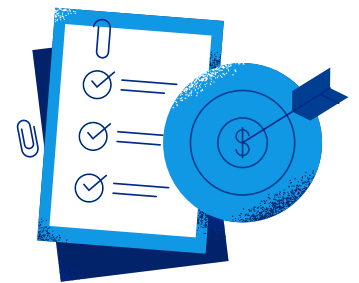


The [Planning and Estates Law Project](#) (PELP) of the City Bar Justice Center helps New York City residents of limited income with end-of-life legal issues such as Surrogate Court petitions for administration and probate, as well as life planning documents (including Wills and powers of attorney). The following resource provides answers to frequently asked questions about the disposition of remains.

Can I plan for what will happen to my body when I die?

Yes. As part of life planning, you can decide what is done with your remains when you pass away. In New York State, there is a legal document called an [Appointment of Agent to Control Disposition of Remains](#), that lets you name someone you trust, such as a family member or close friend, to serve as an agent and take control of your remains. With this form, you can also give special instructions about what should be done with your remains. It is essential to have a conversation with your loved ones and your agent to make sure they understand your wishes. It is also imperative that you have a financial plan in place to cover the costs of your burial or cremation.



If I don't complete a disposition of remains document, what happens?

You can have a conversation with your loved ones expressing your wishes and if possible, make financial plans to prepay for services you want when you pass. Funeral homes offer prepaid plans that allow you to pay for services in advance and lets you specify how services should be carried out. [Click here](#) for detailed guidance on funeral preplanning and prepaying in New York.



Do banks have accounts for funeral expenses? Who can access it and how?

Banks offer funeral expense accounts, the most common one being a payable-on-death (POD) account. This type of account lets you put aside funds and name someone as the “beneficiary”, granting them permission to access the money when you die. When you pass, the account beneficiary will need to present the bank with a death certificate to collect the money immediately. This process would not go through probate court, which means the beneficiary will get the money without delays.

If I don't make any plans for my remains, who has the authority to decide what happens?

The person with authority to control your remains is defined by NYS Public Health Law Section 4201(2)(a). However, the hierarchy of control can be “bypassed” if you designate an agent through a written instrument, such as an [Appointment of Agent to Control Disposition of Remains](#) (AACDR). [Click here](#) to learn about the law. Generally, in New York State, the order of priority of who gets to make decisions about remains is as follows:

- 1) The person formally named in writing, such as in an [Appointment of Agent to Control Disposition of Remains](#)
- 2) Your spouse or domestic partner
- 3) Your children who are 18 years of age or older
- 4) Either of your parents
- 5) Any of your siblings 18 years of age or older

Will a fiduciary (administrator/executor) have the authority to make decisions about my remains?

Yes. A fiduciary, such as the executor or administrator of your estate, can decide how your remains are handled. However, next-of-kin and a domestic partner's rights to make these decisions trumps the fiduciary's authority to do so.

If you are a New York City resident with limited income and have more questions about disposition of remains, please [click here](#) to apply for help.

Libby Vazquez, Esq., Director of Legal Services at the City Bar Justice Center, is the author of this publication. This communication is for the general education and knowledge of our readers. Because all legal problems involve their own specific set of facts, this informational resource is not and should not be used as a substitute for independent legal advice. This informational resource also is not intended to create, and its receipt does not constitute, an attorney-client relationship. Please contact competent, independent legal counsel for an assessment of your particular legal concerns, or contact our Legal Hotline (212-626-7383 or <https://www.citybarjusticecenter.org/legal-hotline/>) to determine whether you qualify for assistance from the City Bar Justice Center.