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## The Council of the City of New York

# **COMMITTEE REPORT OF THE HUMAN SERVICES**

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**COMMITTEE ON HEALTH**

Hon. Mark Levine*, Chair*

#### November 12, 2019

**Proposed Int. No. 1559-A:** By Council Members Ayala, Ampry-Samuel, Kallos, Lander, Yeger and Louis

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to the establishment of an office to provide support to those in need of burial assistance

**Proposed Int. No. 1580-A:** By Council Members Rose, Kallos, Louis, Ampry-Samuel, Ayala and Holden

**Title:** A Local Law in relation to the creation of a task force on public burial and related issues

**Introduction**

 On November 12, 2019, the Committees on Health, chaired by Council Member Mark Levine, will hold a hearing on Proposed Introduction Number 1559-A (Proposed Int. 1559-A), a Local Law to amend the administrative code of the city of New York, in relation to the establishment of an office to provide support to those in need of burial assistance, and Proposed Introduction Number 1580-A (Proposed Int. 1580-A), a Local Law in relation to the creation of a task force on public burial and related issues. This legislation was originally heard at a hearing of this Committee on May 30, 2019, at which the Committee received testimony from the New York City Department of Parks and Recreation (Parks), the Department of Transportation (DOT), the Human Resources Administration (HRA), advocates, and other interested parties.

**Background**

DOC maintains and operates the City Cemetery, commonly known as Potter’s Field, located on Hart Island, in Long Island Sound, off the coast of City Island in the Bronx.[[1]](#footnote-1) The cemetery occupies 101 acres of Hart Island and is purportedly the largest tax-funded cemetery in the world.[[2]](#footnote-2) By many estimations, there are over one million people buried on Hart Island.[[3]](#footnote-3)

Hart Island was first used by the City as a public cemetery in 1869 for the burial of people who died indigent or whose bodies went unclaimed after their death.[[4]](#footnote-4) During the cemetery’s first year of operation, 1,875 burials were performed.[[5]](#footnote-5) Hart Island is the only location the City currently uses to bury the bodies of the unclaimed or unidentified;[[6]](#footnote-6) however, Hart Island is the tenth Potter’s Field in the City’s history, as previous fields were located at the current sites of Washington Square, Bellevue Hospital, Madison Square, the NYC Public Library, Wards Island, and Randall’s Island.[[7]](#footnote-7)

In 2018, 1,213 individuals were buried on Hart Island, including 303 fetal remains, 81 children, and 829 adults.[[8]](#footnote-8) Most of the individuals buried on Hart Island (approximately 62 percent in 2018) have a next of kin who opted for a public burial, while others may have a next of kin who is unknown or unreachable (33 percent).[[9]](#footnote-9) Others are unidentified or do not have a next of kin.[[10]](#footnote-10) Over the past ten years, between 1,000 and 1,300 individuals were buried on Hart Island annually, with the exception of 2014, when only 962 individuals were buried there.[[11]](#footnote-11) Each year, 15 people or fewer are unidentified, and about 21 percent of the burials are for fetal remains.[[12]](#footnote-12)

In addition to its use as a cemetery, Hart Island has had various uses since 1869, including, among other things, the operation of several jails, a missile base, and a rehabilitation center.[[13]](#footnote-13) Pursuant to section 21-110 of the New York City Administrative Code, Potter’s Field on Hart Island operates under the control of DOC and the burial of the deceased is governed by rules and regulations established by the joint action of HRA and DOC.[[14]](#footnote-14) In cases of disagreement between the agencies, the cemetery operates under regulations established by the mayor.[[15]](#footnote-15)

Four days each week, seven DOC staff members and eight incarcerated individuals travel by DOT ferry from City Island to Hart Island.[[16]](#footnote-16) Both the staff and work detail are responsible for the burial of remains, and the staff and work detail are also responsible for tending to the Island’s upkeep.[[17]](#footnote-17) The bodies of the deceased that are transported to the Island are placed in pine boxes marked by black permanent marker; the boxes are sometimes marked with a name, but usually just with a number used to identify the person.[[18]](#footnote-18) The boxes are stacked three deep in a trench 36 inches below the surface, burying between 150 to 162 adults and 1,000 infants per trench.[[19]](#footnote-19) DOC has informed the Council that the estimated Hart Island annual operating cost is approximately $772,000, which includes staff salaries and overtime.[[20]](#footnote-20)

The Council has had previous hearings regarding Hart Island, first in 2011 and most recently in 2016.[[21]](#footnote-21) During these hearings, the Council discussed transferring the jurisdiction of Hart Island from DOC to Parks, the public availability of Hart Island burial records, the public dissemination of Hart Island visitor protocols, and general oversight of Hart Island.[[22]](#footnote-22) Since then, DOC has posted Hart Island burial information online.[[23]](#footnote-23)

DOC now provides regular, monthly visits to Hart Island, as a result of a lawsuit and lobbying by advocates.[[24]](#footnote-24) According to DOC, there are two options visitors may choose from when seeking to visit Hart Island, both of which operate on predetermined schedules: monthly gazebo visits for any member of the public and monthly gravesite visits for family.[[25]](#footnote-25) Visitors must register with DOC before a scheduled visit day and provide a valid, government-issued photo ID if over the age of 16.[[26]](#footnote-26) Gazebo visitation records from September 2018 through December 2018 show an average of twelve visitors scheduled each month for public visits.[[27]](#footnote-27) During that same period, there was an average of seven visit groups (approximately 27 total visitors) scheduled each month for family visits.[[28]](#footnote-28)

**Hart Island Advocacy**

Over the past several years, advocates have criticized the process leading to burial on Hart Island as well as the operation of the Island by DOC.[[29]](#footnote-29) Advocacy efforts have included the creation of: (i) the Hart Island Project, (ii) the Potter’s Field Campaign of Picture the Homeless, and (iii) the Interfaith Friends of Potter’s Field. According to its website, the mission of the Hart Island Project is to assist families and individuals with limited resources in accessing public burial records and information about Hart Island, as well as increase the public’s awareness of Hart Island.[[30]](#footnote-30) The Hart Island Project maintains a database of public burial records from 1980 to the present.[[31]](#footnote-31) Picture the Homeless began its Potter’s Field Campaign because of the loss of its co-founder, Lewis Haggins, on December 23, 2003, who was buried on Hart Island before being returned to his family.[[32]](#footnote-32) The Campaign worked to improve access to Hart Island, and, after a year, the City changed its restrictions on Hart Island visitations.[[33]](#footnote-33) The Potter’s Field Campaign and the Interfaith Friends of Potter’s Field successfully lobbied DOC for access to Hart Island and currently conduct bi-monthly memorial services on the Island.[[34]](#footnote-34)

While access to the Island and its burial records have improved, there are still concerns about Hart Island’s accessibility. Although DOC has received positive feedback for its service, family members, friends, and members of the public have testified that they prefer to not feel as if they are visiting a prison when going to visit their loved one and/or pay their respects at Hart Island.[[35]](#footnote-35) According to advocates, by requiring photo ID and other measures in order to visit Hart Island, DOC deters members of the public from being able to visit.[[36]](#footnote-36) Furthermore, because of the nature of DOC’s work, the visiting schedule is rigid and can act as a barrier for members of the public.[[37]](#footnote-37)

**Burial Alternatives**

In New York City, there are alternatives for those without means to be buried outside of Hart Island. One alternative is accessing funds from HRA, which provides financial assistance to individuals in need of support to meet funeral expenses, including burial.[[38]](#footnote-38) These funds are available when a resident of New York City dies without leaving funds to cover their burial expenses and there are no relatives or friends willing or able to pay the funeral expenses.[[39]](#footnote-39) HRA will pay up to $900 towards a funeral that costs no more than $1,700.[[40]](#footnote-40)

Additionally, there are charitable and religious organizations, such as The Hebrew Free Burial Association (“HFBA”) and the Society of St. Vincent de Paul (“SSVDP”) that assist with burials. According to its website, the HFBA is dedicated to assuring that every Jewish person, regardless of financial means or religious affiliation, receives a dignified, traditional Jewish funeral and burial.[[41]](#footnote-41) Since its inception in the 1880's, the HFBA has buried nearly 65,000 indigent Jews.[[42]](#footnote-42) The SSVDP provides referrals to Catholics for low cost funerals, as well as assistance in receiving reimbursement from HRA and provides “non-title” plots in Calvary Cemetery.[[43]](#footnote-43) Additionally, the U.S. Department of Veteran’s Affairs (VA) works with partners to ensure the dignified burial of veterans who are indigent.[[44]](#footnote-44)

OCME states that it refers the families and friends of the indigent deceased to organizations that may fund burials, and to the HRA burial assistance program. OCME refers all burials of veterans to the VA.[[45]](#footnote-45) However, according to advocates and the press, those in need of these and other options are not always told of their availability or given enough details to make an informed decision before authorizing the burial of a loved one on Hart Island.[[46]](#footnote-46) Such was the case with Jacqueline Quinoz, whose son Elijah Romero was born stillborn at Flushing Hospital in Queens in the spring of 2009.[[47]](#footnote-47) Reports indicate that less than an hour after the delivery, a hospital social worker entered Ms. Quinoz’s room and told her she had two options for Elijah’s burial, namely, (1) a Catholic service in a special cemetery, or (2) burial at Potter’s Field at no cost.[[48]](#footnote-48) Reportedly, since she was not Catholic and did not have the means for a private burial, she signed a form releasing her son’s body to the City.[[49]](#footnote-49) OCME and New York City Health + Hospitals (H+H) both provide information about Hart Island to one’s next of kin, yet there is no City-wide standard process in place to educate individuals about our public burial process.[[50]](#footnote-50)

**The AIDS Epidemic**

In 1985, when the first people identified as AIDS victims arrived on Hart Island, they were buried in an isolated area away from the remains of other individuals.[[51]](#footnote-51) Unlike other remains, they were buried in deep individual graves, under several feet of dirt instead of the typical three.[[52]](#footnote-52) Hart Island staff at the time, like many others, did not know how AIDS could spread and acted out of an overabundance (and unnecessary level) of caution.[[53]](#footnote-53) As the New York Times points out, “the island would go on to receive scores, if not hundreds, of people who died during the AIDS epidemic, which during the 1980s and 1990s killed more than 100,000 people in New York, about a quarter of AIDS deaths nationwide during the same period.”[[54]](#footnote-54) While it is currently impossible to know exactly how many people who died from AIDS are on Hart Island, burial records indicate that many who died in the few hospitals who cared for those with AIDS were sent to Hart Island.[[55]](#footnote-55) Thus, Hart Island may be the largest cemetery for victims of the AIDS epidemic.[[56]](#footnote-56)

**Bill Analyses**

**Proposed Int. 1559-A:** A Local Law to amend the administrative code of the city of New York, in relation to the establishment of an office to provide support to those in need of burial assistance

This bill would require the Department of Health and Mental Hygiene to establish an office to provide support and assistance to individuals who have lost a loved one and need information about and help accessing public burial, a burial allowance, or any similar program. The bill would take effect June 15, 2020.

**Proposed Int. No. 1580-A:** A Local Law in relation to the creation of a task force on public burial and related issues

This bill would require a public hearing on public burial to allow the public the opportunity to discuss the laws, rules, regulations, policies and procedures related to public burial, to recommend changes to these programs and to consider the feasibility of alternative programs. Following the hearing, the Department of Social Services would submit a report with recommendations to the Mayor and the Council.

The version of this bill that was originally heard required the creation of a task force to study public burials, rather than a hearing.

This bill would take effect immediately.

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Proposed Int. No. 1559-A

By Council Members Ayala, Ampry-Samuel, Kallos, Lander, Yeger and Louis

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the establishment of an office to provide support to those in need of burial assistance

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-110.2 to read as follows:

§ 21-110.2 Office of burial services. a. The department shall establish an office to provide support and, where eligible, financial assistance to survivors, next of kin, legally responsible relatives, friends or other designated entities of deceased indigent or unclaimed persons who require information about, and help facilitating the disposal of, decedent remains through public burial, accessing public burial, a burial allowance or any similar program. Such office shall provide services including, without limitation, explaining the availability of public burial options and assistance in applying for a burial allowance.

§ 2. This local law takes effect June 15, 2020, except that the commissioner of social services may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

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Proposed Int. No. 1580-A

By Council Members Rose, Kallos, Louis, Ampry-Samuel, Ayala and Holden

A LOCAL LAW

In relation to a public hearing on public burial and related issues

Be it enacted by the Council as follows:

Section 1. Public burial hearing. a. There shall be a public hearing, information about which shall be posted on the department’s website at least 30 days in advance, to provide the public an opportunity to comment on and make recommendations regarding changes to the laws, rules, regulations, policies and procedures related to public burial.

b. The commissioner of social services, or their designee, shall convene and preside over the public hearing. The chief executive officer of the New York city health and hospitals corporation or such designee shall be invited to attend the public hearing with the representatives of city agencies identified herein. The following agency officers, or their designees, shall also attend the public hearing:

1. The commissioner of health and mental hygiene;

2. The commissioner of correction;

3. The chief medical examiner;

4. The commissioner of parks and recreation;

c. The department of social services shall invite, at least 30 days in advance of the hearing, through a written invitation, at least the following members of the public to provide public testimony:

 1. At least two advocates who specialize in issues related to public burial or Hart island;

 2. At least one member of the public who has opted for public burial of a deceased person; and

 3. At least one member of the public who specializes in medical ethics or issues relating to medical privacy.

d. The commissioner of social services shall request that testimony include, but need not be limited to, the following:

1. The process for identifying, finding and contacting next of kin or legally responsible relative when a deceased individual is identified for public burial;

2. Support for and communication with next of kin or legally responsible relative who choose to direct the disposition of the decedent’s remains to public burial or seek assistance from the department of social services’ burial programs, including what information is provided regarding public burial, burial assistance program and Hart island;

3. Procedures for burial of indigent, unclaimed individuals and individuals wherein the next of kin or legally responsible relative directs disposition of the remains to public burial;

4. The department of social services’ burial assistance program;

5. The feasibility of implementation of a cremation assistance program or providing cremation as an alternative to public burial;

6. The feasibility or potential feasibility of public burial in locations other than Hart island, both inside and outside of the city;

7. The plan for the future operation of Hart island;

8. Recommendations for promoting efficiency and accessibility to the public of existing and proposed programs in connection with public burial; and

9. Recommendations for changes to the system allowing the public to find burial information on Hart island, that takes into consideration the public interest in searching such information and in protecting personally identifying information and medical privacy.

e. The department of social services shall submit to the mayor and speaker of the council and post on its website a report summarizing and, where appropriate, responding to such testimony no later than January 15, 2020.

§ 2. This local law takes effect immediately and is deemed repealed on January 15, 2020 or the day after submission of the report required by section one of this local law, whichever is later.

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LS #8795

09/16/19 6:00 pm

1. *City Cemetery, Hart Island (Potter’s Field)*,New York City Department of Correction, available at <http://www.correctionhistory.org/html/chronicl/nycdoc/html/hart.html> [↑](#footnote-ref-1)
2. *Finding relatives in a Potter’s Field*, ABC Eyewitness News (2009), available at <https://abc7ny.com/archive/5968376/> [↑](#footnote-ref-2)
3. *Unearthing the Secrets of New York’s Mass Graves*,The New York Times (2016), available at <https://www.nytimes.com/interactive/2016/05/15/nyregion/new-york-mass-graves-hart-island.html>; see also complaint, Lucero v. City of New York (hereinafter “complaint”), available at <https://www.clearinghouse.net/chDocs/public/PA-NY-0001-0001.pdf> [↑](#footnote-ref-3)
4. *City Cemetery, Hart Island (Potter’s Field)*,New York City Department of Correction, available at <http://www.correctionhistory.org/html/chronicl/nycdoc/html/hart.html> [↑](#footnote-ref-4)
5. *Id.*  [↑](#footnote-ref-5)
6. Complaint at paragraph 23. [↑](#footnote-ref-6)
7. *Hart Island Frequently Asked Questions*, New York City Department of Correction, available at <http://www.nyc.gov/html/doc/downloads/pdf/hart-island/Hart_Island_FAQs_11_16_15.pdf> [↑](#footnote-ref-7)
8. Data included in a letter to the New York City Council from OCME, H+H, and DOC. [↑](#footnote-ref-8)
9. *Id.* [↑](#footnote-ref-9)
10. *Id.*  [↑](#footnote-ref-10)
11. *Id.*  [↑](#footnote-ref-11)
12. *Id.*  [↑](#footnote-ref-12)
13. *City’s Potter’s Field in the Atomic Age,* The New York Times (2009), available at <https://www.nytimes.com/2009/08/02/nyregion/02bnukemb.html?auth=login-email> [↑](#footnote-ref-13)
14. Section 21-110. Potter's field, available at <http://ny.elaws.us/law/adc_t21_ch1_sec.21-110> [↑](#footnote-ref-14)
15. *Id.*  [↑](#footnote-ref-15)
16. Data included in a letter to the New York City Council from OCME, H+H, and DOC. [↑](#footnote-ref-16)
17. *Id.*  [↑](#footnote-ref-17)
18. *Lost on Hart Island,* New York Press (2010, updated 2014), available at <http://www.nypress.com/lost-on-hart-island> [↑](#footnote-ref-18)
19. *Id.* [↑](#footnote-ref-19)
20. Data included in a letter to the New York City Council from OCME, H+H, and DOC. [↑](#footnote-ref-20)
21. The New York City Council Calendar, <https://legistar.council.nyc.gov/Calendar.aspx> [↑](#footnote-ref-21)
22. Int 0803-2012, The New York City Council, available at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1082204&GUID=F673F220-DC2A-44D7-B5E3-0D1F61FB9F9A&Options=ID|Text|&Search=int.+no.+803>; Oversight – Examining the Operation of Potter’s Field by the NYC Department of Correction on Hart Island, available at <https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=589397&GUID=B54D0522-054A-455C-8901-480662DF8F6C&Options=info&Search=hart+island>; Oversight – Examining the Future of Hart Island, The New York City Council, available at <https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=589675&GUID=7263A443-AD4A-42A1-8595-663B39140FF1&Options=info&Search=Hart+Island> [↑](#footnote-ref-22)
23. *Hart Island*, The Department of Corrections, available at <https://www1.nyc.gov/site/doc/about/hart-island.page> [↑](#footnote-ref-23)
24. *Mourners Make First Visit to New York’s Potter’s Field,* The New York Times, Available at <https://www.nytimes.com/2015/07/20/nyregion/mourners-make-first-visit-to-new-yorks-potters-field.html> [↑](#footnote-ref-24)
25. Data included in a letter to the New York City Council from OCME, H+H, and DOC. [↑](#footnote-ref-25)
26. *Id.* [↑](#footnote-ref-26)
27. *Id.*  [↑](#footnote-ref-27)
28. *Id.*  [↑](#footnote-ref-28)
29. *Unearthing the Secrets of New York’s Mass Graves*,The New York Times (2016), available at <https://www.nytimes.com/interactive/2016/05/15/nyregion/new-york-mass-graves-hart-island.html> [↑](#footnote-ref-29)
30. *Our Mission,* The Hart Island Project, available at <https://www.hartisland.net/mission> [↑](#footnote-ref-30)
31. *Id.* [↑](#footnote-ref-31)
32. *Potter’s Field,* Picture the Homeless, available at <http://picturethehomeless.org/home/whatwedo/past-organizing-campaigns/potters-field/> [↑](#footnote-ref-32)
33. *Id.*  [↑](#footnote-ref-33)
34. *Id.* [↑](#footnote-ref-34)
35. Testimony from the New York City Council Hearing in 2012 available at [file:///C:/Users/EBalkan/Downloads/Hearing%20Testimony%2092712%20(1).PDF](file:///C%3A%5CUsers%5CEBalkan%5CDownloads%5CHearing%20Testimony%2092712%20%281%29.PDF); Testimony from the New York City Council Hearing in 2016 available at [file:///C:/Users/EBalkan/Downloads/Hearing%20Testimony%2012016%20(2).pdf](file:///C%3A%5CUsers%5CEBalkan%5CDownloads%5CHearing%20Testimony%2012016%20%282%29.pdf) [↑](#footnote-ref-35)
36. Testimony from the New York City Council Hearing in 2012 available at [file:///C:/Users/EBalkan/Downloads/Hearing%20Testimony%2092712%20(1).PDF](file:///C%3A%5CUsers%5CEBalkan%5CDownloads%5CHearing%20Testimony%2092712%20%281%29.PDF); Testimony from the New York City Council Hearing in 2016 available at [file:///C:/Users/EBalkan/Downloads/Hearing%20Testimony%2012016%20(2).pdf](file:///C%3A%5CUsers%5CEBalkan%5CDownloads%5CHearing%20Testimony%2012016%20%282%29.pdf) [↑](#footnote-ref-36)
37. *Hart Island*, The Department of Corrections, available at <https://www1.nyc.gov/site/doc/about/hart-island.page> [↑](#footnote-ref-37)
38. HRA Application for Burial Allowance, available at <http://www1.nyc.gov/assets/hra/downloads/pdf/benefits/burial_claim_app_en.pdf> [↑](#footnote-ref-38)
39. *Id.* [↑](#footnote-ref-39)
40. *Id.* [↑](#footnote-ref-40)
41. Hebrew Free Burial Fund website, available at <http://www.hebrewfreeburial.org/> [↑](#footnote-ref-41)
42. *Id.* [↑](#footnote-ref-42)
43. *A Guide To Burial Assistance For New Yorkers In Need,* Volunteers of Legal Services Inc., available at <https://volsprobono.org/sites/default/files/pdf/vols-burial-guide.pdf>. [↑](#footnote-ref-43)
44. *Unclaimed Remains Burial Resources,* The U.S. Department of Veterans Affairs, available at <https://www.cem.va.gov/cem/docs/factsheets/Unclaimed_Remains_Burial_Resources.pdf> [↑](#footnote-ref-44)
45. Data included in a letter to the New York City Council from OCME, H+H, and DOC, on file with Committee staff. [↑](#footnote-ref-45)
46. Testimony from the New York City Council Hearing in 2012 available at [file:///C:/Users/EBalkan/Downloads/Hearing%20Testimony%2092712%20(1).PDF](file:///C%3A%5CUsers%5CEBalkan%5CDownloads%5CHearing%20Testimony%2092712%20%281%29.PDF); Testimony from the New York City Council Hearing in 2016 available at [file:///C:/Users/EBalkan/Downloads/Hearing%20Testimony%2012016%20(2).pdf](file:///C%3A%5CUsers%5CEBalkan%5CDownloads%5CHearing%20Testimony%2012016%20%282%29.pdf); *Lost on Hart Island,* New York Press (2010, updated 2014), available at <http://www.nypress.com/lost-on-hart-island> [↑](#footnote-ref-46)
47. *Lost on Hart Island,* New York Press (2010, updated 2014), available at <http://www.nypress.com/lost-on-hart-island> [↑](#footnote-ref-47)
48. *Id.*  [↑](#footnote-ref-48)
49. *Id.* [↑](#footnote-ref-49)
50. Data included in a letter to the New York City Council from OCME, H+H, and DOC, on file with Committee staff. [↑](#footnote-ref-50)
51. *Dead of AIDS and Forgotten in Potter’s Field,* The New York Times (2018), available at <https://www.nytimes.com/2018/07/03/nyregion/hart-island-aids-new-york.html> [↑](#footnote-ref-51)
52. *Id.* [↑](#footnote-ref-52)
53. *Id.*  [↑](#footnote-ref-53)
54. *Id.* [↑](#footnote-ref-54)
55. *Id.*  [↑](#footnote-ref-55)
56. *Id.* [↑](#footnote-ref-56)