

STATE OF NEW YORK

7983

2025-2026 Regular Sessions

IN SENATE

May 15, 2025

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the correction law, in relation to enacting the "McDow Watson medical transparency in correctional facilities act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Legislative findings and intent. The legislature finds
2 that:
- 3 Timely and appropriate medical care is a fundamental right of all
4 individuals, including those incarcerated in correctional facilities
5 within the state of New York, as guaranteed by the Eighth Amendment of
6 the United States Constitution and Section 5 of Article I, of the New
7 York State Constitution, which prohibit cruel and unusual punishment.
- 8 There have been documented instances of delays in treatment, denial of
9 necessary medication, inadequate responses to medical emergencies, and
10 insufficient communication with emergency contacts of incarcerated indi-
11 viduals, resulting in unnecessary suffering, permanent disability, and
12 even death. These instances include, but are not limited to, the follow-
13 ing:
- 14 1. Layleen Polanco (2019), Rikers Island: Ms. Polanco died in solitary
15 confinement, and her family reportedly learned of her death from another
16 incarcerated person, not from official channels.
- 17 2. Dante Taylor (2017), Mid-State Correctional Facility: Mr. Taylor
18 died after reportedly complaining of chest pain and not receiving
19 adequate medical attention. His family was reportedly not notified of
20 his death for over 24 hours.
- 21 3. Estate of Kyam Livingston v. City of New York (2013), Central
22 Brooklyn Holding: Ms. Livingston died in a jail cell after reportedly
23 requesting medical assistance for hours. Her family was not promptly
24 informed of her death.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD11320-01-5

1 4. John MacKenzie (2017) at Attica Correctional Facility: Mr. MacKen-
2 zie was taken from the prison to the hospital, unconscious. The depart-
3 ment of corrections and community supervision (DOCCS) took four days to
4 notify Mr. MacKenzie's wife.

5 5. Bradley D (Confidential) Report by the Correctional Association:
6 Mr. D's colostomy bag ruptured, and he subsequently developed life-
7 threatening complications. His partner called DOCCS for days without
8 answers, and only found out he was in the hospital when staff at the
9 hospital found him in the directory.

10 6. Numerous documented cases by The Correctional Association of New
11 York: This illustrates failures in DOCCS processes and policies.

12 These, and many other similar cases, illustrate a pattern of inade-
13 quate medical care and deficient communication practices within New York
14 State correctional facilities, highlighting the urgent need for systemic
15 reform.

16 It is the intent of the legislature to establish clear and enforceable
17 procedures for emergency contact notification, access to medical
18 records, and independent oversight of medical care in correctional
19 facilities, thereby protecting the constitutional rights of incarcerated
20 individuals, promoting transparency and accountability, and ensuring the
21 provision of adequate medical care.

22 § 2. Short title. This act shall be known and may be cited as the
23 "McDow Watson medical transparency in correctional facilities act".

24 § 3. Section 17 of the correction law, as added by chapter 490 of the
25 laws of 2024, is amended to read as follows:

26 § 17. Notice to emergency contacts. 1. For the purposes of this
27 section, the following terms shall have the following meanings:

28 (a) "Emergency contact" means:

29 (i) an individual designated by an incarcerated individual to receive
30 notifications regarding serious medical events; or

31 (ii) if no individual is designated, or the designated individual
32 cannot be reached after reasonable attempts, one of the following indi-
33 viduals, in order of priority:

34 (1) the incarcerated individual's spouse or domestic partner;

35 (2) an adult child of the incarcerated individual;

36 (3) a parent of the incarcerated individual;

37 (4) an adult sibling of the incarcerated individual; or

38 (5) the incarcerated individual's legal guardian or legal represen-
39 tative.

40 (b) "Serious medical event" means any of the following:

41 (i) inpatient hospitalization;

42 (ii) any surgery requiring general anesthesia;

43 (iii) a life-threatening illness or injury;

44 (iv) any condition that renders the incarcerated individual unable to
45 communicate;

46 (v) significant, permanent impairment or disfigurement;

47 (vi) diagnosis of a terminal illness with a prognosis of six months or
48 less to live;

49 (vii) transfer to a medical intensive care unit (ICU);

50 (viii) an attempted suicide; and

51 (ix) any other medical condition that, if left untreated, could
52 reasonably be expected to result in significant pain, disability, or
53 death.

54 (c) "Medical record" means any record, in any form, electronic or
55 paper, relating to the past, present, or future physical or mental
56 health or condition of an incarcerated individual, including, but not

1 limited to, admission and discharge summaries, progress notes, physician
2 orders, nursing notes, laboratory results, radiology reports, medication
3 administration records, consultation reports, and any other documenta-
4 tion related to the individual's medical care and treatment.

5 2. Each correctional facility shall maintain a procedure for incarcer-
6 ated individuals to designate and regularly update emergency contact
7 information, including telephone, text, and secure digital messaging
8 options. Such emergency contact information shall be readily accessible
9 to authorized personnel.

10 3. Within [~~twenty-four~~] twelve hours of [~~the attempted suicide or~~
11 ~~hospitalization~~] a serious medical event of an incarcerated individual
12 or any other individual occurring in the custody of the department, or
13 as soon as reasonably practicable thereafter, but in no event later than
14 twenty-four hours after such serious medical event, the department shall
15 notify the emergency contacts of such incarcerated individual or other
16 such individual.

17 4. Such notification shall be made by telephone, and followed up with
18 written confirmation sent by mail, text or short message service (SMS)
19 messaging or email, if an email address is available.

20 5. Such notification shall include:

21 (a) a description of the serious medical event;

22 (b) the location of the incarcerated individual, such as a hospital or
23 correctional facility infirmary; and

24 (c) contact information for the correctional facility's medical admin-
25 istration or designated medical liaison.

26 6. Such notification may be delayed only if there is a documented and
27 specific threat to the safety and security of the correctional facility,
28 staff, other incarcerated individuals or the emergency contact, and such
29 delay is approved in writing by the warden or a designee at the level of
30 deputy warden or higher. The reason for such delay and the approval
31 shall be documented in the incarcerated individual's medical record.
32 Notification shall occur as soon as such security risk is no longer
33 present.

34 7. If the incarcerated individual is demonstrably competent to make
35 medical decisions and explicitly objects to such notification required
36 pursuant to this section in writing, and the situation is not immediat-
37 ely life-threatening, such notification may be withheld. However, if the
38 situation becomes life-threatening, such notification shall occur. The
39 provisions of this subdivision shall not apply if the serious medical
40 event renders the incarcerated individual unable to communicate.

41 8. The department shall maintain a record of all notification
42 attempts, including the date and time of the serious medical event, the
43 date and time of each notification attempt, the name or names of the
44 emergency contact or contacts notified or attempted to be notified, the
45 method of notification, the name and title of the department staff
46 member responsible for notification, and the reasons for any delay or
47 failure to notify, including any delay or failure to notify pursuant to
48 the provisions of subdivision six or seven of this section.

49 § 4. The correction law is amended by adding a new section 17-a to
50 read as follows:

51 § 17-a. Medical record access. 1. For the purposes of this section,
52 "medical record" shall have the same meaning as defined in section
53 seventeen of this article.

54 2. Incarcerated individuals and their designated representatives,
55 including attorneys and individuals with a valid power of attorney or

1 other legal authorization, shall have the right to access such incarcer-
2 ated individual's medical records.

3 3. Correctional facilities shall establish a clear and written proce-
4 dure for requesting and obtaining medical records. Such procedure shall
5 be made readily available to incarcerated individuals and their repre-
6 sentatives.

7 4. Medical records shall be provided within fifteen business days of a
8 written request. In cases of urgent medical need, as determined by a
9 licensed medical professional, the correctional facility shall make
10 every reasonable effort to provide such records within twenty-four
11 hours.

12 5. Access to medical records pursuant to the provisions of this
13 section shall be in compliance with the Health Insurance Portability and
14 Accountability Act of 1996 and other applicable state and federal laws.

15 § 5. The correction law is amended by adding a new section 17-b to
16 read as follows:

17 § 17-b. Independent medical oversight. 1. For the purposes of this
18 section, "medical record" shall have the same meaning as defined in
19 section seventeen of this article.

20 2. There is hereby established an independent medical oversight body,
21 hereinafter referred to as the "oversight body", to monitor and evaluate
22 the quality of medical care provided to incarcerated individuals within
23 correctional facilities and to ensure compliance with constitutional and
24 statutory requirements for adequate medical care.

25 3. The oversight body shall be comprised of nine members as follows:

26 (a) three members who shall be licensed medical professionals with
27 expertise in internal medicine, emergency medicine or mental health,
28 selected by a consortium of independent medical organizations;

29 (b) one member who shall be a licensed medical professional with
30 expertise in correctional healthcare, selected by a consortium of inde-
31 pendent medical organizations; and

32 (c) five members who shall be patient advocates or representatives of
33 organizations with demonstrated experience in advocating for the rights
34 of incarcerated individuals or other vulnerable populations, selected by
35 a coalition of civil rights organizations.

36 4. No member of the oversight body shall be currently employed by the
37 department, nor shall any member have been employed by the department
38 within the five years preceding their appointment.

39 5. The oversight body shall have the following powers and duties:

40 (a) To conduct regular, unannounced audits of medical care provided in
41 each correctional facility at least annually;

42 (b) To investigate complaints related to medical care, including but
43 not limited to, allegations of inadequate treatment, delayed care,
44 denial of care, and failure to comply with the provisions of sections
45 seventeen and seventeen-a of this article;

46 (c) To access medical records and other relevant information necessary
47 for the performance of its duties, consistent with the Health Insurance
48 Portability and Accountability Act of 1996 and other applicable state
49 and federal privacy laws;

50 (d) To issue public reports, at least annually, on the quality of
51 medical care in correctional facilities, including findings and recom-
52 mendations for improvement, which shall be submitted to the governor,
53 the legislature, and the commissioner;

54 (e) To make recommendations to the department and the legislature
55 regarding policies, procedures, and legislation related to medical care
56 in correctional facilities; and

1 (f) To establish and maintain a clear and accessible procedure for
2 receiving and processing complaints from incarcerated individuals and
3 their families or representatives regarding medical care.

4 6. The oversight body shall meet at least quarterly and shall maintain
5 detailed records of its meetings, investigations, and activities.

6 7. The department shall cooperate fully with the oversight body and
7 shall provide access to all facilities, personnel, and information
8 necessary for the oversight body to carry out its duties.

9 § 6. The correction law is amended by adding a new section 17-c to
10 read as follows:

11 § 17-c. Emergency contact notice and medical record access enforcement
12 and penalties. 1. The department shall be responsible for enforcing the
13 provisions of sections seventeen and seventeen-a of this article.

14 2. Failure to comply with the provisions of sections seventeen and
15 seventeen-a of this article may result in a fine of up to ten thousand
16 dollars per violation, to be imposed upon the correctional facility. The
17 commissioner or such commissioner's designee shall determine whether a
18 violation has occurred after an investigation and a finding of non-com-
19 pliance.

20 3. Repeated or egregious violations of sections seventeen and seven-
21 teen-a of this article may result in:

22 (a) mandatory independent review of the correctional facility's
23 medical procedures; and

24 (b) increased fines of up to fifty thousand dollars per subsequent
25 violation.

26 § 7. The correction law is amended by adding a new section 17-d to
27 read as follows:

28 § 17-d. Correctional facility medical data collection and reporting.
29 The department shall collect and compile data on medical incidents,
30 response times, and correctional facility compliance with sections
31 seventeen and seventeen-a of this article, and shall publish an annual
32 public report detailing such collected data.

33 § 8. Severability clause. If any clause, sentence, paragraph, subdivi-
34 sion, section or part of this act shall be adjudged by any court of
35 competent jurisdiction to be invalid, such judgment shall not affect,
36 impair, or invalidate the remainder thereof, but shall be confined in
37 its operation to the clause, sentence, paragraph, subdivision, section
38 or part thereof directly involved in the controversy in which such judg-
39 ment shall have been rendered. It is hereby declared to be the intent of
40 the legislature that this act would have been enacted even if such
41 invalid provisions had not been included herein.

42 § 9. This act shall take effect immediately.