STATE OF NEW YORK

7576

2025-2026 Regular Sessions

IN ASSEMBLY

April 1, 2025

Introduced by M. of A. ALVAREZ -- read once and referred to the Committee on 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:

Section 1. Legislative findings and intent. The legislature finds that:

Timely and appropriate medical care is a fundamental right of all individuals, including those incarcerated in correctional facilities within the state of New York, as guaranteed by the Eighth Amendment of the United States Constitution and Section 5 of Article I, of the New York State Constitution, which prohibit cruel and unusual punishment.

There have been documented instances of delays in treatment, denial of necessary medication, inadequate responses to medical emergencies, and insufficient communication with emergency contacts of incarcerated individuals, resulting in unnecessary suffering, permanent disability, and even death. These instances include, but are not limited to, the following:

1. Layleen Polanco (2019), Rikers Island: Ms. Polanco died in solitary confinement, and her family reportedly learned of her death from another incarcerated person, not from official channels.

2. Dante Taylor (2017), Mid-State Correctional Facility: Mr. Taylor died after reportedly complaining of chest pain and not receiving adequate medical attention. His family was reportedly not notified of his death for over 24 hours.

3. Estate of Kyam Livingston v. City of New York (2013), Central Brooklyn Holding: Ms. Livingston died in a jail cell after reportedly requesting medical assistance for hours. Her family was not promptly informed of her death.

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

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

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

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

These, and many other similar cases, illustrate a pattern of inadequate medical care and deficient communication practices within New York State correctional facilities, highlighting the urgent need for systemic reform.

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

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

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

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

(a) "Emergency contact" means:

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

(ii) if no individual is designated, or the designated individual cannot be reached after reasonable attempts, one of the following individuals, in order of priority:

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

(2) an adult child of the incarcerated individual;

(3) a parent of the incarcerated individual;

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

(5) the incarcerated individual's legal guardian or legal representative.

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

(i) inpatient hospitalization;

(ii) any surgery requiring general anesthesia;

(iii) a life-threatening illness or injury;

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

(v) significant, permanent impairment or disfigurement;

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

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

(viii) an attempted suicide; and

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

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

limited to, admission and discharge summaries, progress notes, physician orders, nursing notes, laboratory results, radiology reports, medication administration records, consultation reports, and any other documentation related to the individual's medical care and treatment.

2. Each correctional facility shall maintain a procedure for incarcerated individuals to designate and regularly update emergency contact information, including telephone, text, and secure digital messaging options. Such emergency contact information shall be readily accessible to authorized personnel.

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

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

5. Such notification shall include:

(a) a description of the serious medical event;

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

(c) contact information for the correctional facility's medical administration or designated medical liaison.

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

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

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

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

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

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

other legal authorization, shall have the right to access such incarcerated individual's medical records.

3. Correctional facilities shall establish a clear and written procedure for requesting and obtaining medical records. Such procedure shall be made readily available to incarcerated individuals and their representatives.

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

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

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

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

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

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

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

(b) one member who shall be a licensed medical professional with expertise in correctional healthcare, selected by a consortium of independent medical organizations; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 9. This act shall take effect immediately.