

An Essential Conversation: Your Burial Rights and Wishes

Amundsen Davis Estate Planning Alert

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As a part of our discussion about health care powers of attorney and living wills, I ask my clients their preference regarding what they want to happen to their bodies upon their death. In Missouri, the right to decide what happens to one's body upon death is called the right of sepulcher. State law provides that if you do not make a decision about this in your health care durable power of attorney and/or living will, then your next of kin will decide what happens to your body. Your next of kin is (1) your spouse, if any; (2) if no spouse, then your children; and (3) if no children, then your parents, (4) if no parents, then your siblings. In most states the options are still burial, cremation, or body donation. However, Colorado and Washington states have passed legislation allowing you to compost your body.

Asking clients what they want to happen to their bodies upon death can be awkward, but it is one of the most important questions I ask. I know from experience that when a loved one passes away, there are a number of decisions that need to be made all at once. Knowing what the decedent wishes in regards to their body leaves one less decision for the family to make. It can also prevent emotional family drama if the choice is yours rather than theirs to make together. There have been a few occasions in my career where I have brought up this issue to clients when we were meeting in the hospital, and frankly, having the discussion helped families reach a decision everyone was comfortable with and understood.

I recently read a CNN article about the changing trends in what we do with our bodies. Cremation became the top choice in the United States in 2015, and according to statistics from the National Funeral Directors Association more than half of all Americans who die this year will be cremated. In 20 years, the association predicts nearly 80% of Americans will opt for cremation. Cost is a driving force behind this trend. For a traditional burial, a family can expect to pay anywhere from \$15,000 to \$20,000, plus additional expenses, such as the cost of the tombstone. Cremation on the other hand averages between \$2,000 and \$3,000.

Another factor that leads people to cremation is that Americans are living all over the country and move frequently. For many families, cremating a loved one and transporting the ashes to a memorial service at some later point is ideal and will allow all family members to participate.

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Religious restrictions have also loosened. The Catholic Church now allows its members to be cremated, provided that the ashes are buried or interred. Not scattered.

In addition, memorials and celebrations of life are taking place with greater frequency than traditional funeral services. Families want to be surrounded with photos or videos of their loved ones, along with favorite music or drinks. Many other people want to set aside funds for a family trip to scatter ashes, so the family can be together and celebrate their loved one's life and remember them.

Whatever you want to happen to your body, be sure you tell your attorney and have them include it in your estate plan documents. Be sure to have the conversation with your family, so that they know what you want and are prepared to act upon your wishes.

As to the most interesting request I have ever had – one client of mine wanted to be cremated and have his ashes shot up in a firework or bottle rocket. If you want this for yourself, don't worry, there is a company that manufactures these types of fireworks!

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