

# VICTORIA COUNTY POLICY FOR THE DISPOSITION OF THE BODY OF DECEASED PAUPERS

## INTRODUCTION AND STATUTORY AUTHORITY.

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

### **§694.002. Duty of Commissioners' Court Concerning Disposition of Body of Deceased Paupers<sup>1</sup>**

- (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.*
- (b) The commissioners' court shall consider any information, including the religious affiliation of the deceased pauper, provided by a person listed in Section 711.002(a).
- (c) If a county discovers cash in the possession of a deceased pauper, a county may use the cash to pay the actual costs incurred by the county in disposing of the pauper's body.

In accordance with §711.002(a) of the Texas Health and Safety Code, the next of kin, listed below, are legally responsible for the disposition of the deceased.

- (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.

## ELIGIBILITY REQUIREMENTS.

A person whose death occurs in Victoria County may be certified as a pauper eligible for burial or cremation by the County under this policy if the County Judge determines, after reasonable investigation, that:

- 1) The estate of the decedent does not have any resources that may be used to pay for disposition; and
- 2) The decedent's next of kin cannot pay for disposition because:
  - a. They do not have resources or are unwilling to pay for disposition; or
  - b. Their identities or whereabouts are unknown.

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<sup>1</sup> Texas Health and Safety Code, Title 8, Subtitle B, Chapter 694.

## **INVESTIGATION OF RESOURCES AND REFERRAL BY FUNERAL HOME.**

A funeral home may request a determination of pauper status by the County through an application for the disposition of a deceased pauper if the funeral home:

- (1) has conferred with the family members about available resources, if there are family members;
- (2) reports the results of its investigation of resources to the Office of the County Judge;
- and
- (3) represents to the Office of the County Judge that its investigation has not located sufficient resources available to pay the cost of interment.

Before making a referral to the Victoria County Judge's Office 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.

The investigation of resources by a funeral home should include a determination 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 for burial expenses;
- (5) private insurance companies;
- (6) private trusts; and
- (7) Crime Victim's Compensation Fund, for victims of violent crimes.

The investigation of resources by a funeral home must include attempting to identify and locate family members and waiting at least six days from the notice of the death or ten days from the date of death for family members to respond.

If family members are located who are totally indigent and unable to accept responsibility for burial costs, then the next of kin must agree to accept all policies of Victoria County Commissioners' Court in relation to the disposition of the body of a deceased pauper. In addition, the County reserves the right to require that the remains of the deceased be relinquished to Victoria County for disposition.

If no next of kin is located, the application for services under this policy shall be completed by the funeral home.

## **DETERMINATION OF ELIGIBILITY.**

Upon receipt of the application for disposition of the body of a deceased pauper, the Office of the County Judge will review the information submitted and may conduct its own investigation to determine if the decedent is eligible under this policy.

If the Office of the County Judge determines that a pauper's estate or next of kin has resources available to pay a portion but not all the expense of interment, 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.

The Office of the County Judge will provide the referring funeral home with a determination and order regarding the application.

Upon receipt of the notification, the funeral home shall invoice Victoria County for the amount approved. Invoices should be forwarded to the Office of the County Judge at 101 N Bridge St, Victoria, TX 77901 or [info@vctx.org](mailto:info@vctx.org). The Office of the County Judge will verify the invoice is for an approved application and then process it for payment.

The Office of the County Judge will keep in its files:

- 1) the completed application form;
- 2) the determination and order of the County Judge;
- 3) other documents provided by next of kin or funeral home;
- 4) any invoice or request for payment of approved interment services; and
- 5) proof of payment.

## **OTHER GENERAL PROVISIONS.**



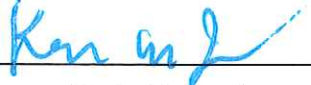

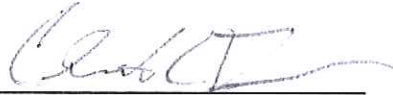
- 1) All proceedings relating to the final arrangements for pauper remains shall be conducted with the utmost solemnity and respect for the decedent.
- 2) Victoria County's customary method of disposition of the body of the deceased pauper will be cremation. The funeral home is responsible for obtaining the required authorizations for cremation. The cremation shall conform with all applicable state and federal regulations, including regulation (8) regarding arrangements made between next of kin and contracted funeral homes.
- 3) If the customary method of disposition conflicts with the religious affiliation of the deceased pauper; or if the deceased pauper is unknown; or if the next of kin identities and whereabouts are unknown, the method of disposition may be a burial. County burial includes embalming, generic casket, transportation to cemetery, outer burial container, and interment in the pauper section at Telferner Cemetery. No visitation, grave marker, or additional services at the funeral home or Telferner Cemetery are included.

- 4) Other than costs designated on the determination and order of the County Judge, the funeral home may not charge the pauper's estate or family members for expenses or additional services not covered through this policy. The family/next of kin or others may not pay for additional services not covered through this policy.
- 5) If assets are later identified which were available at the time of death, Victoria County Commissioners' Court has the right to recover costs from the next of kin.
- 6) The County may request reimbursements or file suit seeking recovery of the County's costs for interment as a pauper if the County Judge determines:
  - a. The existence of resources or family members not reported at the time of the application; or
  - b. False or inaccurate information was provided on the application by either the next of kin or funeral home.
- 7) As of January 2022, the County will pay up to \$1,000 for cremation and \$1,500 for burial. These amounts are subject to review and change as determined annually by the County Judge.
- 8) All determinations by the County Judge herein are at his/her sole discretion and are not subject to review by or appeal to Commissioner's Court or any other authority.

**CONCLUSION.**

All policies contained herein are in compliance with Title 8 Section 694.002 and 711.002 of the Health and Safety Code. These policies are subject to change at any time. All questions relating to the aforementioned policies should be directed to the Office of the Victoria County Judge.

This policy is hereby approved and adopted on this 18<sup>th</sup> day of January, 2022.

 _____ Danny Garcia Commissioner Precinct 1	 _____ Ben Zeller County Judge	 _____ Kevin M. Janak Commissioner Precinct 2
 _____ Gary Burns Commissioner Precinct 3	 _____ Clint C. Ives Commissioner Precinct 4	