

ISSUANCE OF DEATH CERTIFICATES IN A DISASTER

Prepared By: Office of General Counsel, Texas Department of State Health Services
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ISSUE: How are death certificates issued in a disaster if all bodies are not found?

ANSWER: In the event of a catastrophe in which a death occurs in Texas, a local registrar has the authority to issue and file a death certificate subject to the following requirements.

DISCUSSION: Texas Health and Safety Code Section 193.010 sets out specific criteria that must be followed prior to the issuance of a Certificate of Death by Catastrophe. A catastrophe is defined as “an occurrence of a substantial force that causes widespread or severe damage, injury or loss of life or property and from which it is not reasonable to assume that a person could survive” including, in part: “flood, earthquake, or other natural disaster.” *See* Texas Health and Safety Code 193.010 (a)(1-4) for other examples of catastrophes.

An affidavit must be submitted to the local registrar stating that a person was reasonably believed to be at the scene of a catastrophe that occurred at least 10 days ago, that the catastrophe was not intentionally caused by the person and governmental authorities have conducted and concluded a “diligent” search for the person. Sec. 193.010(b)(1)(A, B, C and D) Additionally, an agent of the governmental authority that conducted the search must sign and submit a written statement that a search was conducted and concluded for the person. Sec. 193.010(b)(2) The person attesting to the information in the affidavit (affiant) must state that he or she does not know whether the person is dead or alive, that no other information regarding the person has been received since the catastrophe, and that the affiant is not aware of any reasonable motive for the person to disappear or for another person to abduct the person. Sec. 193.010 (b)(1)(E)(i, ii and iv) If the person that is believed to be dead is a minor or under guardianship, the affiant must further attest that he or she is not aware of any custody or guardianship issues involving the person. Sec. 193.010 (b)(1)(E)(iii) Upon submission of the above information in the form required, the law states that the registrar “shall” issue and file a certificate of death by catastrophe for the person.

WAIVER OF LAW OR RULES: Upon declaration of a disaster, the Governor can waive the death certificate requirements contained in Health and Safety Code chs. 191,193 and the Texas Administrative Code requirements in 25 TAC Chapter 181.

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