



Legislation Text

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Int. No. 1061

By Council Members Louis, Narcisse and Farías

A Local Law to amend the administrative code of the city of New York, in relation to the department of correction report on sexual abuse

Be it enacted by the Council as follows:

Section 1. Subdivision b of section 9-156 of the administrative code of the city of New York, as amended by chapter 486 of the laws of 2022, is amended to read as follows:

b. Incident report. Within 90 days of [July 1, 2019] January 1, 2025 and every six months thereafter, the department shall provide to the speaker of the council and the board of correction a report of alleged incidents of sexual abuse and sexual harassment [for which an investigation lasted longer than 90 days] that occurred during the preceding six-month period[, provided that the information required in paragraphs 14 through 25 of this subdivision need not be included in such reports until the report due within 90 days of July 1, 2021]. All data shall be reported in a format capable of automated processing. Such report shall include a table in which each row references an alleged incident indicated by a unique identification number, and be accompanied by a data dictionary. Each row shall include the following information [for each allegation of sexual abuse and sexual harassment] set forth in separate columns:

1. The unique identification number required under this subdivision;

[1.]2. The date on which the incident occurred and whether the incident took place between the times of 7:00 AM and 3:00 PM, 3:00 PM and 11:00 PM, and 11:00 PM and 7:00 AM;

[2.]3. Whether the allegation is of sexual abuse or sexual harassment as defined in subdivision a of this

section;

[3.]4. The date the incident was reported [and an investigation was opened];

5. A unique identification number for the alleged victim;

[4.]6. The gender identity of the alleged victim;

[5.]7. Whether the alleged victim at the time of the incident was between the ages of 18-25, 26-35, 36-40, 41-60, over 60, or under 18 when such individuals are in department custody;

[6.]8. The race [and ethnic origin]of the alleged victim;

9. The ethnic origin of the alleged victim;

[7.]10. Whether the alleged victim had been in custody for more than 24 hours and who, during such confinement, received treatment for a mental illness, not including incarcerated individuals seen by mental health staff on no more than two occasions during their confinement and assessed on the latter of those occasions as having no need for further treatment in any city correctional facility or upon their release from any such facility;

[8.]11. The gender identity of the alleged perpetrator;

[9.]12. Whether the alleged perpetrator was an incarcerated individual or staff;

[10.]13. If the alleged perpetrator was staff, the number of previous allegations against [the] such staff that were substantiated and the outcome of each investigation;

[11.]14. If the alleged perpetrator was staff, the number of previous allegations against such staff that were unsubstantiated;

[12.]15. If the alleged perpetrator was staff, the number of previous allegations against such staff which are still pending;

[13.]16. The facility in which the incident occurred;

[14.]17. Whether the incident occurred in a service area or housing area;

[15.]18. If the incident occurred in a housing area, the housing area type;

[16.]19. Whether video camera surveillance recorded the incident;

[17.]20. The type of sexual abuse or harassment as defined in subdivision a of this section;

[18.]21. Whether the alleged victim is known to identify as transgender or intersex;

[19. Whether the alleged victim is known to identify as non-binary or gender non-conforming;]

[20.]22. Whether the alleged victim is known to identify as lesbian, gay or bi-sexual;

[21.]23. Whether DNA or any other physical evidence was obtained;

[22.]24. Whether a rape kit was administered, declined or not applicable;

[23.]25. If a rape kit was deemed not applicable, whether that determination was the result of a delay in reporting, due to the type of abuse alleged to have occurred, or any other reason;

[24.]26. If a rape kit was administered in connection with such incident, [W]whether a sexual assault nurse examiner or sexual assault response team was present during the administration of a rape kit; and

[25. Whether the case was referred to the department of investigation, the date of such referral, and whether the department of investigation referred it back to the department of correction to investigate.]

§ 2. Subdivision c of section 9-156 of the administrative code of the city of New York, as amended by New York chapter law 286 of 2022, is amended to read as follows:

c. Report on investigations. Within 90 days of [July 1, 2019]January 1, 2025, and every six months thereafter, the department shall report to the council and the board of correction a report of investigations of allegations of sexual abuse and sexual harassment that opened or concluded during the preceding six-month period[, provided that the information required in paragraphs 14 through 25 of subdivision b and paragraphs 8 through 11 of this subdivision need not be included in such reports until the report due within 90 days of July 1, 2021]. All data shall be reported in a format capable of automated processing. Such report shall include a table in which each row references an alleged incident indicated by a unique identification number, and be accompanied by a data dictionary. Each row shall include the following information in addition to the information in paragraphs 1 through [25] 26 of subdivision b of this section:

1. The date the investigation was opened and closed;
2. Whether the department determined that the incident was substantiated, unsubstantiated, or unfounded;
3. Whether the allegation was referred to a district attorney's office and whether that district attorney's office declined to prosecute, and whether the alleged perpetrator was convicted during the reporting period;
4. Whether the investigation was conducted by the facility or by the investigation division;
5. Where an investigation was referred to the investigation division, the reason for such referral;
6. Whether the investigation was referred back from the investigative division to the department facility and the reason for such referral;
7. Whether the alleged victim was notified regarding the outcome of the investigation;
8. Whether the alleged victim was referred to trauma or rape crisis services following the incident and if the victim accepted or declined such services while in custody;
9. Whether the alleged perpetrator and alleged victim were separated from physical contact during pendency of the investigation;
10. For substantiated allegations, if the perpetrator was a staff person, whether during the pendency of the investigation such staff person resigned, was suspended, placed on modified duty, assigned to a post without contact with incarcerated individuals, assigned to a post with restricted contact with incarcerated individuals, placed on administrative leave, or administered any other form of discipline;
11. For substantiated allegations, whether the allegation was referred for disciplinary action, including whether the department declined to file disciplinary charges, or if disciplinary charges were filed, the outcome of such disciplinary proceeding and whether the alleged staff perpetrator resigned or retired in lieu of charges or as part of a negotiated plea[.]; and
12. For substantiated allegations that were not referred to a district attorney's office, a justification for not referring such case.

§ 3. Subdivision d of section 9-156 of the administrative code of the city of New York, as amended by New York chapter law 286 of 2022, is amended to read as follows:

d. Aggregate report. Within 90 days of [July 1, 2019] January 1, 2025, and every six months thereafter, the department shall post on its website the information required in subdivisions b and c of this section in the aggregate, including the number and percentage of each data point, provided that such information that cannot be aggregated need not be included in such report. Such aggregated reports shall include the number of cases pending for over 90 days. Such reports shall be stored on the department's website for at least ten years.

§ 4. Section 9-156 of the administrative code of the city of New York, as amended by New York chapter law 286 of 2022, is amended by adding subdivision e as follows:

e. Review of reported information. The commissioner shall review the information collected through the reports required under subdivisions b and c of this section in order to assess and improve the effectiveness of the department's prevention, detection, and response policies concerning sexual abuse and harassment against incarcerated individuals. No later than 1 year after the effective date of the local law that added this section, and annually thereafter, the commissioner shall submit to the mayor, speaker of the council, and board of correction a report including the following information:

1. The commissioner's findings through such review; and
2. Any updates to such policies for each facility of the department and for the department as a whole made by the commissioner in response to such review.

§ 5. This local law takes effect immediately.

NEM, JW
LS #14428
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