

STATE OF TEXAS

COUNTY OF BEE



**ORDER REGARDING DISPOSITION OF
THE BODY OF DECEASED PAUPERS**

WHEREAS, the Commissioners Court of Bee County, Texas, convened in a regular meeting on the 13th day of August, 2018, in the Commissioners Courtroom with proper notice given and a quorum of the Court present; and

WHEREAS, the matter of adopting a policy regarding disposition of the body of deceased paupers came before the Court; and

WHEREAS, the Court desires to adhere to the guidelines set out in the Texas Health and Safety Code, §694.002, §711.002, § 691.023, §691.024 and other applicable statutes to provide for disposition of remains of indigent persons in Bee County, Texas.

NOW THEREFORE, on a motion made by Commissioner DeWitt, seconded by Commissioner Haggard, and adopted by the vote indicated below, the Commissioners Court of Bee County, Texas, does hereby adopt the following policy to be effective from this date forward:

- a) Bee County ("the County") shall accept no responsibility, financial or otherwise, for the disposition of a decedent's remains if there is found to exist any surviving relative or other person listed in §711.002 or §691.024 of the Texas Health and Safety Code;
- b) In the event no person listed in §711.002 or §691.024 is found to exist, the County will pay reasonable costs for the disposition of the remains by cremation;
- c) The County Judge's Office will make determination of indigency;
- d) Remains of veterans and unidentified persons that meet the above criteria will be buried in the County cemetery;
- e) The Commissioners' Court of Bee County hereby limits cost for disposition of remains to \$1,000.00.
- f) This Order supersedes any and all other prior Court Orders regarding indigent burials or disposition of the body of deceased paupers.

ADOPTED by the Commissioners Court of Bee County, Texas, on the 13th day of August, 2018.

Handwritten signature of Stephanie Moreno in blue ink.

Stephanie Moreno, Bee County Judge

Handwritten signature of Carlos Salazar Jr. in blue ink.

Carlos Salazar Jr., Commissioner Pct. 1Handwritten signature of Dennis DeWitt in blue ink.

Dennis DeWitt, Commissioner Pct. 2Handwritten signature of Sammy G. Farias in blue ink.

Sammy G. Farias, Commissioner Pct. 3Handwritten signature of Ken Haggard in blue ink.

Ken Haggard, Commissioner Pct. 4

ATTEST:

Handwritten signature of Mirella Escamilla Davis in blue ink.

Mirella Escamilla Davis, Bee County Clerk

BEE COUNTY GUIDELINES FOR DISPOSITION OF THE BODY OF A DECEASED PAUPER

1. INTRODUCTION/STATUTORY AUTHORITY

- 1.1 This policy is adopted pursuant to §694.002, Texas Health and Safety Code which provides that a county shall provide for the disposition of the body deceased pauper.
- 1.2 Under §71 1.002(a), Texas Health and Safety Code, the following persons, in the priority listed, have the right and duty to control the disposition, including cremation, of a decedent's remains, and are liable for the reasonable costs of interment:
 - (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; or
 - (6) any adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent.
- 1.3 Pursuant to §711.002(d)(e), the county in which the death occurred is responsible for the cost of interment only if there is no person with a higher priority of responsibility.

2. DEFINITIONS.

- 2.1 In these guidelines:
 - (1) "Contracting funeral home" means a funeral home that has contracted with the County for the interment of paupers under this policy.
 - (2) "County" means Bee County.
 - (3) "Department" means the Bee County Judge's Office.
 - (4) "Judge" means the County Judge of Bee County.
 - (5) "Family member" means a person listed in §711.002, Texas Health and Safety Code, with the right, duty, and liability provided that law for the interment of a decedent's remains.

- (6) "Interment" means the permanent disposition of remains, by burial or by placement of cremated remains in an urn or other container.
- (7) "Resources" includes cash, bank accounts, real property, furniture, jewelry, automobiles, job income, insurance proceeds, and any other possessions, assets, or death benefits. The term includes a legal claim that is pending or may be asserted in litigation on behalf of the decedent's estate or family members.

3. ELIGIBILITY REQUIREMENTS.

- 3.1 A person whose death occurs in this County may be certified as a pauper eligible for interment by the County under this policy if the Judge determines, after reasonable investigation, that:
 - (1) the estate of the decedent does not have any resources that may be used to pay for interment; and,
 - (2) the decedent's family members cannot pay for interment because:
 - (i) they do not have resources that may be used to pay for interment; or,
 - (ii) their identities or whereabouts are unknown.

4. INVESTIGATION OF RESOURCES/REFERRAL BY FUNERAL HOME.

- 4.1 This section applies if the decedent's remains are in the possession of a funeral home located in the County.
- 4.2 A referral to the Department for a determination of pauper status must come from the funeral home which has possession of the remains.
- 4.3 Before making a referral to the Department for determination of pauper status, the funeral home must first attempt to contact the decedent's family members and investigate the resources available to the decedent's estate or family members.
- 4.4 The investigation of resources by a funeral home must include determining if the decedent is eligible for burial benefits from the following sources:
 - (1) Veteran's Administration (funeral home must apply for burial benefits because the VA will not reimburse a governmental agency that has funds designated for burial expenses; burial must occur at the veteran's cemetery);
 - (2) Red Cross, for spouses and dependents of current members of the armed forces.
 - (3) U.S. Government, for military personnel;

- (4) Social Security Administration, for \$255 death benefit to spouse, dependent disabled adult children, and minor children, which may be applied to burial expenses;
 - (5) Private insurance companies;
 - (6) Private trusts; and,
 - (7) Crime Victim's Compensation Fund, for victims of violent crimes.
- 4.5 The investigation of resources by a funeral home must include attempting to identify and locate family members and waiting at least 72 hours for family members to respond to the funeral home's initial attempts to contact them.
- 4.6 A funeral home may request a determination of pauper status by the County if the funeral home:
- (1) has conferred with family members about available resources, if there are family members;
 - (2) reports the results of its investigation of resources to the Department in the form of a sworn affidavit; and
 - (3) represents to the Department that its investigation has not located sufficient resources available to pay the cost of interment in the form of a sworn affidavit.

5. DETERMINATION OF ELIGIBILITY/PROCEDURE/PARTIAL PAYMENT.

- 5.1 Upon referral by a funeral home, at least one family member whose identity and whereabouts are known must complete a sworn affidavit attesting to the decedent's indigent status, furnish all requested information, and any other forms that may be necessary to determine eligibility by the Department.
- 5.2 If the decedent's remains are not in the possession of a funeral home and the identity and whereabouts of a family member is known, the Department shall select a funeral home to perform the investigation of resources as described in Section 4.
- 5.3 The Department shall review the information, forms, and affidavits submitted to it, and may conduct its own investigation to determine if the decedent is eligible for interment as a pauper under this policy.
- 5.4 The Judge shall determine whether a decedent is eligible as a pauper and interred at the County's expense.
- 5.5 If the Department determines that a pauper's estate or family members have resources to pay a portion but not all of the expenses, a contribution towards the

expense must be made or applied for by the estate, family members, or funeral home. The amount of the contribution must be deducted from the bill submitted by the contracting funeral home to the County. A family member must transfer or assign resources for any required contribution to the contracting funeral home.

5.6 If a decedent's estate or family members have a claim against a party and litigation is pending or anticipated, the Judge may:

(1) Treat the claim as a resource and deny eligibility; or

(2) Grant interment assistance and require a representative of the decedent's estate to transfer or assign its interest in the proceeds from such claim to the extent of the County's expense for interment.

5.7 The County may request reimbursement, or file suit seeking recovery of the County's costs for interment as a pauper if the Judge determines:

(1) The existence of resources or family members not reported at the time of application; or

(2) That a person with a duty to inter had resources to pay but refused.

5.8 County costs sought to be recovered may include, but are not limited to, the cost of interment, the cost of County staff time spent contacting family members and processing the request, legal expenses, and any other costs incurred by the County in connection with the interment.

6. CONTRACTING FUNERAL HOME.

6.1 The County may contract with a funeral home to provide for the interment of paupers.

6.2 If another funeral home is holding the remains of a pauper, a Department representative and a family member, if available, must sign a form authorizing the contracting funeral home to remove the remains from the holding funeral home.

6.3 The contracting funeral home may not charge a pauper's estate or family members for interment expenses or services in excess of those provided by its contract with the County.

7. DEPARTMENT FILES AND FORMS; BILLING.

7.1 The Judge may adopt forms as necessary or desirable to implement this policy.

7.2 Upon authorization, a bill should be sent by the contracting funeral home directly to the Department.