

STATE OF NEW YORK

11563

IN ASSEMBLY

June 2, 2026

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Burroughs)
-- read once and referred to the Committee on Correction

AN ACT to amend the penal law and the correction law, in relation to enacting the "duty to intervene accountability act"

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

- 1 Section 1. This act shall be known and may be cited as the "duty to
2 intervene accountability act" or "DIAA".
- 3 § 2. Legislative findings and intent. The legislature hereby finds and
4 declares that:
- 5 1. Corrections officers employed by local and state correctional
6 facilities in the State of New York are entrusted with the care, custo-
7 dy, transport, and control of arrested and incarcerated individuals,
8 creating a special duty of protection;
- 9 2. Incarcerated individuals, by virtue of their confinement, are
10 uniquely vulnerable and dependent upon corrections personnel for their
11 safety and well-being;
- 12 3. The failure of a corrections officer to intervene when witnessing
13 an unjustified assault on an incarcerated individual constitutes a grave
14 dereliction of duty that may result in death or serious physical injury;
- 15 4. Current law does not adequately address the criminal accountability
16 of corrections officers who, while on duty and having a clear opportu-
17 nity to act, fail to intervene to prevent or stop an unjustified assault
18 on an individual in their custody; and
- 19 5. Establishing clear criminal liability for such failures to inter-
20 vene will serve to deter misconduct, protect the rights of incarcerated
21 individuals, promote accountability within correctional facilities, and
22 uphold the public trust placed in corrections personnel.
- 23 § 3. Section 125.15 of the penal law is amended by adding a new subdi-
24 vision 2 to read as follows:
- 25 2. Such person is a corrections officer employed by a local or state
26 correctional facility, as defined in subdivision twenty-five of section
27 2.10 of the criminal procedure law, and such person has as part of their
28 duties the care, custody, transport, and/or control of an arrested or

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

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1 incarcerated individual, and such person, while on duty, witnesses an
2 assault which such person knows or reasonably should know is unjustified
3 on said arrested or incarcerated individual by those acting with intent
4 to cause physical injury, that results in the death of said individual,
5 and the public official takes no action to restrict, restrain, or
6 prevent the continuation of said assault despite having a clear opportu-
7 nity to do so. For purposes of this subdivision, "clear opportunity to
8 do so" means that the corrections officer was physically present, aware
9 of the assault, and capable of taking reasonable action to restrict,
10 restrain, or prevent the continuation of said assault without an immi-
11 nent and objectively reasonable threat of death or serious physical
12 injury to the officer, and "unjustified assault" means the use of force
13 against an arrested or incarcerated individual that is not authorized by
14 law, regulation, or departmental policy as a reasonable and necessary
15 response to an immediate threat; or

16 § 4. Subdivision 14 of section 120.05 of the penal law, as added by
17 chapter 268 of the laws of 2016, is amended and a new subdivision 15 is
18 added to read as follows:

19 14. With intent to prevent or obstruct a process server, as defined in
20 section eighty-nine-t of the general business law, from performing a
21 lawful duty pursuant to article three of the civil practice law and
22 rules, or intentionally, as retaliation against such a process server
23 for the performance of the process server's duties pursuant to such
24 article, including by means of releasing or failing to control an animal
25 evincing the actor's intent that the animal prevent or obstruct the
26 lawful duty of the process server or as retaliation against the process
27 server, [~~he or she causes~~] they cause physical injury to such process
28 server[+]; or

29 15. Such person is a corrections officer employed by a local or state
30 correctional facility, as defined in subdivision twenty-five of section
31 2.10 of the criminal procedure law, and such person has as part of their
32 duties the care, custody, transport, and/or control of an arrested or
33 incarcerated individual, and such person, while on duty, witnesses an
34 assault which such person knows or reasonably should know is unjustified
35 on said arrested or incarcerated individual by those acting with intent
36 to cause physical injury, that results in serious physical injury to
37 said individual, and the public official takes no action to restrict,
38 restrain, or prevent the continuation of said assault despite having a
39 clear opportunity to do so. For purposes of this subdivision, "clear
40 opportunity to do so" means that the corrections officer was physically
41 present, aware of the assault, and capable of taking reasonable action
42 to restrict, restrain, or prevent the continuation of said assault with-
43 out an imminent and objectively reasonable threat of death or serious
44 physical injury to the officer, and "unjustified assault" means the use
45 of force against an arrested or incarcerated individual that is not
46 authorized by law, regulation, or departmental policy as a reasonable
47 and necessary response to an immediate threat.

48 § 5. The correction law is amended by adding a new section 123 to read
49 as follows:

50 § 123. Reporting by corrections officers of assaults. 1. Any
51 corrections officer who witnesses an assault as described in subdivision
52 two of section 125.15 or subdivision fifteen of section 120.05 of the
53 penal law shall, in addition to any duty to intervene, promptly report
54 the incident to a supervisor and to the inspector general or other
55 appropriate oversight authority.

1 2. Failure to report as required by subdivision one of this section
2 shall constitute grounds for disciplinary action, including but not
3 limited to termination, in addition to any criminal liability under
4 section 125.15 or 120.05 of the penal law.

5 § 6. Severability. If any clause, sentence, paragraph, subdivision,
6 section, or part of this act shall be adjudged by any court of competent
7 jurisdiction to be invalid, such judgment shall not affect, impair, or
8 invalidate the remainder thereof, but shall be confined in its operation
9 to the clause, sentence, paragraph, subdivision, section, or part there-
10 of directly involved in the controversy in which such judgment shall
11 have been rendered. It is hereby declared to be the intent of the Legis-
12 lature that this act would have been enacted even if such invalid
13 provisions had not been included herein.

14 § 7. This act shall take effect on the one hundred twentieth day after
15 it shall have become a law. Effective immediately, the department of
16 corrections and community supervision is authorized to promulgate, amend
17 and/or repeal any rule or regulation necessary for the implementation of
18 this act on or before such effective date.