

North Dakota Century Code §23-06-03 – Care and Custody of the Dead

Chapter 800 – Burials

Section 801 – Duty of Burial

A) In accordance with §23-06-03 of the North Dakota Century Code, as amended, the duty of burying the body of a deceased person, that did not leave sufficient means to pay for expenses of final disposition, devolves upon the individual identified in subsection 1(a) through (l) in the order of priority.

B) If an individual with the duty of disposition is available but unable to pay the full costs of final disposition, then the duty of disposing of a Burleigh County resident's deceased body shall rest with Burleigh County.

C) 1. The duty of disposition shall be in accordance with the order of priority stated in subsection 1 of §23-06-03.

2. Burleigh County shall consider the following individuals as being primarily financially responsible, as next of kin, in the following order of preference:

- a. Surviving spouse, legally married to the deceased person at the time of death;
- b. Adult children, possessing sufficient means to defray the necessary expenses;
- c. Natural or adoptive parents, including parents residing out of state for whom contact information is available, possessing sufficient means to defray the necessary expenses;

D) 1. Burleigh County shall only be responsible for payment of disposition costs for permanent residents of Burleigh County, North Dakota at the time of their death, and/ or persons whose residence cannot be established with fifteen days of application for assistance.

2. As a matter of policy, Burleigh County shall only be responsible for payment of burial or cremating costs of United States citizens, lawful resident aliens, or any person otherwise eligible for federally funded economic assistance programs.

E) 1. Burleigh County shall not be responsible for payment of burial or cremating costs for temporary residents of Burleigh County, including but not limited to hospital patients, and inmates of a public institution housed in Burleigh County. Such persons shall be referred to their prior county of residence.

2. As a matter of policy, any person disqualified from receiving federally funded economic assistance from any program administered by Burleigh County Social Services due to an intentional program violation is concurrently disqualified from receiving burial assistance. Such time period the person is disqualified shall correspond to the concurrent time period of disqualification for the administered program.

F) Burleigh County shall not be responsible for any burial or cremation costs when the deceased person and/ or individual with the duty of disposition has entered into a signed agreement with the University of North Dakota for a whole-body donation.

G) Applications for Burleigh County burial assistance must be submitted to Burleigh County Social Services within thirty (30) days of the deceased person's date of death.

H) Burleigh County Social Services has determined that cremation is the preferred method for disposition: consideration will be given to strongly expressed religious convictions of the deceased person and/ or person with the duty of disposition, and the next of kin will be afforded the opportunity to provide the additional funds necessary for burial.

#### Section 802 – Payment for services

A) If the duty of final disposition falls to Burleigh County Social Services, such payment for burial or cremation costs shall be made to the provider of those services.

B) If the duty of burying a deceased person falls to Burleigh County Social Services under this chapter, Burleigh County Social Services may pay up to \$2,100 towards burial or cremation costs. If the total burial or cremation costs exceed \$2,100, then Burleigh County shall not be responsible for making any payment towards those additional costs.

C) In the event that the individual with the duty of disposition has availability of funds, (including but not limited to funds from Social Security death benefits, Veteran's Administration Benefits, Tribal income and/ or burial assistance, person account, and/ or insurance benefits regardless of the name of the beneficiary) such funds shall be considered a resource to be applied towards disposition costs.

#### Section 803 – Non-Spousal Impoverishment Provision

A) If the person with the duty of disposition includes a surviving spouse or an adult disabled child, the first \$3,500 of funds available to the family shall be not counted in calculating eligibility towards burial assistance from Burleigh County Social Services. Any available funds in excess of \$3,500 shall be calculated to determine eligibility.

B) If a deceased person dies, any motor vehicles owned at the time of death must be sold, and calculated into total of funds available for calculating eligibility towards burial assistance from Burleigh County Social Services, except that one motor vehicle for each surviving spouse and/ or adult

children, who is living in the family home at the time of the death and is over the age of (18), is exempt from sale and not be used in calculating eligibility towards burial assistance for Burleigh County Social Services.

#### Section 804 – Definitions

As used in this chapter:

A) Burial costs mean costs associated with embalming, purchase of a casket, purchase of a vault, and/ or memorial services through an associated funeral home.

B) Cremating costs means costs associated with cremation of the deceased person's body, provision of an urn to hold remains, and/ or memorial services through an associated funeral home.

#### Section 805

A) Nothing in this chapter shall be construed to alter, modify, or change North Dakota Century Code provisions.