



Legislation Text

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Int. No. 759

By Council Members Cabrera, Dromm, Gentile, Johnson, King, Mealy, Richards, Rose, Mendez, Rosenthal and Torres

A Local Law to amend the administrative code of the city of New York, in relation to requiring the departments of correction and health and mental hygiene to report on cases of injuries to inmates and staff in city jails, and to refer such cases to investigative agencies.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 17 of the administrative code of the city of New York is amended to add a new section 17-198 to read as follows:

§ 17-198 Inmate injury reporting.

a. Definitions. When used in this section the following terms shall have the following meanings:

1. “Investigation division” means any division of the department of correction responsible for investigating allegations of the excessive use of force by staff against inmates or for investigating allegations of violence by inmates against staff, including but not limited to the investigation division and intelligence division.

2. “Physical injury” means impairment of physical condition or substantial pain. It shall not constitute a superficial bruise, scrape, scratch, or minor swelling.

3. “Serious physical injury” means physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of a bodily organ.

b. Inmate injury inter-agency reporting. The department must review every incident in which an inmate in the custody of the department of correction received medical treatment for a physical injury to the head or

any serious physical injury within 12 hours of the treatment. If an inmate suffered any physical injury to the head or any serious physical injury, the department must report to the investigation division, the department of investigation, and the board of correction a detailed description of the injury, the name of the inmate, and any pertinent information in its possession regarding the nature of the incident that led to the injury within 12 hours of reviewing the incident. In no event shall any report submitted pursuant to this section release, or provide access to, any personally identifiable information contained in health records if such disclosure or access would violate any federal or state law.

c. Injury reporting. Beginning October 1, 2015, and every quarter thereafter, the commissioner shall post on the department website a report including the following information for the preceding quarter, the reporting period prior to the preceding quarter, and the previous year: the number of physical injuries to the head and the number of serious physical injuries to inmates, in total and the rate of each such injury per 100 inmates in the custody of the department of correction during the reporting period.

§ 2. Chapter 1 of title 9 of the administrative code of the city of New York is amended by adding a new section 9-135 to read as follows:

§ 9-135: Injury reporting

a. Definitions. When used in this section the following terms shall have the following meanings:

1. “Assault” means any act taken with the intent to cause physical injury to another person.

2. “Command discipline” means any penalty imposed by officers of the department to sanction the officers under their command for the purpose of correcting minor deficiencies and maintaining discipline within the officer’s command, and does not include any formal charges.

3. “Excessive force” means force that, considering the totality of the circumstances in which it is used, is greater than that which a person in the position of the person using such force would reasonably believe necessary to ensure their safety or the safety of others.

4. “Formal charges” means any recommendation for sanctions against staff brought by the department

pursuant to section 75 of the civil service law, including but not limited to departmental charges commonly known as “charges and specifications.”

5. “Investigation division” means any division of the department of correction responsible for investigating allegations of the excessive use of force by staff against inmates or for investigation allegations of violence by inmates against staff, including but not limited to the investigation division and intelligence division.

6. “Physical injury” means impairment of physical condition or substantial pain. It shall not constitute a superficial bruise, scrape, scratch, or minor swelling.

7. “Serious physical injury” means physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss of impairment of the function of a bodily organ.

8. “Staff” means anyone, other than an inmate, working at a facility operated by the department of correction.

9. “Staff injury” means any physical injury or serious physical injury to staff as a result of an inmate assault.

b. Staff injury reporting. The department shall report to the investigation division any staff injury resulting in physical injury, and shall further report any staff injury resulting in serious physical injury to the district attorney’s office with jurisdiction over the location at which such injury occurred.

c. Beginning October 1, 2015, and every quarter thereafter, the commissioner shall post on the department website a report including the following information for the preceding quarter, the reporting period prior to the preceding quarter, and the previous year: the number of physical injuries to staff and the number of serious physical injuries to staff, in total and the rate of each such injury per 100 inmates in the custody of the department of correction during the reporting period.

d. The commissioner shall attempt to obtain the following information from any district attorney’s office

to whom the department has referred an inmate for criminal prosecution and shall post such information by the 20th day of each year on the department website: the total number of cases referred for criminal prosecution, the number that were actually prosecuted, the number in which the inmate was charged with a felony, and the number in which the inmate was charged with a misdemeanor.

e. The investigation division shall investigate all incidents in which an inmate receives a physical injury to the head or a serious physical injury.

f. Beginning October 1, 2015, and every quarter thereafter, the commissioner shall post on the department website a report including the following information for the preceding quarter, the reporting period prior to the preceding quarter, and the previous year: the number of physical injuries to the head and the number of serious physical injuries for inmates, in total and the rate of each such injury per 100 inmates in the custody of the department of correction during the reporting period.

g. Beginning October 1, 2015, and every quarter thereafter, the commissioner shall post on the department website a report regarding all incidents in which the department concludes that staff caused an inmate head injury or an inmate serious physical injury. For all such incidents, the report shall include the following information for the preceding quarter, the reporting period prior to the preceding quarter, and the previous year: the number of incidents in which the department determined that staff violated departmental rules or directives regarding the use of force; the number of incidents in which the department determined that excessive force was used; the number of incidents referred to a District Attorney's office; the number of incidents in which command discipline was recommended; the number of incidents in which command discipline was imposed; the nature of any command discipline sanctions imposed; the number of incidents in which the department brought formal charges; the number of incidents in which sanctions were imposed pursuant to formal charges; the nature of any sanctions recommended by the department as part of formal charges; the nature of any sanctions recommended by an administrative law judge as part of formal charges; the nature of any sanctions imposed by the department as part of formal charges; the number of incidents in which

the sanctions imposed differed from those recommended by the department or an administrative law judge pursuant to formal charges along with a written explanation regarding the reasons for varying from the recommendation.

§ 3. Severability. If any word, clause, sentence, or provision of this local law shall be adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the word, clause, sentence, or provision directly involved in the controversy in which such judgment shall have been rendered.

§ 4. This local law takes effect 90 days after it becomes law.

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