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WHAT THE LAW SAYS ABOUT FUNERAL ARRANGEMENTS

Everyone needs to decide whether to make their own funeral arrangements or to allow their family to arrange services upon their death. By planning ahead you can make clear to your family the particular funeral arrangements you want and relieve them of the burden of having to make these important decisions during a time of grief. The following is information about the arrangements you can make.

1. WHAT IS THE FIRST DECISION I MUST MAKE?

The first decision is your preference for BURIAL, CREMATION, or ANATOMICAL GIFT. Burial involves the purchase of a casket, a grave plot and may be accompanied by a religious or memorial service. Cremation, or the incineration of the body to ashes, is a simple and less expensive process. There are some preliminary requirements prior to cremation that can be explained to you by the funeral home. Anatomical gift is the donation of one's body to medical science. You may donate all or any part of your body for the good of society: eyes, kidney, other organs, or the whole body. Arrangements may be made with the local medical colleges or you may sign a uniform donor document. A donor form is contained on the back of Virginia driver's licenses. A donor can always amend or revoke the gift; however, an anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent of any person after the donor's death. Acceptance of body/organ donation is not guaranteed so do plan an alternate disposition.

2. HOW CAN I DETERMINE HOW MUCH IT WILL COST?

A funeral is a major purchase. Consider it carefully, item by item. A funeral home is required by the Federal Trade Commission to provide you with itemized costs of specific services, both over the phone and in writing. Use the cost list to shop for the kind of funeral you want within the price range you can afford.

The funeral provider must tell you truthfully about the state and local government laws and the particular funeral regulations that affect your decision. You do not have to accept every item that is listed by the provider. Consider embalming, for example. Embalming is not necessary in the State of Virginia and need not be done if there will be a closed casket (no viewing). Cremation requires neither embalming nor a casket.

3. WHAT COSTS ARE ASSOCIATED WITH THE CEMETERY PLOT?

A cemetery plot is necessary for burial and is an expense entirely separate from the funeral home charges. The plot may be a piece of land, or a crypt, or an urn for ashes, or a mausoleum (above ground place for body burial). Contact more than one cemetery for prices and services offered. Costs include the price of the burial plot, opening and closing the grave, perpetual care of the gravesite, and grave liner.

Think twice about buying a cemetery plot. You could move and although your body can be transported to the cemetery upon your death, that will raise the cost. Selling your plot can be VERY difficult.

4. SHOULD I PRE-PAY FOR MY FUNERAL?

Many people pre-pay for funeral services. This, of course, is not required and many people use a life insurance policy with the intent that it be used for burial costs upon their death. REMEMBER, if you have named a family member or friend beneficiary and upon your death that beneficiary refuses to use the money for funeral costs, your plan for your insurance policy does not amount to anything. As an alternative you could name your estate as the beneficiary with directions to your executor to use the funds for funeral costs. However, there is no guarantee that the face value of the policy at your death will be sufficient to cover all funeral costs.

5. WHAT IS A PRE-NEED FUNERAL CONTRACT?

A Pre-need funeral contract is simply an agreement where payment is made by the consumer for funeral services prior to death. These contracts are typically funded by a separate insurance policy or by a trust. Be aware that the contract can have guaranteed items and non-guaranteed items. Guaranteed prices are those that will not increase for your family or estate at the time of your death. The non-guaranteed prices may be written in at the time of the contract with the understanding that a settlement as to the actual price may have to be made with your family or representative at the time of death. Always ask which items are guaranteed and which are not.

6. CAN I CANCEL MY PRE-NEED FUNERAL CONTRACT IF I CHANGE MY MIND?

You can cancel payment for supplies or services within 30 days after signing the agreement. After 30 days you may or may not be able to receive a refund. If the contract was funded by an insurance policy your right to a refund will be determined by that policy. If you invested in a trust the refund will depend upon whether it is a revocable or irrevocable trust. However, the law does allow you to terminate the agreement with the funeral provider at any time prior to furnishing the services and supplies. All of these pre-arrangements to cover burial costs can adversely affect benefits such as Medicaid, SSI, or Food Stamps. Before you sign any pre-need contract you should consult with a private attorney or if you are eligible, a Legal Services office.

7. ARE THERE ANY BURIAL BENEFITS I SHOULD BE AWARE OF?

Some benefits may accrue to survivors. Social Security will pay a small sum against burial expenses, but payment of this benefit is now restricted to surviving spouses and certain dependent children. The Veterans Administration will pay a small sum to defray funeral expenses and provide a grave marker for qualified veterans. A veteran may be entitled to burial in a veterans' cemetery. The veteran's spouse and dependents may be eligible for additional benefits. File with the nearest Veterans' Administration Office or a veterans' service organization, which can represent you.

Indigent county residents may receive assistance based upon county financial eligibility criteria. Contact the local Human Services department for more information.

8. WHAT SHOULD I DO AFTER I'VE DECIDED WHAT I WANT?

* Do not sign a contract for a funeral service or pre-pay for a service without checking the Better Business Bureau, the local consumer affairs office or a lawyer. Never discuss this subject with a door-to-door salesman. State law prohibits any in-person solicitation by a funeral provider.

* Discuss your plan with your family or close friend. Furnish them with a copy of your plan so that someone will know your desires. If you have pre-arranged anything, and especially if you have pre-paid, keep copies of contracts or receipted billings. It is not necessary to spell out burial arrangements in your will. It is usually more effective to make your wishes known ahead of time outside your will.

* You may designate in writing a person of your choice to work with the funeral home either before or after your death to ensure that your wishes are fulfilled. You must sign the statement and have it notarized. The person that you designate must agree to this in writing.

9. WHAT DO I DO IF I HAVE PROBLEMS?

Funeral providers are one of the most regulated industries in the country. That does not mean that a consumer should be complacent. Some providers do not abide by state and federal law. If you do have a complaint, or even a question as to the information you were given, you should contact the following:

* Your state or local consumer affairs office.

* The Virginia Board of Funeral Directors and Embalmers, Department of Health Professions, 1601 Rolling Hills Drive, Suite 200, Richmond, Virginia 23229-5005, (804) 662-9941. This Board licenses individuals and establishments within the state and enforces regulations and standards of service under the licensing act.

* The Federal Trade Commission (FTC). While the FTC does not resolve individual consumer or private disputes, information about your experience may show a pattern of conduct or practice that the Commission may investigate to determine if any action is warranted. Write or call: Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Pennsylvania Avenue & 6th Street, NW, Washington, DC 20580, 202/326-2222.

IMPORTANT

Everyone's situation is different and most every rule has exceptions. The information above is intended only for general informational purposes in the State of Virginia. It may not apply to your individual situation. Therefore, it is advisable to discuss your particular situation with a lawyer.

If you need legal help, call the Legal Services Branch that serves the city or county in which you live to make an appointment. To be helped by Legal Services, you must meet financial eligibility requirements. These guidelines will be explained to you when you call.

MAIN OFFICE (FALLS CHURCH OFFICE)	703-778-6800
ALEXANDRIA OFFICE	703-684-5566
ARLINGTON OFFICE	703-532-3733
FAIRFAX OFFICE	703-246-4500
LOUDOUN OFFICE (IN LEESBURG)	703-777-7450
MANASSAS OFFICE	703-368-5711

LAWYER REFERRAL SERVICES

For a small fee you can have a half hour appointment with an attorney, call:

Alexandria	703-548-1105
Arlington	703-228-3390
Fairfax	703-246-3780
Statewide	800-552-7977
Services are available for the hearing impaired by calling:	800-828-1140

Phone numbers updated February 2005