

INSTRUCTIONS FOR EX PARTE PETITION FOR ORDER OF CREMATION

In Nevada, a funeral home or mortuary will require you to get a court order before it proceeds with a cremation of the decedent's body. In order to get that court order to take to the funeral home or mortuary, you will need to petition the court for approval to cremate the body. Title 41, Chapter 451 of the Nevada Revised Statutes governs the handling of dead bodies, and the authority required for cremation.

NOTE: All this packet does is give permission for the decedent to be cremated. It does *NOT* entitle anyone to keep the remains, nor does it dictate how the remains will be spread or maintained. To decide that, another probate petition will have to be completed.

In order to obtain court authority to cremate the decedent's body, follow these eight steps:

Step 1: Collect information.

First, you will need to know the name of the funeral home or mortuary that will perform the cremation.

Then, gather a list of all the persons who have equal or higher priority than you to authorize the cremation of a deceased person. Nevada law (NRS 451.650) lists the order of priority of persons who can authorize the cremation of the deceased person. The order of priority is as follows:

1. A person designated as the person with authority to order the cremation of the human remains of the decedent in a legally valid document or in an affidavit (this is an affidavit that the decedent notarized before death that authorizes a specific person to order the cremation)
2. The decedent's spouse
3. The decedent's adult son or daughter
4. The decedent's parents
5. The decedent's adult brother or sister
6. The decedent's grandparent
7. The decedent's guardian at the time of death
8. A person who held the primary domicile of the decedent in joint tenancy with the decedent at the time of death

A registered domestic partner under NRS 122A.210 can also apply for the cremation of his/her domestic partner.

Find out where you are in the list above, then gather the names, ages, and addresses of all the people who are equal or higher than you on that list.

This document has been prepared as a courtesy and to assist you with your court filing. It is not to be construed as providing legal advice or representation on how to prepare your case.

Step 2: Fill out the packet.

Fill out the attached packet, and complete all forms carefully, providing all requested information in the blanks. You, the the person completing the packet, are the petitioner. Do not forget to sign the petition and verification. This packet also includes the consent form referred to in Step 3. (Remember, you will not be filling out the consent form. Read Step 3 for more information.)

Step 3: Gather consent forms.

Refer back to your list of family members that you compiled in Step 1 and that you included in your petition. Each person on that list who consents to the cremation should complete a consent form. Remember, you do not fill out this form; the family members who consent do. Also remember that if you are the person of highest priority, or if you do *not* have the consent of the family members of equal or higher priority than you, then you will not need this step. If you do have the consents of family members, have each person fill out a consent form. You might need to ask for, copy, or print out more than one consent form if you have more than one family member filling out a consent.

Step 4: Fill out affidavit.

Refer back to your list of family members that you compiled in Step 1 and that you included in your petition. Go through that list and note which family members on that list did not fill out a consent to the cremation in Step 3. An explanation for each of those family members needs to be provided in an affidavit. You can pick up a blank affidavit from the Civil Law Self-Help Center or get one from www.civillawselfhelpcenter.org.

You will explain in the affidavit why you did not get the consent from each of those family members (*e.g.*, no one knows how to contact that person, the person is estranged from the family, or the person consents but is deployed and can't fill out a consent, etc.). Note that if you are the person with the highest priority, you might not need to complete this step. Once you have completed the affidavit, get it notarized by a notary public.

Step 5: Attach documents to your petition.

Gather the following documents and attach them to the back of your petition behind the appropriate Exhibit sheet:

1. A copy of your ID.
2. A copy of the will, if there was one.
3. Consent forms filled out by the people of equal or higher priority than you who consent to the cremation, if there are such people.
4. An affidavit filled out by you explaining why the people of equal or higher priority than you have not filled out a consent form, if there are such people.

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Step 6: File packet.

After you complete the petition and order and the packet is ready with your attachments, submit the entire packet with the Eighth Judicial District Court. The clerk's office where you can submit the packet is on the 3rd floor of the Regional Justice Center at 200 Lewis Avenue, Las Vegas, NV 89155. There is no fee to file.

Step 7: Check status of case.

After filing your petition, you should continuously check the court docket to see if anyone has filed an objection. You can go to the Eighth Judicial Court website (<https://www.clarkcountycourts.us/Anonymous/default.aspx>) and search under "Family Records" by the decedent's name to see if anyone has filed an objection. If an objection gets filed, the court might set the matter for hearing. Note that hearing date and attend the hearing. However, if there are no objections, generally the court will not set the matter for hearing.

You should also continuously check the probate court's matter listing or "Pickup List" to see if the court has granted your petition. Go to the probate webpage (<http://www.clarkcountycourts.us/departments/probate/>) and click on the link for "The District Court Probate Pickup List." Search for the decedent's name under the column "Name of the Estate" then follow it to the "Status" column. If your petition has been granted, you will see the list will reflect "OK," and that means the judge has signed off on the order.

Step 8: Get Order.

Once the judge has signed off on the order, you can wait for the order to be mailed to you. If there are no objections filed to your petition, you can expect to receive the order in the mail about 3 to 4 weeks after filing your petition. You can pick also up the order at the clerk's office on the 3rd floor where you filed. Once you have the order, you can bring it to the funeral home or mortuary.