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**THE COUNCIL OF THE CITY OF NEW YORK**

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**COMMITTEE ON CRIMINAL JUSTICE**

Hon. Carlina Rivera*,* Chair

**COMMITTEE ON WOMEN AND GENDER EQUITY**

Hon. Tiffany L. Cabán, Chair

**January 25, 2023**

**Oversight: The TGNCNBI Task Force Report Update**

**and TGNCNBI Individuals in Rikers**

**INT NO. 355:** By Council Members Rivera, Louis, Joseph, Narcisse, Avilés, Williams, Cabán, Ung, Ossé, Richardson Jordan, Riley, Gutiérrez, Abreu, Won, Barron, Hudson and Sanchez

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to permitting incarcerated individuals in city jails to choose the gender of their doctor.

**ADMINISTRATIVE CODE:** Adds Section 9-163

**INT NO. 728:** By Council Members Powers, Cabán, Rivera, Hanif, Brewer, Restler, Hudson, Ung, Joseph, Abreu, Avilés, Ossé and Sanchez

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to housing decisions for transgender, gender nonconforming and intersex individuals

**ADMINISTRATIVE CODE:** Adds Section 9-163

**INT NO. 831:** By Council Members Rivera, Cabán, Hanif, Stevens, Restler, Hudson, De La Rosa, Abreu and Sanchez

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to establishing a citywide resource navigator for women and gender-expansive persons

**ADMINISTRATIVE CODE:** Adds Section 9-160

**INT NO. 887:** By the Public Advocate (Mr. Williams) and Council Members Rivera and Cabán

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to reporting on gender identity of individuals in the custody of the Department of correction

**ADMINISTRATIVE CODE:** Adds Section 9-163 and amends Section 9-145

**RES NO.117:** By The Public Advocate (Mr. Williams) and Council Members Hudson, Schulman, Bottcher, Cabán, Ossé, Richardson Jordan, Hanif, Brewer, Won, Restler, Krishnan and Nurse

**TITLE:** Resolution calling on the New York State Legislature to pass, and the Governor to sign, a bill that would mandate the Office of Court Administration to update the securing order form to include a gender X option.

**RES NO. 458:** By Council Members Bottcher, Hudson and Cabán

**TITLE:** Resolution calling on the New York State Legislature to pass, and the Governor to sign, A.7001B/S.6677A to enact the Gender Identity Respect, Dignity and Safety Act, which would allow for appropriate treatment and placement of incarcerated people based upon their gender identity

1. **Introduction**

On Wednesday, January 25, 2023, the Committee on Criminal Justice, chaired by Council Member Carlina Rivera, and the Committee on Women and Gender Equity, chaired by Council Member Tiffany L. Cabán, will hold a joint oversight hearing on *The Transgender, Gender Non-Conforming, Non-Binary, and Intersex (TGNCNBI) Task Force Report Update and TGNCNBI Individuals in Rikers*. Additionally, the Committee on Criminal Justice will hear: Introduction Number (Int. No.) 355, sponsored by Council Members Rivera and Caban, in relation to permitting incarcerated individuals in city jails to choose the gender of their doctor, Int. No. 728, sponsored by Council Members Powers, Cabán and Rivera, in relation to housing decisions for transgender, gender nonconforming and intersex individuals; Int. No. 831, sponsored by Council Members Rivera and Cabán, in relation to establishing a citywide resource navigator for women and gender-expansive persons; Int. No. 887, sponsored by the Public Advocate (Mr. Williams) and Council Members Rivera and Cabán, in relation to reporting on gender identity of individuals in the custody of the Department of Correction, Resolution Number (Res. No.) 117 sponsored by the Public Advocate (Mr. Williams) and Council Member Cabán calling on the New York State Legislature to pass, and the Governor to sign, a bill that would mandate the Office of Court Administration to update the securing order form to include a gender X option and, Resolution Number (Res. No.) 458, sponsored by Council Member Bottcher, calling on the New York State Legislature to pass, and the Governor to sign, A.7001B/S.6677A to enact the Gender Identity Respect, Dignity and Safety Act, which would allow for appropriate treatment and placement of incarcerated people based upon their gender identity.

Those invited to testify include representatives from the New York City Department of Correction ("DOC" or "Department"), Correctional Health Services (“CHS”), the Mayor's Office for Equity (“MOE”), the Commission on Gender Equity (“CGE”), legal services providers, advocacy groups and organizations, and other interested stakeholders.

1. **Background**
2. *Rikers Island and TGNCNBI Individuals in DOC Custody*

In New York City, DOC provides for the care, custody and control of persons accused of crimes, or convicted and sentenced to one year or less of jail time.[[1]](#footnote-2) The Department manages ten correctional facilities, eight of which are located on Rikers Island, a jail barge, and a hospital prison ward.[[2]](#footnote-3) During Fiscal Year ("FY") 2021, DOC handled over 16,000 admissions[[3]](#footnote-4) and the current jail census is over 5,500.[[4]](#footnote-5) During the first three months of 2022, 57.7 percent of detainees identified as Black, 31 percent as Hispanic, 5.3 percent as white, 4.3 percent as Other, and 1.8 percent as Asian.[[5]](#footnote-6) Approximately four percent of detainees identified as women, and less than one percent identified as TGNCNBI.[[6]](#footnote-7) As per DOC Directive 4498R-A, "persons shall be housed in the facility consistent with their gender identity, absent overriding concerns for the detained person's safety."[[7]](#footnote-8)

In the United States (U.S.), LGBTQNBI+ individuals, especially trans people and queer women, are overrepresented at every stage of our criminal justice system.[[8]](#footnote-9) A UCLA Williams Institute study of data from the National Inmate Survey found that of the 238,000 incarcerated sexual minorities in the U.S., lesbian, gay and bisexual people are three times more likely to be incarcerated than heterosexual people.[[9]](#footnote-10) Of the total U.S. prison population, 5.5 percent of men are gay or bisexual and 33.3 percent of women are lesbian or bisexual.[[10]](#footnote-11) Gay and bisexual men and women are also six times more likely to be sexually victimized while incarcerated.[[11]](#footnote-12) Additionally, just as transgender people in the U.S. face persistent and pervasive discrimination and violence,[[12]](#footnote-13) the Bureau of Justice Statistics reports that about 34 percent of transgender individuals held in prisons and jails report experiencing at least one incident of sexual violence while behind bars, which is more than eight times the rate for prisoners overall.[[13]](#footnote-14) According to the New York Civil Liberties Union, a recent survey found that approximately 95 percent of transgender and non-binary individuals incarcerated in New York State report being verbally harassed and called derogatory names by corrections staff.[[14]](#footnote-15)

1. *The Special Considerations Unit (SCU) on Rikers Island*

In New York City, DOC opened the country's first separate housing unit for LGBT individuals in custody in 1979.[[15]](#footnote-16) While the unit was initially lauded as a success,[[16]](#footnote-17) it was closed in 2005 due to concerns about violence.[[17]](#footnote-18) In November 2014, former DOC Commissioner Joe Ponte announced a new DOC policy on alternative housing options for transgender individuals in custody in NYC[[18]](#footnote-19) to address the disproportionate rates of violence, rape and harassment against TGNCNBI individuals in custody,[[19]](#footnote-20) as well as plans to open a Transgender Housing Unit (THU) on Rikers Island.[[20]](#footnote-21) While housing in the THU remained strictly voluntary, the THU was moved from Riker’s Island to the Manhattan Detention Complex in July 2015, after the Rikers location was closed for renovations.[[21]](#footnote-22) In October 2019, the THU was renamed the Special Considerations Unit (SCU) due to a new DOC policy.[[22]](#footnote-23) At present, the SCU has been moved back to Rikers Island. Individuals who identify as TGNCNBI during intake–or at any other time–are provided with an application form for the SCU.[[23]](#footnote-24) Outside of the SCU, the alternative housing options for TGNCNBI individuals in DOC custody are general population, program-specific housing, or protective custody.[[24]](#footnote-25) Based on an analysis conducted by the TGNCNBI Task Force, approximately 63 percent of individuals at Rikers who have self-identified to DOC as TGNCNBI are presently in gender-misaligned housing.[[25]](#footnote-26)

1. *The Death of Layleen Polanco and Calls for Review*

In June 2019, the death of Layleen Xtravaganza Cubilette-Polanco, a transgender woman of color who died at Rikers Island after DOC staff reportedly failed to provide her with medical care following an epileptic seizure,[[26]](#footnote-27) led to widespread calls to address issues related to the treatment of TGNCNBI individuals in DOC custody.[[27]](#footnote-28) While an independent report eventually cleared DOC of responsibility for Ms. Polanco's death, it also identified serious deficiencies in rounding frequency, medical information sharing, and training requirements that endangered her safety in custody.[[28]](#footnote-29) These findings echo reports of routine abuse,[[29]](#footnote-30) unsanitary conditions,[[30]](#footnote-31) and the denial of medical and mental health services at Rikers Island in recent years.[[31]](#footnote-32)

1. **The TGNCNBI Task Force Report**

In response to the death of Ms. Polanco, the City Council passed Local Law 145 of 2019, requiring the Board of Correction (BOC), the independent oversight agency for the NYC jail system, to convene a TGNCNBI Task Force comprised of government and community representatives to provide recommendations related to the treatment of TGNCNBI individuals in DOC custody.[[32]](#footnote-33) Following a series of COVID-related delays,[[33]](#footnote-34) the Task Force's first report was released on August 15, 2022. [[34]](#footnote-35) In its 146-page report, the Task Force outlines alleged failures by NYC jails to adequately care for TGNCNBI individuals,[[35]](#footnote-36) tackling the issue with a review of five major areas: (1) Intake and New Admissions; (2) Housing; (3) Mental Health and Wellness; (4) Re-Entry; and (5) Staffing and Accountability.[[36]](#footnote-37) The report is structured to first provide a summary of overarching issues, with the major recommendations for each area, followed by detailed chapters with additional research, data and stories to illustrate the experiences of individuals in custody and support the need for the Task Force’s recommended changes.[[37]](#footnote-38) The following is a brief summary of the "key takeaways" identified by the Task Force, for each of the five issue areas:

**Key Task Force Takeaways Related to Intake and New Admissions**[[38]](#footnote-39)

1. There must be multiple opportunities and methods for TGNCNBI individuals in custody to safely disclose their chosen name and gender identity.[[39]](#footnote-40)
2. Revision of forms and documentation by the police, courts, CHS and DOC to acknowledge and respect all gender identities is a crucial first step to reducing gender-based violence in the jail system.[[40]](#footnote-41)
3. Data on sexual orientation and gender identity must be inclusive to give an accurate picture of arrest, prosecution and incarceration experiences.[[41]](#footnote-42)

**Key Task Force Takeaways Related to Housing**[[42]](#footnote-43)

1. Every TGNCNBI person should be housed in a facility and in a housing area consistent with their gender unless the individual believes they would be safer elsewhere.[[43]](#footnote-44)
2. TGNCNBI individuals in custody should not be housed or disciplined based on additional factors that would not be considered for cisgender people in custody.[[44]](#footnote-45)
3. TGNCNBI individuals in custody should have access to the same types of housing and program options as cisgender individuals.[[45]](#footnote-46)
4. DOC must honor people's self-identified gender identity and must not rely on discriminatory stereotypes about gender and gender identity when determining appropriate housing placements for people in custody. Concerns about appearance or the reactions of other people in custody to a housing determination must not enter the decision-making process.[[46]](#footnote-47)
5. Policies and directives regarding housing by gender identity, including in the SCU, as well as how TGNCNBI individuals can request, and appeal such decisions, need to be made fully available to people in custody, their attorneys, their advocates and the public.[[47]](#footnote-48)
6. Removal to non-gender-aligned housing should not be treated as a potential consequence for disciplinary actions, and no TGNCNBI person should be forced to sign any forms agreeing to potential removal in order to be housed according to gender.[[48]](#footnote-49)

**Key Task Force Takeaways Related to Mental Health and Wellness**[[49]](#footnote-50)

1. Communication among CHS, DOC and individuals in custody is paramount to the successful provision of medical and mental health services within the jails; this includes transparency and accessibility of policies and an emphasis on verbal and written information.[[50]](#footnote-51)
2. DOC and CHS training should be updated to most accurately reflect the needs of all people in custody, with a particular focus on trauma-informed conflict resolution and the unique needs of incarcerated TGNCNBI populations.[[51]](#footnote-52)
3. DOC and CHS must prioritize the full continuum of care for all TGNCNBI people in custody and release planning should begin at intake. This includes linkages to medical and mental health providers who are explicitly TGNCNBI affirming. No one should leave CHS's care without clear next steps as to where affirming medical and mental health treatment can continue, should the person be interested in such care.

**Key Task Force Takeaways Related to Re-Entry**[[52]](#footnote-53)

1. Information and services concerning re-entry and transfers to New York State Department of Corrections and Community Supervision should be provided at entry into DOC custody and made available at numerous points throughout the individual in custody's incarceration.[[53]](#footnote-54)
2. DOC's and CHS's re-entry processes and interagency coordination efforts should be codified into clear interagency policies and made available and regularly communicated to people in custody.[[54]](#footnote-55)
3. DOC and CHS should implement a system of checks, balances and evaluation efforts to establish consistent, effective and efficient utilization of re-entry policies, services and appropriate follow-up.[[55]](#footnote-56)

**Key Task Force Takeaways Related to Staffing and Accountability**[[56]](#footnote-57)

1. DOC, BOC, CHS and all affiliated carceral stakeholders must realign their policies and practices to reflect a system of restorative, transformative and rehabilitative justice.[[57]](#footnote-58)
2. Training that promotes culture change for uniform and non-uniform staff must be informed by, and developed in collaboration with, those with pertinent lived experience, TGNCNBI community-based organizations and/or TGNCNBI community-based leaders, and consist of regular, effective and analyzable evaluation, data collection and reporting efforts.[[58]](#footnote-59)
3. DOC and BOC must increase transparency and accountability measures to ensure appropriate application and monitoring of BOC Minimum Standards, identify systemic issues within the jails, and address gaps in care within and outside the TGNCNBI population.[[59]](#footnote-60)

Other general report recommendations include prioritizing culture change within DOC staffing, revising all documentation at the DOC and relevant city agencies to appropriately capture all gender identities,[[60]](#footnote-61) creating a plan to appropriately transfer TGNCNBI individuals to gender-appropriate intake buses and facilities, using medical and mental health screenings before arraignments to confirm correct gender identities and relaying to the court previously outdated identifications on any paperwork.[[61]](#footnote-62) At a high level, the TGNCNBI Task Force additionally recommends NYC decarcerate to prevent further abuse and neglect, in addition to carrying out jail-wide improvements in care and calls on New York to provide accessible and affordable housing to people released from custody, with a focus on TGNCNBI individuals.[[62]](#footnote-63)

As required by Local Law 145 of 2019, DOC issued a response to the Task Force’s recommendations on November 14, 2022.[[63]](#footnote-64) The memo outlines 13 areas of agreement and seven areas of disagreement, outlining several areas within which DOC plans to institute changes.[[64]](#footnote-65)

Among the recommendations DOC agreed with were that TGNCNBI individuals should have access to the same programming options as cisgender individuals, TGCNBI individuals should not be disciplined based on factors that would not be considered for cisgender individuals, and requests for gender-aligned housing placement should be resolved promptly.[[65]](#footnote-66) DOC also committed to exploring how they can incorporate more information related to housing options for TGNCNBI individuals during the intake process and modify the PREA Intake Questionnaire to include distinct questions about sexual orientation and gender identity.[[66]](#footnote-67) Notable disagreements with Task Force recommendation include that DOC should never transfer anyone out of the SCU as a form of punishment, that DOC not consider a person’s appearance when making housing decisions for TGNCNBI individuals, and that the Department assign full-time social workers to the SCU to mediate conflict in the unit.[[67]](#footnote-68) DOC also took exception to what they described as “a policy that relies inflexibly on self-identified gender” in making housing decisions, arguing that such policy would present safety concerns and create opportunities for individuals to falsely identify themselves in order to change their housing placement.[[68]](#footnote-69)

1. **ISSUES AND CONCERNS**

At today's hearing, the Committee will learn about what actions have been taken by the Task Force and DOC thus far and examine the DOC and CHS's current policies with regard to TGNCNBI individuals in custody, including their responsiveness to the BOC's 2020 report on the death of Layleen Polanco in 2019 and their responsiveness to the Task Force’s recommendations. In doing so, the Committees will investigate how DOC is addressing the unique needs of incarcerated TGNCNBI individuals, including but not limited to, programming and physical and mental health. Furthermore, the Committees seek to learn how the Department has been handling reported acts of sexual victimization and violence and how they plan to better protect the TGNCNBI population from these acts. The Committees also look forward to hearing testimony regarding the legislation being considered.

1. **LEGISLATION**

A brief summary of the bills being heard at this hearing is provided below.

**Int. No. 355**

Traditionally, TGNCNBI individuals have lacked meaningful access to medical and behavioral health care and have often struggled to receive gender-affirming care. Int. No. 355 would require DOC to provide an incarcerated individual with a doctor of the same gender upon request, absent any substantial safety risk. The bill would take effect immediately upon enactment.

**Int. No. 728**

According to a 2018 assessment from the BOC, the Department is not effectively carrying out its directive pertaining to the SCU. Most applications to the SCU reviewed by the BOC (84%) had no decision recorded, many incarcerated individuals were never given notice of the SCU’s existence, and there is no meaningful, independent appeals process.[[69]](#footnote-70) Int. No. 728 would require DOC to assess all incarcerated individuals for their risk of sexual victimization at intake and when transferred between facilities. This bill would also create an appeals process for transgender, gender non-conforming and intersex individuals who requested specific housing based on identifying as such. This bill would also require BOC to issue opinions regarding appeals of housing requests related to gender identity. The bill would take effect 90 days after enactment.

**Int. No. 831**

Coordinated reentry planning greatly impacts the individual’s reintegration into society and can reduce recidivism rates. Int. No. 831 would create a resource navigator program with the aim to create a centralized program to assist women and gender-expansive individuals in DOC custody, as well as other relevant actors, in locating available and appropriate reentry services. The bill would take effect 90 days after enactment.

**Int. No. 887**

In 2022, the TGNCNBI Task Force was informed by DOC that the majority of the TGNCNBI people in custody were not housed according to their gender identities.[[70]](#footnote-71) This bill would require DOC to report on a monthly basis, information related to individuals in DOC custody whose gender identity is different from the sex assigned to the individual at birth, including, but not limited to, transgender, gender nonconforming, non-binary or intersex. DOC would be required to report information regarding such individuals’ housing unit placements, denials and objections to current housing unit placements, and instances of violence against such individuals. The bill would take effect immediately upon enactment.

**Res. No. 117**

This resolution calls on the New York State Legislature to pass, and the Governor to sign, a bill that would mandate the Office of Court Administration to update the securing order form to include a gender X option. Securing orders are filled out by court officers when bail is set or an individual is remanded into DOC custody. Currently, the gender marker options on securing orders are only “M” for male and “F” for female. If the information captured on a securing order does not reflect the gender with which the person’s gender identity most closely aligns, this impacts transportation, intake and housing decisions throughout the state and city criminal legal systems.

**Res. No. 458**

This resolution calls on the New York State Legislature to pass, and the Governor to sign, A.7001B/S.6677A to enact the Gender Identity Respect, Dignity and Safety Act, which would allow for appropriate treatment and placement of incarcerated people based upon their gender identity. The legislation would require that prisons and jails presumptively house people consistently with their gender identities, with a list of reasons that cannot be used as the basis for a denial. It would also mandate access to clothing, toiletry items and grooming standards consistent with a person’s gender identity.

Int. No. 355

By Council Members Rivera, Louis, Joseph, Narcisse, Avilés, Williams, Cabán, Ung, Ossé, Richardson Jordan, Riley, Gutiérrez, Abreu, Won, Barron, Hudson and Sanchez

..Title

A Local Law to amend the administrative code of the city of New York, in relation to permitting incarcerated individuals in city jails to choose the gender of their doctor

..Body

Be it enacted by the Council as follows:

Section 1.  Chapter 1 of title 9 of the administrative code of the city of New York is amended by adding a new section 9-163 to read as follows:

§ 9-163 Gender specific doctors. Any incarcerated individual in the custody of the department who requests a physician of such incarcerated individual’s gender shall be treated by such physician unless so providing would substantially impact the safety or security of such individual, in which case such request must be fulfilled after such safety or security risk has abated. For the purposes of this section, the term “gender” has the same meaning as that set forth in section 8-102.

§ 2. This local law takes effect immediately.

Session 12

AM

LS # 7782

3/31/22

Session 11

BC

LS # 3165

Int. # 65 – 2018

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| Int. No. 728    By Council Members Powers, Cabán, Rivera, Hanif, Brewer, Restler, Hudson, Ung, Joseph, Abreu, Avilés, Ossé and Sanchez    A Local Law to amend the administrative code of the city of New York, in relation to housing decisions for transgender, gender nonconforming and intersex individuals    Be it enacted by the Council as follows:  Section 1. Chapter 1 of title 9 of the administrative code of the city of New York is amended by adding a new section 9-163 to read as follows:  § 9-163 Housing requests related to gender identity. a. Definitions. For the purposes of this section, the following terms have the following meanings:                       Gender identity. The term "gender identity" means a person's sense of their own gender which may be the same as or different from their sex assigned at birth  Gender nonconforming. The term "gender nonconforming" means a person whose behavior or appearance does not conform to the traditional expectations of their gender, which includes a person who is transgender.  Intersex. The term "intersex" refers to a person whose physical sex characteristics do not conform to a binary construction of sex as either male or female.  Transgender. The term "transgender" refers to a person whose gender identity does not conform to the sex assigned at birth.  b. Subject to section 115 of title 28 of the code of federal regulations, the Department shall assess all incarcerated individuals during an intake screening and upon transfer to another facility for their risk of being sexually abused by other incarcerated individuals or sexually abusive toward other incarcerated individuals. The Department shall consider, at minimum, the following criteria to assess incarcerated individuals for risk of sexual victimization:  1. Whether the incarcerated individual has a mental, physical or developmental disability;  2. The age of the incarcerated individual;  3. The physical build of the incarcerated individual;  4. Whether the incarcerated individual has previously been incarcerated;  5. Whether the incarcerated individual's criminal history is exclusively nonviolent;  6. Whether the incarcerated individual has prior convictions for sex offenses against an adult or child;  7. Whether the incarcerated individual is or is perceived to be gay, lesbian, bisexual, transgender, intersex or gender nonconforming;  8. Whether the incarcerated individual has previously experienced sexual victimization;  9. The incarcerated individual's own perception of vulnerability; and  10. Whether the incarcerated individual is detained solely for civil immigration purposes.  c. Subject to section 115 of title 28 of the code of federal regulations, the Department shall establish a process for transgender, intersex and gender nonconforming individuals to self-identify as such during intake and to use such self-identification to make housing and programming assignments on an individualized basis. In determining such housing and programming assignments, the Department shall consider whether a placement would ensure the incarcerated individual's health and safety and whether the placement would present management or security problems. The Department shall not prevent incarcerated individuals from identifying as transgender, intersex or gender nonconforming solely because of classification as a different gender while previously incarcerated or because of the absence of documents indicating medical transition.  d. Subject to section 115 of title 28 of the code of federal regulations, the Department shall establish a process for allowing transgender, intersex and gender nonconforming individuals who have requested entrance into a type of housing facility due to identifying as transgender, intersex or gender nonconforming to appeal denials of such requests. The Department shall maintain formal written procedures consistent with this policy and with the following provisions:  1. The Department shall provide written notice to such individuals that such a determination may be appealed and shall describe the appeals process in plain and simple language. The Department shall ensure that such written notice is available in English and the designated citywide languages as defined in section 23-1101.  2. The Department shall create an appellate review board consisting of the commissioner of correction or their designee, the deputy commissioner responsible for determining housing classifications or their designee, and the vice president of correctional health services or their designee to review the initial decision. The appellate review board shall not include individuals who made the initial housing determinations.  3. The Department shall immediately forward all appeals to the board of correction. The board of correction shall issue a written opinion within 24 hours of receipt of an appeal.  4. The appellate review board shall issue a determination within 48 hours of receipt of any appeal and shall consider the written opinion of the board of correction in making its determination.  5. Within 24 hours of making its determination, the appellate review board shall provide the incarcerated individual with a written copy of the determination specifying the facts and reasons underlying such determination. Whenever the appellate review board's decision differs from the written opinion of the board of correction, the appellate review board shall explain why it did not follow the recommendation of the board of correction.  6. The Department shall provide all written materials regarding the appeals process in English and the designated citywide languages as defined in section 23-1101 and shall ensure that incarcerated individuals are given any verbal assistance necessary to meaningfully understand such procedures.  § 2. Section 626 of the New York city charter, as amended by local law number 133 for the year 2019, is amended by adding a new subsection i to read as follows:  i. The board shall issue opinions to the Department regarding appeals of housing requests related to gender identity.  § 3. This local law takes effect 90 days after it becomes law.            Session 12  AM  LS # 8279/10322  7/26/22    Session 11  AS  LS # 8238  Int. # 1532 - 2019 |

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| Int. No. 831    By Council Members Rivera, Cabán, Hanif, Stevens, Restler, Hudson, De La Rosa, Abreu and Sanchez    A Local Law to amend the administrative code of the city of New York, in relation to establishing a citywide resource navigator for women and gender-expansive persons    Be it enacted by the Council as follows:    Section 1. Chapter 3 of title 9 of the administrative code of the city of New York is amended by adding a new section 9-310 to read as follows:  § 9-310 Resource navigator program. a. Definitions. For the purposes of this section, the following terms have the following meanings:  Gender-expansive. The term "gender-expansive" means a person whose gender identity or gender expression, or both, expands beyond gender stereotypes and roles including, but not limited to, persons who identify as transgender, gender nonconforming, non-binary and intersex.  Gender expression. The term "gender expression" means the way in which a person expresses their gender identity.  Gender identity. The term "gender identity" means a person's sense of their own gender which may be the same as or different from their sex assigned at birth.  Resource navigator program. The term "resource navigator program" means the program established by this section to assist women and gender-expansive persons in custody, as well as relevant government agencies, in locating available and appropriate reentry programs.  b. The office shall establish a resource navigator program that shall:  1. Maintain a database on alternatives to incarceration, transitional and permanent housing and reentry programs, and services that specifically serve women and gender-expansive persons, which database shall include up-to-date information on services offered by the programs, eligibility, and availability;  2. Provide referrals to such programs and services and provide follow-up;  3. Provide outreach and education on such programs and services to women and gender-expansive persons in custody, district attorneys, city-funded indigent criminal defense attorneys, the office of court administration, the Department of correction, and any other relevant agencies; and  4. Make recommendations to the mayor and the council to improve diversion and reentry resources for women and gender-expansive persons in custody.  c. The office shall include persons who have direct lived experience in the criminal justice system in the administration of the resource navigator program.  § 2. Section 9-307 of the administrative code of the city of New York, as added by local law number 220 for the year 2019, is redesignated section 9-308.  § 3. This local law takes effect in 90 days.            SM  LS #9971/10776  11/16/2022 9:04 AM |
| Int. No. 887    By the Public Advocate (Mr. Williams) and Council Members Rivera and Cabán    A Local Law to amend the administrative code of the city of New York, in relation to reporting on gender identity of individuals in the custody of the department of correction    Be it enacted by the Council as follows:    Section 1. Chapter 1 of title 9 of the administrative code of the city of New York is amended by adding a new section 9-163 to read as follows:  § 9-163 Reporting on gender identity. a. Definitions. As used in this section, the following terms have the following meanings:  Commissioner. The term “commissioner” means the commissioner of correction.  Correctional health authority. The term “correctional health authority" means the entity responsible for the delivery of health and mental health services to individuals in the custody of the department.  Department. The term “department” means the department of correction.  Gender identity. The term “gender identity” means an individual’s sense of such individual’s own gender which may be the same as or different from the sex assigned to such individual at birth.  Housing unit. The term “housing unit” means a structure or part of a structure that contains single occupancy housing units or multiple occupancy housing units, as such terms are defined in the rules of the New York state commission of correction.  Relevant organization. The term “relevant organization” means any non-governmental organization that provides reentry services pursuant to a contract with the office of criminal justice.  b. Beginning July 15, 2023, and no later than the fifteenth day of each month thereafter, the commissioner shall submit to the mayor, the speaker of the council, and the public advocate, and post on the department’s website, a report containing the following information for the prior month:  1. The number of individuals in the custody of the department whose gender identity is different from the sex assigned to the individual at birth, further disaggregated by self-described gender identity including, but not limited to, transgender, gender nonconforming, non-binary, or intersex;  2. The housing units in which such individuals as described in paragraph 1 of this subdivision are currently housed and the number of such individuals housed in each housing unit;  3. The number of such individuals as described in paragraph 1 of this subdivision who objected to their current housing unit placement or applied for a different housing unit placement;  4. The number of such individuals as described in paragraph 1 of this subdivision who were denied a request for a different housing unit placement; and  5. The number of incidents involving violence against such individuals as described in paragraph 1 of this subdivision.  c. Unless otherwise precluded by law, the correctional health authority and relevant organizations shall assist the department in collecting the information enumerated in subdivision b of this section.  d. Reports required pursuant to this section shall not contain identifying information as defined in section 23-1201. If a category to be reported contains fewer than 10 individuals or contains an amount that would allow another category that contains fewer than 10 individuals to be deduced, the number shall be replaced with a symbol.  § 2. This local law takes effect immediately.        SM  LS #9196/9971/10775  11/09/22 3:04 PM |

Res. No. 117

..Title

Resolution calling on the New York State Legislature to pass, and the Governor to sign, a bill that would mandate the Office of Court Administration to update the securing order form to include a gender X option.

..Body

By The Public Advocate (Mr. Williams) and Council Members Hudson, Schulman, Bottcher, Cabán, Ossé, Richardson Jordan, Hanif, Brewer, Won, Restler, Krishnan and Nurse

Whereas, The Office of Court Administration’s (OCA) Securing Order form collects basic demographic information about a criminal defendant at arraignment; and

Whereas, The Securing Order form features a question with a check box for female and male only and auto-filled with information contained in the New York City Police Department and the District Attorney’s paperwork where gender markers are frequently marked incorrectly as defendants are unable to self-identify; and

Whereas, Consequently, this strict binary option excludes New Yorkers who do not identify as male or female, or do not wish to identify; and

Whereas, In an effort to be inclusive, the New York court system announced in 2019 its plan to expand the gender options on jury forms to be more inclusive of New Yorkers who do not identify as male or female; and

Whereas, The new jury form, according to an OCA spokesman, would include the gender options female, male, transgender, non-binary, intersex and other; and

Whereas, The OCA has not made a similar public announcement about the Securing Order form; and

Whereas, States and cities have moved to expand gender options on state-issued identification documents to acknowledge the existence of intersex, transgender, and non-binary individuals; and

Whereas, At least fourteen states, including the District of Columbia, offer a gender X option on driver’s licenses, so people who do not identify as female or male can choose X instead; and

Whereas, New York City began offering a gender X option on birth certificates in 2019, allowing New Yorkers to make changes to their birth certificate to reflect a gender X designation without physician authorization; and

Whereas, Updating the Securing Order form to reflect a gender X option would bring New York a step closer in recognizing the rights and dignity of intersex, transgender, and non-binary New Yorkers; and now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass, and the Governor to sign, a bill that would mandate the Office of Court Administration to update the securing order form to include a gender x option.

Session 12

KMD

LS #4274

3/2/2022

Session 11

KMD

LS #14268

Res. No. 1379-2020

Res. No. 458

Resolution calling on the New York State Legislature to pass, and the Governor to sign, A.7001B/S.6677A to enact the Gender Identity Respect, Dignity and Safety Act, which would allow for appropriate treatment and placement of incarcerated people based upon their gender identity

Council Member Bottcher

Whereas, The National Center for Transgender Equality (NCTE) confirmed transgender, gender nonconforming, non-binary, and intersex (TGNCNBI) people regularly experience social and economic discrimination based upon their race, gender and immigration status; and

Whereas, The New York Civil Liberties Union (NYCLU) found TGNCNBI New Yorkers experience persistent discrimination challenges in many fundamental aspects of daily life, such as trying to earn a living, going to school, finding housing and even “safely walking down the street”; and

Whereas, A 2021 McKinsey & Co. report found transgender adults were twice as likely as cisgender adults with similar education levels to be unemployed, and when they did secure employment, cisgender employees earned up to 32 percent more money each year than their transgender counterparts; and

Whereas, According to a National Crime Victimization Survey, TGNCNBI individuals were found to be four times more likely than cisgender people to be victims of violent crimes; and

Whereas, The NYCLU found TGNCNBI individuals are more frequently policed and criminalized and therefore more likely to be at risk for incarceration than their cisgender counterparts; and

Whereas, According to the NCTE, one in six transgender people—and one in two Black transgender women—report having been incarcerated at some point in their lifetime; and

Whereas, According to the NYCLU, TGNCNBI New Yorkers in the carceral system are increasingly and disproportionately vulnerable to acts of discrimination and violence, and are 10 times more likely to face sexual assault by fellow prisoners and guards than the general prison population; and

Whereas, According to an NYCLU survey, 95 percent of TGNCNBI respondents reported having been verbally harassed by correction staff; and

Whereas, A 2021 report by the NYCLU found TGNCNBI people being 10 times more likely to be sexually assaulted than the general prison population with 75 percent of respondents reporting at least one instance of sexual violence and assault by correction officers; and

Whereas, The NYCLU reports discriminatory policies in New York jails and prisons exacerbate abuse, misgendering and the denial of essential medical care like hormone therapy for TGNCNBI incarcerated individuals; and

Whereas, The 2022 Report of the NYC Task Force on Issues Faced by TGNCNBI People in Custody, convened by the NYC Board of Correction, determined transgender women were routinely sent and kept in men’s NYC Department of Correction jail intake facilities and threatened by Correction officers with opposite-sex housing for minor rules infractions; and

Whereas, According to the NYCLU the vast majority of incarcerated TGNCNBI individuals are placed in facilities that do not match their gender identities serving to further exacerbate incidences of violence from other detainees and correctional staff; and

Whereas, A.7001B, sponsored by New York State Assembly Member Nily Rozic, and companion bill S.6677A, sponsored by State Senator Julia Salazar last session, would increase safety for TGNCNBI individuals by requiring New York prisons and jails to presumptively house people consistent with their gender identities unless they opt out; and

Whereas, A.7001B/S.6677A would ensure facilities staff respect a person’s gender identity in all contexts during incarceration including search procedures, as well as mandating access to clothing and toiletry items consistent with a person’s gender identification; and

Whereas, A.7001B/S.6677A would place a 14-day limit on involuntary protective custody, also known as isolated confinement, which disincentivizes individuals from reporting incidence of harassment and assault; and

Whereas, Respecting and upholding the rights of TGNCNBI people during incarceration will serve to decrease violence and save lives; therefore, be it

Resolved, That the New York City Council calls on the New York State Legislature to pass, and the Governor to sign, A.7001B/S.6677A to enact the Gender Identity Respect, Dignity and Safety Act, which would allow for appropriate treatment and placement of incarcerated people based upon their gender identity.

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1/9/23

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34. *Supra Note 7*; New York City Council, Local Law 45 of 2019, <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3923931&GUID=94F7EE69-D9E4-45D2-8A98-A67C055EAE20&Options=ID|Text|&Search=145> (explaining that, as required by Local Law 145 of 2019, the task force includes individuals from DOC, Correctional Health Services (CHS), the Commission on Human Rights (CCHR), the Mayor’s Office to End Domestic and Gender-Based Violence (ENDGBV), the NYC Unity Project or similar organization, the City Council, as well formerly incarcerated individuals; individual(s) formerly or currently incarcerated in the transgender housing unit, to the extent practicable; at least one service provider that addresses transgender, gender nonconforming, non-binary, and intersex individuals in custody; and at least one representative from a local or national organization that addresses issues related to transgender, gender nonconforming, non-binary, and intersex individuals). [↑](#footnote-ref-35)
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