



Legislation Text

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Int. No. 887-B

By the Public Advocate (Mr. Williams) and Council Members Rivera, Cabán, Hudson, Louis, Restler, Abreu, Richardson Jordan, Brewer, Avilés, Nurse and Narcisse

A Local Law to amend the administrative code of the city of New York, in relation to reporting on gender identity of persons 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 9-165 to read as follows:

§ 9-165 Reporting on gender identity. a. Definitions. As used in this section, the following terms have the following meanings:

Department. The term “department” means the department of correction.

Discrimination. The term “discrimination” means the act of making unfair or prejudicial distinctions between people based on the groups, classes, identities, or other categories to which they belong or are perceived to belong.

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 gender expression differs from gender stereotypes, norms, and expectations in a given culture or historical period.

Harassment. The term “harassment” means unwelcome conduct that is based on someone's gender identity, gender expression, sex, or sexual orientation.

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.

Intersex. The term “intersex” refers to a person whose sex characteristics, including, but not limited to chromosomes, hormones, gonads, and genitalia, do not conform with a binary construction of sex as either male or female. This term may not be the same as a person’s gender identity and is not the same as a person’s sexual orientation.

Non-binary. The term “non-binary” refers to a person whose gender identity is not exclusively male or female.

Transgender. The term “transgender” refers to a person whose gender identity does not conform to the sex assigned at birth.

Violence. The term “violence” means the use of force or power, threatened or actual, against another person, or against a group or community.

b. Within 45 days of the end of each quarter of the fiscal year, the commissioner shall submit to the mayor, the speaker of the council, and the public advocate, and post on the department’s website, a quarterly report containing the following information based on the number of incarcerated individual admissions during the reporting period, and the average daily population of the city’s jails for the preceding quarter in total, and as a percentage of the average daily population of incarcerated individuals in the department’s custody during the reporting period:

1. The total number of persons in the custody of the department;
2. The total and average numbers of persons in the Special Consideration Unit, or any other housing unit dedicated to the housing of transgender, gender nonconforming, non-binary, or intersex persons;
3. The number and percentage of persons in the custody of the department who have identified themselves to the department, or have been identified by another person or agency on their behalf, as having a gender identity different from the sex assigned to the person at birth, or that were assigned an "X" gender

marker or an intersex identification at birth; This data shall be further disaggregated by self-described gender identity including, but not limited to, transgender, gender non-conforming, non-binary, or intersex;

4. The total number of persons described in paragraph 3 of this subdivision housed in each jail facility;

5. The number and percentage of such persons described in paragraph 3 of this subdivision who were denied placement in a jail facility that most closely aligns with their gender identity after making a written request for such housing;

6. The number and percentage of such persons described in paragraph 3 of this subdivision who were denied placement in a housing unit dedicated to the housing of TGNCNBI identified people, regardless of whether such unit is in a facility most closely aligned with their gender identity;

7. The number and percentage of such persons as described in paragraph 3 of this subdivision who have been involuntarily transferred out of a jail facility that most closely aligns with their gender identity;

8. The number and percentage of such persons as described in paragraph 3 of this subdivision who have made an allegation, complaint, or report, whether verbal or in writing, as a result of experiencing violence, harassment, or discrimination. For the purposes of this paragraph, an allegation, complaint, or report shall include a grievance, to 311 or to any DOC staff person by an incarcerated person, or by any person or agency on their behalf, or as included in any report of a use of force or other reportable incident as required to be filed by DOC staff;

9. The facility and housing units in which such individuals as described in paragraph 1 of this subdivision are currently housed shall be reported with the number of such individuals housed in each housing unit. This shall be disaggregated by type, including but not limited to, new admission, mental observation, restrictive housing, protective custody, involuntary protective custody, general population, the Special Considerations Unit. This report shall further identify the number of individuals for whom a security classification has increased upon moving from men's to women's housing.

c. The report required by this section shall not contain identifying information as defined in section 23-

1201. If a category to be reported contains fewer than 5 persons or contains an amount that would allow another category that contains fewer than 5 persons to be deduced, the number shall be replaced with a symbol. If a category to be reported contains zero individuals it shall be reported as zero.

§ 2. This local law takes effect on September 1, 2023.

SM, JW
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