



Bill Summary: Family Notification of Lockdown, Death, Injury, or Illness in Custody

Bill Purpose: Increase transparency and accountability in a state prison system by establishing policies and procedures to notify the next of kin or other emergency contact in the event that a facility goes into lockdown or upon the death, or serious illness or serious injury, of an individual in custody.

Please contact FAMM at famm@famm.org for assistance with or questions about this model legislation.

Be it enacted by the **[Legislature of the State]**:

Section 1. **[State code title and chapter]** is amended by adding section **###**, to read:

###. Family Notification of Lockdown, Death, Injury, or Illness in Custody.

(A) Definitions

- (1) Custodial Record. — The term “custodial record” means the central file of an individual in custody.
- (2) Correctional facility. — The term “correctional facility” means any prison operated by or under contract with the **[State Department of Corrections or equivalent department]** for the custody and confinement of individuals sentenced to imprisonment.
- (3) In Custody. — The term “in custody” means an individual who, after being detained and booked into a correctional facility for a Federal, State, or local offense—
 - (a) is physically housed at a prison, boot camp prison, contract correctional facility, community correctional facility, or other correctional facility (including any juvenile detention facility); or
 - (b) has been or is being transferred to a medical facility from a correctional facility
- (4) Family Designee. — The term “family designee” means an individual, who is appointed by the individual in custody to receive specific rights or obligations. The family designee may be:
 - (a) member of their immediate family
 - (b) member of their extended family
 - (c) family member through marriage
 - (d) romantic partner
 - (e) friend
 - (f) attorney

(5) Serious Illness or Serious Injury. —The term “serious illness or serious injury” means a medical event, episode, condition, accident, or other incident where—

- (a) without immediate treatment for the condition, death is imminent;
- (b) admission to a hospital is required;
- (c) an individual attempted suicide;
- (d) an individual is unconscious or incapacitated such that they are incapable of providing consent for medical treatment; or
- (e) an individual has been diagnosed with a terminal illness.

(B) Emergency Contact Notification Policies and Procedures. — Not later than 1 year after the date of enactment of this Act, the State shall, consistent with the requirements in this section—

- (1) implement policies and procedures for the correctional facilities of the State to notify family designees in the event of a lockdown; and
- (2) notify the designees in the event of the death or serious illness or serious injury, of the individual in custody.

(C) Contents of Emergency Contact Notification Policies and Procedures.

(1) Family Designee Information. — The State shall ensure that all individuals in custody have the opportunity to provide up to 3 family designees upon the start of their period of incarceration. The state shall obtain:

- (a) the name, last known address, telephone number, and email of any individual or individuals who—
 - (i) shall be notified in the event of a lockdown or the death or serious illness or serious injury, of the individual in custody; and
 - (ii) are authorized to receive the body and personal effects of the individual in custody;
- (b) whether the individual in custody would like a faith leader to participate in the notification process and, if so, of what denomination; and
- (c) whether the individual has in place a medical proxy decision maker or medical power of attorney, advanced directive, or do not resuscitate order, and the name and contact information of the individual or individuals holding such authorities.

(D) Notification Requirements While In Custody. —

(1) Lockdown. — When a correctional facility goes into lockdown, the State shall send a notification via electronic mail to each listed family designee of each person incarcerated in that facility informing the family designees of a lockdown. The facility shall include in that notice the reason for the lockdown and an estimated duration. Throughout the duration of a lockdown, the facility must provide an update on the lockdown every third day. If the third day falls on a weekend, the facility may send the notification the following Monday.

(2) Death in Custody. — In the event an individual dies while in custody, the facility shall notify each family designee of the individual’s passing not later than 12 hours after the declaration of

death and between the hours of 6:00 a.m. and midnight local time. Such notification shall include information about the circumstances surrounding the death, including the official time of death, the cause of death, and whether the death is under investigation, including the reason for opening the investigation.

(3) **Serious Illness or Serious Injury.** — In the event an individual becomes seriously ill or seriously injured while in custody, notice shall be made to each family designee of the individual's condition as soon as practicable after the serious injury or serious illness occurs. Such notification shall include information about the serious illness or injury, including the cause and nature of the serious injury or serious illness event, whether the individual is incapacitated, unconscious, or unable to speak, whether any medical procedures or life-saving measures were, or will be, performed in response to the incident. The notification shall also include the contact information of the facility and provider of medical treatment.

(E) Compassionate and Professional Notification. — The policies and procedures described in subsection (B) shall include clear descriptions for how staff members provide notification in the event of a lockdown or the death or serious illness or serious injury, of the individual in custody in a compassionate and professional manner to minimize confusion and trauma suffered by family designees. The outlined practices shall address the manner of notification, including—

(1) which staff members shall provide these notifications and what training those staff members will receive on the notification process;

(2) if notification occurs in person, providing the family designee a point of contact at the facility; and

(3) providing notification of a death in custody via a telephone or in-person conversation, immediately followed by a written letter of condolence that advises the person of the circumstances of the death, and providing a description of what information can and cannot be provided over voicemail.

(F) Family Designee Contact Form. — The policies and procedures described in subsection (B) shall include a template form for facilities to record the contact information for inclusion in the custodial record of the individual.

(G) Additional Requirements Related to Notification. — The policies and practices described in subsection (B) shall include:

(1) the ability for a family designee to accept or decline the designation;

(2) the ability for individuals in custody to modify their family designee contact information as needed;

(3) the ability for individuals in custody to fill out a medical power of attorney, health care proxy, advanced directive, a do not resuscitate order, or any other similar document that complies with the law;

(4) returning the belongings and remains of the individual to family designees, if desired;

(5) documenting and maintaining within the custodial record of the individual each notification attempt performed pursuant to this Act by the correctional facility;

- (6) providing each family designee a meaningful opportunity to visit with a seriously ill or seriously injured individual in custody and to communicate with the medical staff caring for that individual;
- (7) providing the individual in custody information about the purpose and permissible uses of the family designee information provided pursuant to this section; and
- (8) in the event of a death in custody, notifying each family designee if an autopsy is going to be performed and the procedures for obtaining any autopsy report.

(H) Written Notification Plan. — The policies and procedures described in subsection (B) shall instruct correctional facilities to develop a written notification plan, or revise an existing written notification plan, that provides for notification of a lockdown, death, serious illness, or serious injury of an individual in custody that conforms with the policies described in subsection (C). Such written notification plans shall be published on the website of the correctional facility and made accessible to individuals in custody through inclusion in any intake information, manuals, or other materials distributed or made available to individuals upon being taken into custody.

(I) Additional Requirements. —

(1) State to Monitor Compliance with Notification and Communication Requirements. —The State shall appoint an individual with authority to receive and investigate complaints regarding the failure to provide—

- (a) the notifications required under this Act, including inadequate notifications; and
- (b) opportunities for communication and visitation in accordance with this Act.

(2) Voluntary Collection. —A facility may not—

- (a) attempt to persuade or coerce an individual in custody to provide the information described in subsection (B); or
- (b) impose any penalty, fine, or fee on the individual for—
 - (i) the failure or refusal of the individual to provide the information requested; or
 - (ii) providing information that is later determined to be inaccurate.

(J) Abrogation. — All regulations, statutes, or parts thereof, are abrogated to the extent that they conflict with any part of this act.

(K) Severability. — If any part of this act is found unconstitutional under the laws of this state or the United States, the remainder of the act shall remain in effect.