



Legislation Details (With Text)

File #: Int 1204-2023 **Version:** * **Name:** Procedures following the death of an individual in custody of the department of correction and a report on compassionate release.

Type: Introduction **Status:** Filed (End of Session)

In control: Committee on Criminal Justice

On agenda: 9/28/2023

Enactment date: **Enactment #:**

Title: A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to procedures following the death of an individual in custody of the department of correction and a report on compassionate release

Sponsors:

Indexes: Report Required

Attachments: 1. Summary of Int. No. 1204, 2. Int. No. 1204, 3. September 28, 2023 - Stated Meeting Agenda, 4. Hearing Transcript - Stated Meeting 9-28-23, 5. Minutes of the Stated Meeting - September 28, 2023

Date	Ver.	Action By	Action	Result
9/28/2023	*	City Council	Introduced by Council	
9/28/2023	*	City Council	Referred to Comm by Council	
12/31/2023	*	City Council	Filed (End of Session)	

Int. No. 1204

By Council Members Rivera, Cabán, the Public Advocate (Mr. Williams), and Council Members Abreu, Restler, Powers, Hudson, Avilés, Krishnan, Hanif, Marte, Richardson Jordan, Brewer, Schulman, Gutiérrez, Sanchez and Nurse

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to procedures following the death of an individual in custody of the department of correction and a report on compassionate release

Be it enacted by the Council as follows:

Section 1. Section 626 of the New York city charter is amended by adding a new subdivision i to read as follows:

i. Procedures following the death of an individual in custody. 1. Upon the death of an individual in custody of the department, the board shall investigate the circumstances surrounding such death. After allowing enough time for the department of correction to notify the public of such death as set forth in subdivision b or c of section 9-166 of the administrative code but no later than 10 days after such death, the board shall publish on

its website a preliminary report. Such report must include:

(a) The individual's name;

(b) The individual's age;

(c) The individual's race;

(d) The individual's gender;

(e) The location where the individual died;

(f) The facility assigned to the individual;

(g) The individual's housing assignment and housing assignment history;

(h) Whether the individual, during the period of incarceration when the individual died, had engaged with the mental health system at least 3 times, had been prescribed certain classes of medication, or had otherwise been assessed by correctional health services, as defined in subdivision a of section 9-166 of the administrative code, as needing further mental health treatment;

(i) Whether the individual had been diagnosed with a chronic health condition;

(j) A summary of grievances, complaints, and requests for assistance filed by the individual while in custody;

(k) Whether the board referred such death to the department of investigation; and

(l) Whether the board referred such death to the office of the attorney general of New York.

2. Upon conclusion of the investigation:

(a) The board shall prepare a final report on the investigation that includes recommendations on how the department can prevent the circumstances that contributed to the individual's death and the names of employees of the department and of correctional health services, as defined in subdivision a of section 9-166 of the administrative code, involved in the circumstances that contributed to such death.

(b) The board shall submit the final report to the department and correctional health services, as defined in subdivision a of section 9-166 of the administrative code, to allow the department and correctional health

services to provide a response to the board, pursuant to subdivision k of section 9-166 of the administrative code.

(c) After 2 weeks have passed since the board submitted the final report to the department and correctional health services, as defined in subdivision a of section 9-166 of the administrative code, or after the department and correctional health services have provided a response to the board regarding such final report, whichever comes first, the board shall publish on its website the final report and the department's and correctional health services' response, if any. The board shall not publish the final report on its website until either 2 weeks have passed since the board submitted the final report to the department and correctional health services or the department and correctional health services have provided a response to the board.

3. The board shall publish on its website the final report within 6 months after such death. If the investigation has not concluded within 6 months after such death, the board shall publish on its website an update on the investigation on the day the final report is due and every 60 days thereafter until the final report is published.

§ 2. Chapter 1 of title 9 of the administrative code of the city of New York is amended by adding new sections 9-166, 9-167, and 9-168 to read as follows:

§ 9-166 Procedures following the death of an individual in custody of the department. a. Definitions. For the purposes of this section, the term "correctional health services" means any health care entity designated by the city of New York as the agency or agencies responsible for health services for incarcerated individuals in the care and custody of the department. When the responsibility is contractually shared with an outside provider, this term also applies.

b. Within 1 hour of pronouncement of death of an individual in custody, the department shall notify the office of chief medical examiner, the deceased's defense attorney, and the board of correction of such death. The department shall document that the department notified the next of kin pursuant to section 3-10 of title 40 of the rules of the city of New York, regarding deaths of incarcerated individuals, or a successor provision and

shall include the name of the employee of the department who contacted the next of kin, the name of the next of kin who was notified, the means of communication through which the next of kin was notified, the relationship of the next of kin to the deceased, and the time and date that the department made such notification. The department shall notify the board of correction that the next of kin had been notified of such death. Immediately after notifying the deceased's next of kin, the office of chief medical examiner, the deceased's defense attorney, and the board of correction, the department shall notify the public of such death by issuing a press release to all media outlets that have requested to receive press releases from the department and posting such press release on the department's website.

c. If the next of kin is not known or if the department is unable to reach the next of kin within 24 hours of pronouncement of such death, the department shall inform correctional health services, and correctional health services shall notify any family contacts included in the deceased's medical record. If the department is unable to reach the next of kin within 24 hours of pronouncement of death, the department shall notify the public of the death as set forth in subdivision b of this section, but shall withhold the name of the deceased. If the department has not been able to notify the next of kin after 72 hours have passed since the department's first attempt to notify the next of kin, the department shall notify the public of the death as set forth in subdivision b of this section, including the name of the deceased.

d. The department shall return the deceased's personal items to the next of kin within 30 days of the pronouncement of death.

e. After the department has notified the public of the death as set forth in subdivision b or c of this section, the department shall publish on its website reports sent to the state commission of correction pursuant to subdivision (b) of section 7508.2 of title 9 of the New York codes, rules and regulations, regarding reportable incidents, or a successor provision.

f. The department shall preserve video footage related to the circumstances that contributed to the death of an individual in custody.

g. Upon pronouncement of death of an individual in custody of the department, the department and correctional health services shall immediately provide all books, records, documents, papers, and video footage relevant to such death to the board of correction and shall immediately provide additional such materials to the board of correction upon request.

h. The department shall immediately provide video footage related to the circumstances that contributed to the individual's death to the next of kin upon request.

i. The department and correctional health services shall conduct a joint investigation of each death of an individual in custody of the department, including the review of all medical records of the deceased in the possession of the department and correctional health services and all records related to the deceased's time in custody of the department. The department and correctional health services shall submit a joint report of their findings to the board of correction.

j. If the department of investigation issues a report regarding the death of an individual or individuals in custody, the department and correctional health services shall publish a response to such report on their websites. If the report contains recommendations for the department or correctional health services, the department or correctional health services shall respond to each recommendation and indicate whether and how it will implement each such recommendation. If the department or correctional health services determines that it does not intend to implement a recommendation, the department or correctional health services shall provide the reasons for such determination.

k. The department and correctional health services shall respond in writing to each report issued by the board of correction pursuant to paragraph 2 of subdivision i of section 626 of the charter within 2 weeks after receiving such report. If the report contains recommendations for the department or correctional health services, the department and correctional health services shall respond to each recommendation and indicate whether and how they will implement each recommendation. If the department or correctional health services determines that it does not intend to implement the recommendation, the department or correctional health services shall

provide the reasons for such determination. The department and correctional health services shall update the board of correction 6 months after responding to the recommendations pursuant to this subdivision and every 6 months thereafter on progress made towards implementing each recommendation until each recommendation is fully implemented.

1. No later than 30 days after the board of correction publishes the final report on the death of an individual in custody pursuant to paragraph 2 of subdivision i of section 626 of the charter, the commissioner shall submit to the mayor and the speaker of the council and shall post conspicuously on the department's website a report regarding the status of employees of the department identified in the board of correction's final report as being involved in the circumstances that contributed to the individual's death. If the department opens a staff misconduct case regarding an employee's involvement in circumstances that contributed to the individual's death, the commissioner shall update the report required by this subdivision every 60 days from the date of first submission and posting until all staff misconduct cases have been closed. The department shall submit to the mayor and the speaker of the council and shall post conspicuously on the department's website each such updated report. The report required by this subdivision must include for each employee identified:

1. Whether the employee was terminated;

2. Whether the employee resigned;

3. Whether a staff misconduct case was opened regarding the employee's involvement in circumstances that contributed to the individual's death;

4. If a staff misconduct case was opened regarding the employee's involvement in the circumstances that contributed to the individual's death:

(a) Any unique identifier used by the department to identify the staff misconduct case, such as the case number;

(b) The date the staff misconduct case was initiated by the department;

(c) The date the staff misconduct case was closed;

(d) The category of any alleged misconduct offenses;

(e) A description of the alleged staff misconduct;

(f) If the staff misconduct case is being adjudicated by the office of administrative trials and hearings, the date on which the case was referred to the office of administrative trials and hearings;

(g) The status of the staff misconduct case as of the date of the report;

(h) The disposition of the staff misconduct case;

(i) The penalty and discipline imposed, if any; and

(j) Whether the staff misconduct case was referred to the department of investigation, a district attorney, or the United States department of justice.

§ 9-167 Jail death review board. a. There is hereby established a review board to be known as the jail death review board. The jail death review board shall study deaths of individuals in custody of the department to identify systemic issues that contributed to such deaths and shall keep a record of its proceedings. No later than January 31, 2025, and yearly thereafter, the jail death review board shall submit to the mayor and the speaker of the council a report describing the activities of such board over the preceding year, the systemic issues identified pursuant to this section, and any actions taken by any member of such board to address the systemic issues identified pursuant to this section.

b. Such board shall meet quarterly.

c. The jail death review board shall be composed of the following members:

1. The deputy mayor for public safety, or such deputy mayor's designee, who shall serve as chair;

2. The chief medical officer of correctional health services, as defined in subdivision a of section 9-166, or such officer's designee;

3. The commissioner or such commissioner's designee;

4. The commissioner of health and mental hygiene or such commissioner's designee; and

5. The executive director of the board of correction, or such director's designee.

d. The staff of such board shall be composed of employees of the board of correction.

§ 9-168 Report on compassionate release. a. No later than 3 months after the effective date of the local law that added this section, and quarterly thereafter, the commissioner shall submit to the mayor and the speaker of the council and shall post conspicuously on the department's website a quarterly report regarding individuals who have been released from custody due to a medical condition.

b. The quarterly report must include a table in which each separate row references a unique individual who had been released from custody due to a medical condition. Each such row must include the following information, as well as any additional information the commissioner deems appropriate, set forth in separate columns:

1. The name of the incarcerated individual who was released;
2. The name of the individual or entity that requested the incarcerated individual be released;
3. The date the request for release was submitted for approval;
4. The date the individual's release was approved; and
5. The date the individual was released.

c. The report required by subdivision b of this section shall include a data dictionary.

d. Except as otherwise expressly provided in this section, no report required by subdivision b of this section shall contain personally identifiable information.

§ 3. This local law takes effect 120 days after it becomes law.