

TFSC – FAQs

Implementation of Texas Health & Safety Code Chapter 697

Embryonic and Fetal Tissue Remains

What are embryonic and fetal tissue remains?

Embryonic and fetal tissue remains are remains from a pregnancy that terminates in the death of the embryo or fetus and for which the issuance of a fetal death certificate is not required by state law.

When is a fetal death certificate required?

A fetal death certificate is required under state law for any fetus weighing 350 grams or more, or if the weight is unknown, a fetus aged 20 weeks or more (stillbirth).

Do embryonic and fetal tissue remains need a death certificate for cremation or burial? No. See Above.

Is a funeral provider required to file a report of death for embryonic and fetal tissue remains? No. Embryonic and fetal tissue remains from health care facilities must be treated as provided by Chapter 697 of the Texas Health and Safety Code and 25 Texas Administrative Code Chapter 138. These regulations do not require a report of death.

Does the Texas Funeral Service Commission regulate the disposition of embryonic and fetal tissue remains? No. Chapter 697 of the Texas Health and Safety Code (relating to disposition of embryonic and fetal tissue remains) says Chapter 651 of the Texas Occupations Code (relating to cemeteries, crematory services, funeral directing, and embalming) and Chapters 711 (general provisions relating to cemeteries) and 716 (general provision relating to crematories) of the Texas Health and Safety Code do not apply to the disposition of embryonic and fetal tissue remains.

What regulations should I be aware of regarding the disposition of embryonic and fetal tissue remains? The Texas Department of State Health Services has rules governing the disposition of embryonic and fetal tissue remains in 25 Texas Administrative Code Chapter 138.

Cremation

Can I simultaneously cremate multiple sets of embryonic and fetal tissue remains? Yes. Chapter 697 of the Texas Health and Safety Code does not require authorization in writing from an authorizing agent before simultaneously cremating multiple sets of embryonic and fetal tissue remains.

Is an authorization to cremate necessary for embryonic and fetal tissue remains? No. Chapter 697 of the Texas Health and Safety Code provides that this requirement does not apply to the disposition of embryonic and fetal tissue remains.

Note: The implementation of Health & Safety Code Chapter 697 has been enjoined by a federal court pending the outcome of litigation.

Is a Burial Transit Permit necessary for embryonic and fetal tissue remains? No. Chapter 697 of the Texas Health and Safety Code provides that this requirement does not apply to the disposition of embryonic and fetal tissue remains.

Is there a 48 hour waiting period before embryonic and fetal tissue remains may be cremated? No. Chapter 697 of the Texas Health and Safety Code provides that this requirement does not apply to the disposition of embryonic and fetal tissue remains.

How may a funeral provider dispose of cremated embryonic and fetal tissue remains? The ashes resulting from the cremation or incineration of embryonic and fetal tissue remains may be interred or scattered in any manner as authorized by law for human remains, but may not be placed in a landfill.

Funeral Directing/Burial

Who has the right to control the disposition of embryonic and fetal tissue remains? Chapter 697 of the Texas Health and Safety Code requires a *health care facility* to dispose of remains through internment, cremation, incineration followed by internment, or steam disinfection followed by internment.

Is a funeral provider required to include the burial of embryonic and fetal tissue remains on its General Price List? No. This service is not regulated by the Texas Funeral Service Commission. The Commission's rules at 22 Texas Administrative Code Part 10 do not apply.

Is a Purchase Agreement required for embryonic and fetal tissue remains? No. Chapter 697 of the Texas Health and Safety Code provides this requirement does not apply to the disposition of embryonic and fetal tissue remains.

Does a funeral provider need to follow TFSC regulations related to purchase agreements for embryonic and fetal tissue remains? No. Chapter 697 of the Texas Health and Safety Code provides this requirement does not apply to the disposition of embryonic and fetal tissue remains.

Is a funeral provider required by TFSC to maintain records for embryonic and fetal tissue remains? No. Chapter 697 of the Texas Health and Safety Code provides this requirement does not apply to the disposition of embryonic and fetal tissue remains.

Is a cemetery required to maintain a burial registry for embryonic and fetal tissue remains? No. Chapter 697 of the Texas Health and Safety Code provides this requirement does not apply to the disposition of embryonic and fetal tissue remains.

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Burial or Cremation Assistance Registry

What is the Burial or Cremation Assistance Registry? The Burial or Cremation Assistance Registry is required to be maintained by the Texas Health and Human Services Commission (HHSC). The registry consists of participating funeral homes and cemeteries willing to provide free common burial or low-cost private burial and private nonprofit organizations that register with HHSC to provide financial assistance for the costs associated with burial or cremation of the embryonic and fetal tissue remains. Registry information is available from HHSC on request to a physician, health care facility, or their agents.

How can a funeral service provider be placed on the Burial or Cremation Assistance Registry? Licensees wishing to provide free or low-cost transportation, burial, or cremation services for embryonic and fetal tissue remains may apply here: <https://hhs.texas.gov/doing-business-hhs/provider-portals/health-care-facilities-regulation/burial-or-cremation-assistance-registry>

Are funeral providers required to be on the Burial or Cremation Assistance Registry to store, handle, or transport embryonic and fetal tissue remains? No. Any person that is licensed, permitted or otherwise authorized by the TFSC to store, handle, or transport human remains is authorized to store, handle, or transport embryonic and fetal tissue remains.

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