

As used in this policy, the term “Next-of-Kin” refers to any and all persons with the right to control the remains of a decedent as determined by Health and Safety Code Section 711.002(a).

2. Policy Administration

The Tarrant County Policy for the Disposition of Deceased Paupers will be administered by the Tarrant County Department of Human Services (TCDHS). TCDHS shall establish processes and procedures to ensure full compliance and implementation of this policy. Through the approval of and pursuant to this policy, the Director of TCDHS, or his/her designee, is authorized by the Commissioners Court to execute all paperwork, documents, and other instruments necessary to inter remains under Health and Safety Code Sections 694.002 and 711.002(e).

3. Eligibility Requirements

- 3.1 To be considered a pauper eligible for burial or cremation by the County under this policy, the County must determine, after reasonable assessment, that the person's death occurred in Tarrant County, and:
- a. the estate of the decedent does not have sufficient resources that may be used to pay for disposition; and
 - b. the Next-of-Kin cannot pay for disposition because:
 - i. they do not have sufficient resources or are unwilling to pay for disposition; or
 - ii. their identities or whereabouts are unknown; or
 - c. the Next-of-Kin was unable to secure a funeral arrangement with a funeral establishment within the means of the decedent's estate whereby the funeral establishment referred the Next-of-Kin to the TCDHS. Prior to requesting assistance from TCDHS, Next-of-Kin must present quotes from a minimum of three funeral establishments for cremation, burial, and/or cemetery expenses comparable to those provided under this policy.

4. Referral and Assessment of Resources

- 4.1 A referral to TCDHS for a determination of pauper status for a decedent whose death occurred in and whose remains are located within the boundaries of Tarrant County must come from a funeral home, medical facility, nursing home, or the Office of the Tarrant County Medical Examiner's (TCME). The referral may only be submitted after:
- a. the earlier of
 - i. 6 days since Next-of-Kin received notice of decedent's death; or
 - ii. 10 days since date of decedent's death; and
 - b. the referring agency has, using all information and means available, made and documented due effort to locate and notify any and all Next-of-Kin as outlined in Section 711.002(a) of the Texas Health and Safety Code; and one of the following applies:
 - i. the referring agency cannot identify Next-of-Kin and has filed an affidavit with the County Clerk per Section 691.025(b) of the Texas Health and Safety Code; or
 - ii. Next-of-Kin will not return a minimum of 3 documented attempts at contact (including but not limited to phone calls,

- iii. Next-of-Kin refuses to accept responsibility for the decedent; or
 - iv. the qualifications in section 3.1 have been met.
- 4.2 Upon accepting a referral for determination of pauper status, TCDHS will attempt to contact the Next-of-Kin as identified by the referring agency, whose identity and whereabouts are known, and investigate the resources available to the decedent's estate.
- 4.3 The assessment of resources may include determination of eligibility for disposition benefits from the following resources:
- a. Private funeral establishment;
 - b. Veterans Affairs;
 - c. Red Cross, for spouses and dependents of current members of the armed forces;
 - d. U. S. Government, for military personnel;
 - e. Private insurance companies if benefits are payable to the decedent's estate;
 - f. Private trusts;
 - g. Nonprofit organizations; and
 - h. Crime Victim's Compensation Fund for victims of violent crimes.

5. Determination of Eligibility

- 5.1 Upon receipt of a referral, TCDHS shall contact the Next-of-Kin whose identity and whereabouts are known (the Applicant), to request information that may be necessary for TCDHS to determine eligibility of the decedent. TCDHS may use information obtained from the referring entity in determining eligibility.
- a. Any information obtained by TCME in the course of a death investigation may be considered by TCDHS. This includes any refusals by Next-of-Kin to accept responsibility for the disposition of the decedent. TCDHS may accept the findings of the TCME relating to such refusal by Next-of-Kin to accept responsibility for the decedent's remains.
- 5.2 The Applicant will be required to sign a notarized affidavit certifying the inability of the decedent's estate to cover the cost of cremation or burial, and that no other sources will cover said cost.
- a. Should the decedent's estate cover only a portion of the cost of County cremation or burial, TCDHS may approve payment of the remaining cost.
- 5.3 TCDHS will notify Applicant of decision within seven (7) business days of receipt of referral.

- 5.4 If TCDHS determines the decedent is not eligible for services under this Policy, TCDHS will give the Applicant written notice stating the reasons for the denial.
- 5.5 Under this Policy, applicants requesting deceased pauper services have the right to appeal eligibility determination decisions made by TCDHS. Written notice of such appeals must be made within five (5) business days of the rendered decision. To pursue an appeal, the Applicant must:
 - a. Complete the Appeal Form and file with the County Administrator's Office. A final decision will be rendered within three (3) business days of receipt of the Appeal Form. The decision of the County Administrator's office is final.

6. Method of Disposition

All proceedings relating to the final arrangements for pauper remains shall be conducted with the utmost solemnity and respect for the decedent and Next-of-Kin.

- 6.1 TCDHS will approve cremation of any identified decedent, pursuant to Health and Safety Code Section 694.002.
- 6.2 The customary method of disposition will be cremation by fire unless:
 - a. the identity of the decedent is unknown as required in Texas Health and Safety Code Section 716.101; or
 - b. cremation is expressly prohibited by decedent's last will and testament; or
 - c. written objection to cremation on the basis of religious affiliation is submitted by Next-of-Kin within 10 days of date of death; or
 - d. the decedent is an honorably discharged Veteran of the United States Armed Forces and eligible for a traditional disposition at the Dallas-Fort Worth National Cemetery
- 6.3 If an exception listed in section 6.2 applies, the method of disposition will be county burial.
 - a. County burial includes only the following: transportation of the decedent to funeral home(s) having a contract with the County and cemetery, refrigeration, pauper casket, grave opening, burial, and grave closing.
 - b. County burial does not include the following: viewing, funeral or burial service, flowers, officiant, or next of kin transportation. In the event the decedent is transported from a medical facility, nursing home, or other location of death to a funeral home that does not have a contract with the County under this policy, the County may refuse to pay for that transportation.
- 6.4 In no circumstance shall a county cremation or burial take place without prior written authorization by TCDHS.

6.5 In no circumstance shall county cremation or burial take place sooner than eleven (11) days after the date of death of the decedent.

7. Vendors

Vendors authorized to perform cremations or county burials under this policy will be selected through a competitive bidding process conducted by the Tarrant County Purchasing department or another process approved by the Commissioners Court. All vendors must have a current contract approved by Tarrant County Commissioners Court before operating under this policy. Vendors must adhere to this policy as well as the terms of their approved contract. Should any portion of this policy conflict with the terms of an approved vendor contract, the vendor must contact the Tarrant County Purchasing department for clarification and direction.