



Legislation Text

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Int. No. 423-A

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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

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. 1. For purposes of this subdivision, the term “correctional health services” has the same meaning as set forth in section 9-108 of the administrative code.

2. Except where the commissioner of investigation, the attorney general, or the district attorney for the county in which a death of an incarcerated individual held or confined under the jurisdiction of the department occurred investigates such death or prosecutes any alleged criminal offense related to such death and requests or directs the board not to investigate such death, the board shall investigate such death and prepare a report about such investigation. Such report shall include any recommendations about measures the department or correctional health services may implement to prevent the circumstances that contributed to the individual’s death. Nothing in this subdivision shall be construed to limit the board’s discretion to investigate a death of an incarcerated individual held or confined under the jurisdiction of the department, including any death the board attributes to a person’s time in the custody of the department.

(a) The board shall submit such report to the department and correctional health services for review by

the department and correctional health services pursuant to subdivision h of section 9-171 of the administrative code.

(b) No later than 30 days after the board submits the report to the department and correctional health services, the board shall post such report and any response to such report from the department and correctional health services on the website of the board, provided that the board may post such report and any such response on any date after the department and correctional health services have provided such a response.

3. Notwithstanding subparagraph (b) of paragraph 2, where the board has not concluded an investigation of a death of an incarcerated individual pursuant to this subdivision within 180 days of such death, the board shall, every 60 days until the board concludes such investigation and posts a report about such investigation, post on its website a statement that the board has not concluded such investigation, except where the commissioner of investigation, the attorney general, or the district attorney for the county in which such death occurred investigates such death or prosecutes any alleged criminal offense related to such death and requests or directs the board not to investigate such death.

4. Upon request from the next of kin of an incarcerated individual who has died, the board shall provide to such next of kin records provided to the board by the department and correctional health services for purposes of such investigation in accordance with section 87 of the public officers law.

§ 2. Chapter 1 of title 9 of the administrative code of the city of New York is amended by adding new sections 9-171 and 9-172 to read as follows:

§ 9-171 Procedures following the death of an incarcerated individual. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Correctional health services. The term “correctional health services” has the same meaning as set forth in section 9-108.

Identifying information. The term “identifying information” has the same meaning as set forth in section 23-1201.

Work release program. The term “work release program” means a program established in accordance with article 6-A of the correction law.

b. The department shall notify the office of chief medical examiner and the board of correction as soon as practicable after becoming aware of a death of an incarcerated individual in the custody of the department, other than any such individual who the department has released pursuant to the work release program, provided that the department shall notify such office and such board no later than 3 hours after becoming aware of such death. The department shall make a good faith effort to notify the attorney of an incarcerated individual who has died as soon as practicable after notifying the next of kin of such individual as described in subdivision c of this section, provided the department shall notify such attorney no later than 24 hours after notifying such next of kin, and provided further that, where the department is unable to notify such next of kin within 48 hours after becoming aware of such death, the department shall notify the attorney of such death.

c. The department shall document any efforts of the department to notify the next of kin of such incarcerated individual pursuant to section 3-10 of title 40 of the rules of the city of New York, and shall include the name of the employee of the department who notified or attempted to notify the next of kin, the name of the next of kin such employee notified or attempted to notify, the means of communication the department used for such notification or attempt to notify, the next of kin’s relationship to the deceased incarcerated individual, and the time and date that the department notified or attempted to notify the next of kin. Where applicable, the department shall utilize interpretation services pursuant to section 23-1102 for purposes of notifying a next of kin of a deceased incarcerated individual.

d. The department shall notify the board of correction that the department has notified the next of kin of a death of an incarcerated individual pursuant to subdivision c of this section, after the department notifies such next of kin of such death. No later than 24 hours after notifying the next of kin of the incarcerated individual, the office of chief medical examiner, and the board of correction pursuant to this section, the department shall post a notification about such death on the department’s website. Such notification shall include the name, age,

race, and gender of the incarcerated individual who has died, and the facility to which the department assigned such individual, where applicable, provided that where the department is unable to notify the next of kin of an incarcerated individual who has died within 24 hours of becoming aware of such death, such notification shall not include the name, age, or race of the incarcerated individual who has died, and provided further that department shall update any such notification to include the name, age, and race of the incarcerated individual who has died no later than 24 hours after the department notifies the next of kin of such individual.

e. Notwithstanding subdivision d, where the department is not aware of the next of kin of an incarcerated individual who has died, the department shall request that correctional health services provide contact information for a family member of such incarcerated individual included in the medical record of such individual, and correctional health services shall provide such information to the department.

f. The department shall post on the department's website information about how the next of kin of an incarcerated individual who has died may obtain such individual's personal items, in accordance with applicable law and department policy, and to the extent practicable, shall provide assistance to such next of kin in obtaining such items. The department shall not dispose of any such personal items except in accordance with applicable law.

g. Except where the attorney general or the district attorney for the county in which a death of an incarcerated individual held or confined under the jurisdiction of the department occurred investigates such death or prosecutes any alleged criminal offense related to such death and requests or directs the department or correctional health services not to investigate such death, the department or correctional health services shall respond to any recommendation included in any report by the department of investigation about such death, including to state whether the department or correctional health services has determined to implement such recommendation and, where the department or correctional health services has determined not to implement such a recommendation, the reasons for such determination.

h. Except where the commissioner of investigation, the attorney general, or the district attorney for the

county in which a death of an incarcerated individual held or confined under the jurisdiction of the department occurred investigates such death or prosecutes any alleged criminal offense related to such death and requests or directs the department or correctional health services not to investigate such death, the department or correctional health services shall respond to any recommendation included in any report about such death the board of correction posts pursuant to subdivision i of section 626 of the charter to state whether the department or correctional health services has determined to implement such recommendation and, where the department or correctional health services has determined not to implement such recommendation, the reasons for such determination.

i. No later than 30 days after (i) the board of correction posts a report about an investigation by such board of a death of an incarcerated individual held or confined under the jurisdiction of the department pursuant to paragraph 2 of subdivision i of section 626 of the charter, and (ii) where the attorney general commences an investigation such death, such attorney general completes such investigation, the department shall submit to the mayor and the speaker of the council and shall post on the department's website a report regarding any employee under investigation by the department for any misconduct in relation to such death. Such report shall not contain any identifiable information of any employee of the department. Before submitting such a report to the mayor or the speaker of the council or posting such report on the website of the department, the department shall redact any identifying information or any information prohibited from disclosure under federal or state law. The department shall submit to the mayor and the speaker of the council and shall post on the department's website an update to any report required by this subdivision no less than once each 60 days until the department concludes such investigation. The department shall submit to the mayor and the speaker of the council and shall post on the department's website each such updated report. Any report required by this subdivision shall include a unique identifier for each employee under investigation for alleged misconduct that lead to an individual's death and provide:

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) The date the department commenced an investigation of such employee;

(b) The date the department concluded such investigation, where applicable;

(c) The rules or departmental policies alleged to have been violated;

(d) Whether the department imposed any penalty or discipline as result of the investigation of an employee, and if so, a description of any such discipline;

5. If the office of administrative trials and hearings adjudicates any charge resulting from such investigation, the date on which the department referred the case to the office of administrative trials and hearings and;

6. Whether the department referred the case to the department of investigation, a district attorney, or the attorney general.

§ 9-172 Prison death review board. a. For purposes of this section, the term "correctional health services" has the same meaning as set forth in section 9-108.

b. The board of correction may request that the prison death review board established pursuant to section 3-10 of title 40 of the rules of the city of New York be convened.

c. The prison death review board shall keep a record of any meetings or any other proceedings of such board.

d. The prison death review board shall include:

1. The executive director of the board of correction, who shall serve as chair;

2. The deputy mayor for public safety, or any other deputy mayor designated by the mayor, or such

deputy mayor's designee;

3. The chief medical officer of correctional health, or such officer's designee;

4. The commissioner of correction, or such commissioner's designee; and

5. The chief medical examiner or such chief medical examiner's designee.

e. The board of correction shall provide staff for the prison death review board

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

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