

**19. Are there any other limits on closing a cemetery?**

Property dedicated as a cemetery must be used as a cemetery unless the dedication is removed in an action under an applicable Code provision.<sup>22</sup>

**Pauper's Burial**

**20. What are a county's responsibilities related to the burial of a pauper?**

The commissioners court is required to provide for the disposition of a "deceased pauper."<sup>23</sup> The commissioners court may adopt rules to implement the statute.

**21. Are there any special procedures that the county must follow?**

Yes. The county should first determine if there is a person with a duty to bury the deceased pauper under Code §711.002 and if the deceased has left direction in writing for the disposition of his or her remains. However, the county is not required to follow the deceased's direction and need only incur the usual cost of burial if there is no relative or other person responsible who takes responsibility for cost of the burial.<sup>24</sup>

Additionally, the county must notify the Anatomical Board of the State of Texas that it has the remains of a deceased pauper and deliver the body to the board if it receives written notification from the board to do so.<sup>25</sup> If the board does not request delivery of the remains, the county is responsible for all costs of preparation for burial.

**22. How does a county dispose of a deceased pauper?**

The commissioners court has the discretion to determine how to dispose of the remains of a deceased pauper. The commissioners court may adopt rules related to how the county disposes of the body. Disposition may be by donation to a medical facility, burial, or cremation.<sup>26</sup>

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<sup>22</sup> Code §711.010, §711.036 or §711.007. Tex. Att'y Gen. Op. No. JC-0355 (2001). See also Tex. Att'y Gen. Op. No. JC-0235 (2000).

<sup>23</sup> Code §694.002(a).

<sup>24</sup> Tex. Att'y Gen. Op. No. JC-0228 (2000).

<sup>25</sup> Code §691.023.

<sup>26</sup> Tex. Att'y Gen. Op. No. JC-0228 (2000); Tex. Att'y Gen. Op. No. GA-0301 (2005).

**23. Even though the county is paying, can a deceased pauper's family dictate how the body is disposed of?**

No. However, in disposing of a deceased pauper, the commissioners court is required to consider any information provided by a person listed in Code §771.002, including the religious affiliation of the deceased.<sup>27</sup> The county need only incur the usual disposition costs and may adopt a policy requiring contributions if the deceased pauper's relatives object to the less expensive options.<sup>28</sup>

**24. Are there limits on how a county pays for a pauper's burial?**

The commissioners court must provide for the cost of pauper burial in the county's annual budget. The county may accept a donation toward the costs of pauper burial. Donations may be made either toward the expenses of disposing of a particular deceased pauper or to the county to be used as necessary.<sup>29</sup>

**25. May the county require a deceased pauper's family to pay for burial expenses?**

No. The county has the primary responsibility for the cost of burial of a pauper and may not require the relatives or other persons identified in Code §711.002 to contribute to the costs. Additionally, the assets of the deceased person may not be seized to cover the county's costs.<sup>30</sup> However, see also Question 26.

**26. What if the pauper has some cash when they die?**

The county may use any cash found with a deceased pauper for the person's actual burial expenses and deposit any remaining funds in a trust account to be claimed within one year. If the funds are not claimed, they may be used to pay for the expense of other pauper burial in the county.<sup>31</sup>

**27. What if a local church or charity offers to pay for the burial of a deceased pauper?**

The county must comply with the Texas Department of Health regulations adopted under Code §694.001 related to the disposal and transportation of

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<sup>27</sup> Code §694.002(b).

<sup>28</sup> Tex. Att'y Gen. Op. No. JC-0228 (2000).

<sup>29</sup> Tex. Att'y Gen. Op. No. JC-0228 (2000).

<sup>30</sup> Tex. Att'y Gen. Op. No. JC-0228 (2000).

<sup>31</sup> Code §694.002.

dead bodies. The church or charity would need to obtain the proper authorization to transfer the body to a licensed funeral home or crematorium before it could take action toward burial. Otherwise, the county remains responsible for disposition of the deceased pauper.

**28. What if the county finds unidentified remains?**

The county may dispose of the unidentified remains in the same manner as pauper burial under Code §716.101.

**29. May the county acquire property to establish a cemetery for the burial of paupers?**

Yes, see Question 2 above.

**Veteran's Burial**

**30. May the county establish a cemetery for veterans?**

Yes. The commissioners court is authorized to purchase burial grounds to be used exclusively for honorably discharged veterans who have served during a war and die without leaving sufficient means to pay funeral expenses, but only if there is not a national military cemetery or other military plot in the county where veterans may be buried free of charge.<sup>32</sup>

**31. May the county assist with the costs of burial for an honorably discharged veteran?**

A veteran who dies without leaving sufficient means to pay funeral expenses may be buried by the county under the same circumstances as any other deceased pauper. There does not appear to be any authority, in Code §713.029 or elsewhere, for the commissioners court to provide additional services based on a deceased person's status as an honorably discharged veteran.

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<sup>32</sup> Code §713.029.