

117TH CONGRESS
2D SESSION

S. 4284

To establish Federal policies and procedures to notify the next-of-kin or other emergency contact upon the death, or serious illness or serious injury, of an individual in Federal custody, to provide model policies for States, units of local government, and Indian Tribes to implement and enforce similar policies and procedures, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 19 (legislative day, MAY 17), 2022

Mr. OSSOFF (for himself and Mr. KENNEDY) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To establish Federal policies and procedures to notify the next-of-kin or other emergency contact upon the death, or serious illness or serious injury, of an individual in Federal custody, to provide model policies for States, units of local government, and Indian Tribes to implement and enforce similar policies and procedures, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Notification
5 of Death, Injury, or Illness in Custody Act of 2022”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) In the event an individual dies or becomes
4 seriously ill or injured while being detained, ar-
5 rested, or while in law enforcement custody, their
6 family members deserve to be notified in a timely
7 and compassionate manner. Such notification is nec-
8 essary to uphold the basic human dignity of incar-
9 cerated people, a concept rooted in the Eighth
10 Amendment and Due Process Clause of the 14th
11 Amendment to the Constitution of the United
12 States.

13 (2) The lack of a national standard governing
14 notification of death, illness, and injury that occur
15 in prisons, jails, and police custody can lead to inhu-
16 mane treatment of incarcerated people and their
17 loved ones. Poor communication regarding the death
18 of a loved one may exacerbate the grief and other
19 physical and psychological reactions of surviving rel-
20 atives.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) CUSTODIAL RECORD.—The term “custodial
24 record” means the central file of an individual in
25 custody.

1 (2) DETENTION AGENCY.—The term “detention
2 agency” means any government agency, including a
3 law enforcement agency or correctional agency, that
4 has the authority to detain individuals for violations
5 or alleged violations of criminal or civil law.

6 (3) IN CUSTODY OF A DETENTION AGENCY.—
7 The term “in the custody of a detention agency”
8 means an individual who, after being detained and
9 booked into a jail or holding facility for a Federal,
10 State, or local offense—

11 (A) is physically housed at a jail, prison,
12 boot camp prison, contract correctional facility,
13 community correctional facility, halfway house,
14 or other correctional facility (including any ju-
15 venile detention facility); or

16 (B) has been or is being transferred to a
17 medical facility from a correctional facility.

18 **SEC. 4. EMERGENCY CONTACT NOTIFICATION POLICIES**
19 **AND PROCEDURES.**

20 (a) EMERGENCY CONTACT NOTIFICATION POLICIES
21 AND PROCEDURES.—Not later than 1 year after the date
22 of enactment of this Act, the Attorney General shall, con-
23 sistent with the requirements in this section—

24 (1) implement policies and procedures for the
25 detention agencies of the Department of Justice to

1 notify the next-of-kin or other emergency contact in
2 the event of the death, or serious illness or serious
3 injury, of an individual in the custody of a detention
4 agency of the Department of Justice; and

5 (2) develop and distribute model policies and
6 procedures for detention agencies of States, terri-
7 tories of the United States, Tribes, and units of
8 local government to notify the next-of-kin or other
9 emergency contact in the event of the death, or seri-
10 ous illness or serious injury, of an individual in the
11 custody of the detention agency, and provide assist-
12 ance to such detention agencies so that the agencies
13 may implement such procedures or substantially
14 similar processes.

15 (b) CONTENTS OF EMERGENCY CONTACT NOTIFICA-
16 TION POLICIES AND PROCEDURES.—The policies and pro-
17 cedures described in subsection (a) shall include best prac-
18 tices that address the following:

19 (1) EMERGENCY CONTACT INFORMATION.—In
20 the case of an individual that is in the custody of
21 a detention agency, the detention agency shall ob-
22 tain, to the greatest extent practicable—

23 (A) the name, last known address, tele-
24 phone number, and email of any individual or
25 individuals who—

1 (i) shall be notified in the event of the
 2 death or serious illness or serious injury, of
 3 the individual in custody; and

4 (ii) are authorized to receive the body
 5 and personal effects of the individual in
 6 custody;

7 (B) whether the individual in custody
 8 would like a faith leader to participate in the
 9 notification process and, if so, of what denomi-
 10 nation; and

11 (C) whether the individual has in place a
 12 medical proxy decision maker or medical power
 13 of attorney, advanced directive, or do not resus-
 14 citate order, and the name and contact informa-
 15 tion of the individual or individuals holding
 16 such authorities.

17 (2) NOTIFICATION REQUIREMENTS FOR DEATH,
 18 SERIOUS ILLNESS, AND SERIOUS INJURY WHILE IN
 19 CUSTODY.—

20 (A) NOTIFICATION OF DEATH IN CUS-
 21 TODY.—In the event an individual dies while in
 22 the custody of the detention agency, the deten-
 23 tion agency shall notify the emergency contact
 24 of the individual not later than 12 hours after
 25 the declaration of death and between the hours

1 of 6:00 a.m. and to midnight local time. Such
2 notification shall include information about the
3 circumstances surrounding the death, including
4 the official time of death, the cause of death,
5 and whether the death is under investigation,
6 including the reason for opening the investiga-
7 tion.

8 (B) NOTIFICATION OF SERIOUS ILLNESS
9 OR SERIOUS INJURY.—In the event an indi-
10 vidual becomes seriously ill or seriously injured
11 while in the custody of a detention agency, the
12 detention agency shall attempt to notify the
13 emergency contact of the individual as soon as
14 practicable after the serious injury or serious
15 illness occurs. Such notification shall include in-
16 formation about the serious illness or injury, in-
17 cluding the cause and nature of the serious in-
18 jury or serious illness event, whether the indi-
19 vidual is incapacitated, unconscious, or unable
20 to speak, whether any medical procedures or
21 life-saving measures were, or will be, performed
22 in response to the incident, and the contact in-
23 formation of the facility and provider of medical
24 treatment.

1 (3) COMPASSIONATE AND PROFESSIONAL NOTI-
2 FICATION.—The policies and procedures described in
3 subsection (a) shall include best practices to provide
4 notification of death, serious illness, or serious in-
5 jury in custody in a compassionate and professional
6 manner to minimize confusion and trauma suffered
7 by the next-of-kin or other emergency contact. The
8 best practices shall address the manner of notifica-
9 tion, including—

10 (A) providing notification by an individual
11 trained in notification best practices;

12 (B) if notification occurs in person, pro-
13 viding the next-of-kin or other emergency con-
14 tact a point of contact at the detention facility;
15 and

16 (C) providing notification of a death in
17 custody via a telephone or in-person conversa-
18 tion, immediately followed by a written letter of
19 condolence that advises the person of the cir-
20 cumstances of the death, and providing a de-
21 scription of what information can and cannot be
22 provided over voicemail.

23 (4) DEFINITION OF SERIOUS ILLNESS OR SERI-
24 OUS INJURY.—The policies and procedures described
25 in subsection (a) shall define when a medical event,

episode, condition, accident, or other incident constitutes a serious illness or serious injury. In defining such term, the Attorney General shall require notification in at least situations 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; and

(E) an individual has been diagnosed with a terminal illness.

(5) EMERGENCY CONTACT FORM.—The policies and procedures described in subsection (a) shall include a template form for detention agencies to record the emergency contact information for inclusion in the custodial record of the individual.

(6) ADDITIONAL BEST PRACTICES.—The policies and practices described in subsection (a) shall include best practices to—

(A) permit individuals in custody to modify their emergency contact information as needed;

(B) provide individuals in custody the opportunity to fill out a medical power of attor-

1 ney, health care proxy, advanced directive, a do
2 not resuscitate order, or any other similar docu-
3 ment that complies with the State law in the lo-
4 cation of detention;

5 (C) return the belongings and remains of
6 the individual to the emergency contact, if de-
7 sired;

8 (D) document and maintain within the
9 custodial record of the individual each notifica-
10 tion attempt performed pursuant to this Act by
11 the detention agency;

12 (E) provide the emergency contact mean-
13 ingful opportunity to visit with a seriously ill or
14 seriously injured individual in custody and to
15 communicate with the medical staff caring for
16 that individual;

17 (F) provide the individual in custody infor-
18 mation about the purpose and permissible uses
19 of the emergency contact information provided
20 pursuant to this section; and

21 (G) in the event of a death in custody, no-
22 tify the emergency contact if an autopsy is
23 going to be performed and the procedures for
24 obtaining any autopsy report.

1 (c) WRITTEN NOTIFICATION PLAN.—The policies
2 and procedures described in subsection (a) shall instruct
3 detention agencies to develop a written notification plan,
4 or revise an existing written notification plan, that pro-
5 vides for notification of a death, serious illness, or serious
6 injury of an individual in custody that conforms with the
7 policies described in subsection (b). Such written notifica-
8 tion plans shall be published on the website of the deten-
9 tion agency and made accessible to individuals in the cus-
10 tody of the detention agency through inclusion in any in-
11 take information, manuals, or other materials distributed
12 or made available to individuals upon being taken into cus-
13 tody.

14 (d) ADDITIONAL REQUIREMENTS.—

15 (1) DOJ SUPPORT OF STATE AND LOCAL IM-
16 PLEMENTATION OF MODEL POLICIES.—To support
17 implementation of the model policies and procedures
18 described in subsection (a)(2), the Attorney General
19 shall provide ongoing online training and directed
20 outreach to law enforcement, prosecution and de-
21 fense agencies through national and State member-
22 ship associations, and by other means.

23 (2) PUBLICATION OF EMERGENCY CONTACT
24 POLICIES AND PROCEDURES.—The Attorney Gen-

1 eral, acting through the Assistant Attorney General
2 of the Office of Justice Programs, shall—

3 (A) publish on the website of the Office of
4 Justice Programs the policies and procedures
5 described in subsection (b); and

6 (B) shall include a copy of the procedures
7 described subsection (b)(1) in any intake infor-
8 mation, manuals, or other materials distributed
9 or made available to individuals upon being
10 taken into custody of a detention agency of the
11 Department of Justice.

12 (3) INTERGOVERNMENTAL SERVICE CONTRACTS
13 AND AGREEMENTS.—Any Department of Justice de-
14 tention agency, including the United States Mar-
15 shals Service, that contracts with State, munici-
16 pality, Tribal, private, or other entities to house in-
17 dividuals in custody shall require adoption of the
18 procedures or substantially similar procedures as de-
19 scribed in subsection (b)(2) as a condition of such
20 contract or contract renewal.

21 (4) DEPARTMENT OF JUSTICE TO MONITOR
22 COMPLIANCE WITH NOTIFICATION AND COMMUNICA-
23 TION REQUIREMENTS.—The Attorney General shall
24 appoint an individual within the Department of Jus-

1 tice with the authority to receive and investigate
2 complaints regarding the failure to provide—

3 (A) the notifications required under this
4 Act, including inadequate notifications; and

5 (B) opportunities for communication and
6 visitation in accordance with this Act.

7 (e) VOLUNTARY COLLECTION.—A detention agency
8 may not—

9 (1) attempt to persuade or coerce an individual
10 in the custody of a detention agency to provide the
11 information described in subsection (a); or

12 (2) impose any penalty, fine, or fee on the indi-
13 vidual for—

14 (A) the failure or refusal of the individual
15 to provide the information requested; or

16 (B) providing information that is later de-
17 termined to be inaccurate.

18 **SEC. 5. RULES OF CONSTRUCTION.**

19 Nothing in this Act may be construed to—

20 (1) create any legal or financial obligation on
21 the part of any individual designated as a next-of-
22 kin or other emergency contact under this Act;

23 (2) require the individual in custody of a deten-
24 tion agency to provide the emergency contact infor-
25 mation described in section 4(a); or

- 1 (3) create a private right of action to enforce
- 2 any provision of this Act.

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