

## **Milam County Pauper Burial Policy**

### **Introduction and Purpose:**

The policies contained herein have been established to govern the disposition of the remains of a Pauper by Milam County, Texas in accordance with Title and Sections 692A.009 and 694.002 of the Texas Health and Safety Code.

### **Section 1 - Legal Authority**

Texas Health and Safety Code § 692A.009:

#### **§ 692A.009. Who May Make Anatomical Gift of Decedent's Body or Part <sup>1</sup>**

(a) Subject to Subsections (b) and (c) and unless barred by Section 692A.007 or Section 692A.008, an anatomical gift of the decedent's body or part for the purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

- (1) An agent of the decedent at the time of death who could have made an anatomical gift under Section 692A.004(2) immediately before the decedent's death;
- (2) The spouse of the decedent;
- (3) Adult children of the decedent;
- (4) Parents of the decedent;
- (5) Adult siblings of the decedent;
- (6) Adult grandchildren of the decedent;
- (7) Grandparents of the decedent;
- (8) An adult who exhibited special care and concern for the decedent;
- (9) The persons who are acting as the guardians of the person of the decedent at the time of death;
- (10) The hospital administrator; and
- (11) *Any other person having the authority to dispose of the decedent's body.***

---

<sup>1</sup> Enacted by Acts 2009, 81<sup>st</sup> Leg., ch.186 (H.B. 2027), § 1, effective September 1, 2009

**Texas Health & Safety Code§ 694.002**

**§694.002. Duty of Commissioners' Court Concerning Disposition of Body of Deceased Paupers<sup>2</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.

**Section 2 - General Provisions:**

- a. All proceedings relating the final arrangements for Pauper remains shall be conducted with the utmost solemnity and respect for the decedent.
- b. Decedent must have died within the boundaries of Milam County, Texas.
- c. Decedent must have domiciled and/or resided within the boundaries of Milam County, Texas for a minimum of six (6) months immediately prior to death.
- d. All Pauper remains accepted by Milam County will be reviewed for appropriateness and eligibility for donation as an "anatomical gift of decedent's body" pursuant to Texas Health & Safety Code§ 692A.009 (11). If an anatomical gift of decedent's body for authorized purposes is not appropriate and available as an option, then the only other available option shall be to have the body cremated unless there is positive verification that cremation conflicts with the beliefs and practices of the decedent's religious affiliation (Title 8, Section 711.002 (a) of the Texas Health and Safety Code).
- e. If the remains are to be cremated, the cremation shall conform with all applicable state and federal regulations.
- f. The actual preparation, cremation and/or interment of Pauper remains shall be accomplished by a licensed Funeral Director at a facility designed and licensed for the purpose.
- g. Eligibility requirements shall be based on the same eligibility requirements for the county's indigent healthcare program. Authorization by the Office of the Milam County Judge or his/her designee is mandatory **prior to** the preparation and/or disposition of the remains of a person for which the county is assuming responsibility for final arrangements. A funeral home which acts without the express authorization of the Office of the Milam County Judge or other designee of the Milam County Commissioners' Court, shall have assumed all responsible for that person's final arrangements.

<sup>2</sup>Enacted by Acts 1989, 71<sup>st</sup> Leg., ch. 678 (H.B. 2136),§1, effective September 1, 1989; am. Acts 1991, 72<sup>nd</sup> Leg., ch.14 (S.B. 404), § 211, effective September 1, 1991; am. Acts 1999, 76<sup>th</sup> Leg., ch. 929 (H.B. 2301), § 1, effective September 1, 1999; am. Acts 2009, 81<sup>st</sup> Leg., ch. 404 (H.B. 1843), § 1, effective June 19, 2009; am. Acts 2009, 81<sup>st</sup> Leg., ch. 480 (S.B. 530), § 1, effective June 19, 2009.

### Section 3 - Specific Provisions:

- a. County shall be the sole authority regarding the responsibility for disposition of the remains of a person in accordance with Title 8 Sections 692.009 and 694.002 of the Texas Health & Safety Code.
- b. County will assume responsibility for disposition of the remains of a person **only when** all other avenues of accountability, including the responsibilities of a person and/or persons listed in Section 711.002(a) of the Texas Health & Safety Code, (Next of kin) have been thoroughly exhausted and it has been conclusively established that the decedent is indeed legally entitled to cremation /burial at the county expense.
- c. County will not act on behalf of anyone including, but not limited to, social agencies, medical facilities, funeral homes, their employees and/or individuals, concerning the disposition of the remains of a Pauper.
- d. County will not offer or give legal advice or opinions to anyone including, but not limited to, social agencies, medical facilities, funeral homes, their employees and/or individuals, concerning the disposition of the remains of a Pauper.
- e. County will not participate jointly with anyone including, but not limited to, social agencies, medical facilities, funeral homes, their employees and/or individuals, concerning the disposition of the remains of a Pauper.
- f. County may, at its option, relinquish its authority over the disposition of the remains of a Pauper, once established.
- g. County shall be the sole authority regarding the method of disposition of the remains of the Pauper.
- h. Documentation as to the whereabouts of the remains shall be kept in the records of the attending Funeral Home in accordance with Title 8, Section 711.003 of the Texas Health and Safety Code and copies of those records shall be filed with the Milam County Clerk's Office.
- i. Proper documentation must accompany the entire process at all times and copies shall be furnished in a timely manner to the Office of the Milam County Judge or other designee of the Commissioners' Court.
- j. Any and all authorizations, certificates, orders to cremate, etc., shall be properly filled out in accordance with state law and signed by the County Judge or other designee of the Commissioners' Court **prior to** preparation and/or disposition of the remains of person for which the county is assuming responsibility.
- k. After review of the application for completeness and compliance with the Milam County policy, the application shall be submitted to the Milam County Judge or other designee of the Commissioners' Court for approval and submission to the Milam County Auditor for payment. Such designee shall either approve or disapprove based on the applications completeness, compliance, and a determination that the deceased is a pauper entitled to interment by Milam County according to these rules. If a person disagrees with the determination of the designee to disapprove the submission, that person may appeal for consideration by the whole Commissioners Court at a properly noticed meeting if the designee is notified in writing within 3 days of receipt (actual or constructive) of the designee's determination. Such receipt of determination shall be constructively received 3 business days from the day it was sent if sent by regular mail, and within the same day if sent by email or facsimile.
- l. Milam County will pay a maximum of \$1,000.00 for cremation/burial expenses and will not be responsible for any additional expenses related to the disposition of the Pauper remains.

- m. Milam County shall take possession of any cash discovered in the possession of a deceased pauper and shall use said cash to pay the actual costs incurred by the county in disposing of the pauper's body. Any remaining cash shall be kept in trust by the county for a period of one year, at which time such cash shall be transferred to a fund created for the sole purpose of providing for the disposition of the body of deceased paupers. This special fund shall only be created if and when there is cash to transfer into the fund.
- n. Next of Kin desiring to claim the cremains of a Pauper, will be required to reimburse Milam County for its associated costs **before** Milam County relinquishes its authority over the cremains. The Next of Kin will be issued an order releasing the cremains which can be taken to the appropriate funeral home to claim the remains. Cremains must be claimed from the funeral home within 90 days. If not claimed, the funeral home will be authorized by the county, in writing, to dispose of the cremains in an appropriate manner

**Conclusion:**

All policies contained herein are in strict compliance with Title 8 Sections 692A.009 694.002 of the Texas Health and Safety Code. These policies are subject to change at any time by order of the Milam County Commissioner's Court. All questions relating to the aforementioned policies should be directed to the Milam County Clerk's Office.

APPROVED THIS THE 24<sup>th</sup> DAY OF AUGUST, 2020,



Richard "Opey" Watkins, Commissioner PCT 1



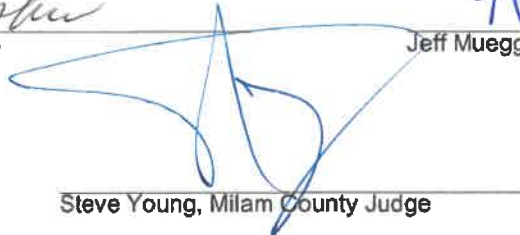
Donald Shuffield, Commissioner PCT 2



John Fisher, Commissioner, PCT 3



Jeff Muegge, Commissioner, PCT 4



Steve Young, Milam County Judge

No. \_\_\_\_\_

IN THE MATTER OF

§

IN THE COUNTY COURT

\_\_\_\_\_  
DECEASED

§

OF

§

MILAM COUNTY, TEXAS

**APPLICATION FOR DISPOSITION OF DECEDENTS REMAINS**

"I, the undersigned, do upon oath make the following statements;

**(1) I am the Applicant:**

Full Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Relationship to Deceased: \_\_\_\_\_

**(2) I am requesting: (check the one that applies)**

\_\_\_\_\_ the payment of the decedent's funeral and burial expenses; or  
\_\_\_\_\_ the protection and storage of personal property owned by the decedent that, on the date of the decedent's death, was located in accommodations rented by the decedent.

**(3) State the facts showing an immediate necessity for the issuance of an emergency intervention order under this section by the court or the name and address of the owner or manager of the accommodations and the type and location of the personal property plus the name of the person in possession of the property and a statement regarding whether access to the accommodations is necessary.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**(4) Information about the Decedent:**

Name of Decedent: \_\_\_\_\_  
Date of Death: \_\_\_\_\_  
Place of Death: \_\_\_\_\_  
Residential Address: \_\_\_\_\_

Name & Address of the funeral home holding the decedent's remains:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

**(5) List all known or ascertainable heirs and devisees of the decedent and the reason:**

- (A) cannot be contacted; or
- (B) have refused to assist in the decedent's burial;

Name: \_\_\_\_\_  
Relationship to Deceased: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Reason: \_\_\_\_\_

Name: \_\_\_\_\_  
Relationship to Deceased: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Reason: \_\_\_\_\_

Name: \_\_\_\_\_  
Relationship to Deceased: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Reason: \_\_\_\_\_

Name: \_\_\_\_\_  
Relationship to Deceased: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Reason: \_\_\_\_\_

(Attach additional sheets if necessary)

**(6) ATTACH a description of funeral and burial procedures necessary and a statement from the funeral home that contains a detailed and itemized description of the cost of the funeral and burial procedures; and**

**(7) List the name and address of an individual, entity, or financial institution, including an employer that is in possession of any funds of or due to the decedent, and related account numbers and balances, if known by the applicant.**

Name: \_\_\_\_\_  
Relationship to Deceased: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Account Number: \_\_\_\_\_

Name: \_\_\_\_\_  
Relationship to Deceased: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Account Number: \_\_\_\_\_

(Attach additional sheets if necessary)

**(8)** State whether there are any written instructions from the decedent relating to the type and manner of funeral or burial the decedent would like to have.

\_\_\_\_\_  
\_\_\_\_\_

"I further understand that I may be ordered to pay part of the fees, and this can be reconsidered if there is a material change in my financial circumstances. I further understand that I may be ordered to repay Milam County, Texas, all or part of the cost if it is determined that the above information is incorrect in that it is a material misrepresentation.

\_\_\_\_\_  
Applicant

**State of Texas**            §  
**County of** \_\_\_\_\_ §

Sworn to and subscribed before me by \_\_\_\_\_  
20 .

on this the \_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Notary Public

(Notary Seal)

**\*\*** All heirs listed in number 5 above MUST fill out an Affidavit of Finances and attach it to this application along with an additional Affidavit of Finance on the Decedent.

TO BE RETURN ED WITH APPLICATION

CAUSE NO. \_\_\_\_\_

IN THE MATTER OF

\_\_\_\_\_  
DECEASED

IN THE COUNTY COURT,  
COUNTY OF MILAM  
STATE OF TEXAS

**AUTHORIZATION FOR  
RELEASE OF INFORMATION**

I, - - - - - do hereby authorize persons, organizations, or establishments having information or records concerning the deceased or known or ascertainable heirs of the decedent (mother, father, sons, daughters, sisters, brothers, aunts, uncles, etc.) to furnish such information to a representative of the Milam County Indigent Services Office. I hereby grant permission for Milam County to obtain information which will help determine eligibility for benefits to pay for disposition of decedent's remains.

**SUBROGATION AGREEMENT**

I, \_\_\_\_\_ do hereby agree to notify the Milam County Clerk's Office in writing if I recover any money at any time from a collateral source related to the decedent's estate and understand and agree that Milam County has the right to require a refund of benefits paid on behalf of the decedent or if the benefits were obtained by fraud and if evidence is shown that the decedent would have been ineligible for the benefits paid.

SUBSCRIBED and sworn to before me this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_

seal

\_\_\_\_\_  
Notary Public, Milam County, Texas



No. ....

IN THE MATTER OF

§

IN THE COUNTY COURT

DECEASED

§

OF

§

MILAM COUNTY, TEXAS

**AFFIDAVIT OF FINANCES**

Full Name of Deceased: \_\_\_\_\_

Deceased Social Security Number: \_\_\_\_\_

Deceased Date of Birth: \_\_\_\_\_

Date of Death: \_\_\_\_\_

The undersigned makes this affidavit in connection with the filing of Application for funeral and burial expenses. (The items applicable to the undersigned or the Deceased, as applicable are checked, and the information called for is furnished under penalties of perjury.)

Affidavit is being completed as:

Surviving Family Member:

Full Name: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Relationship to Deceased: \_\_\_\_\_

On behalf of Deceased, with knowledge of Deceased's property and financial affairs.

Full Name: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Relationship to Deceased: \_\_\_\_\_

I. Basis for indigency: I am / Deceased is unable to pay because:

I am / Deceased was presently receiving government entitlement based on indigency, to wit: (Describe nature and amount of government entitlement).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I have / Deceased has no ability to pay costs based on facts set out below.

2. Employment Information:

( ) I am not now / Deceased was not employed; the last time I was employed was \_\_\_\_\_

( ) I am / Deceased was employed; I work / Deceased worked for:

\_\_\_\_\_

The income I receive / Deceased received from this job is \$ \_\_\_\_\_ per \_\_\_\_\_

3. Income from sources other than employment:

( ) I have / Deceased has no income from sources other than employment, such as dividends, annuities, etc.

( ) I have / Deceased has income derived from sources other than employment as follows:

<u>Type of Income</u>	<u>Amount per period</u>
_____	_____
_____	_____
_____	_____

4. Spouse's income:

( ) My spouse / Deceased's spouse has no income.

( ) My spouse / Deceased's spouse has income as follows:

<u>Type of Income</u>	<u>Amount per period</u>
_____	_____
_____	_____
_____	_____

5. Property

( ) I own / Deceased owned no property and no interest in any property

( ) I own / Deceased owned the following interest in property:

Real Estate: \_\_\_\_\_

Motor Vehicles: \_\_\_\_\_

Stocks and / or bonds:

\_\_\_\_\_

Other: - - - - -

\_\_\_\_\_

Cash:

\_\_\_\_\_

6. Bank Accounts:

I have / Deceased had no bank accounts.

I have / Deceased had the following bank accounts:

	<u>Type of Account</u>	<u>Amount</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

7. Dependents:

I have / Deceased had no dependents.

I have / Deceased had the following dependents:

<u>Name and age</u>	<u>Relationship</u>
_____	_____
_____	_____
_____	_____
_____	_____

8. Debts:

I have / Deceased had no debts.

I have / Deceased has the following debts:

<u>Creditor</u>	<u>Amount</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

9. Monthly Expenses:

I have / Deceased had the following monthly expenses :

<u>Type of Expense</u>	<u>Amount per month</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

10. Surviving Family Members of the Deceased:

Name: \_\_\_\_\_  
 Relationship to Deceased: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_

Name: \_\_\_\_\_  
 Relationship to Deceased: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_

Name: \_\_\_\_\_  
 Relationship to Deceased: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_

Name: \_\_\_\_\_  
 Relationship to Deceased: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_

(Attach additional sheets if necessary)

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. I am / Deceased' s estate and family is unable to pay the costs. I verify that the statements made in this affidavit are true and correct.

\_\_\_\_\_  
Affiant

State of Texas §  
County of \_\_\_\_\_ §

Sworn to and subscribed before me by \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for State of Texas  
My Commission Expires: