

117TH CONGRESS
2D SESSION

S. _____

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

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

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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

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

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

24 **SEC. 3. DEFINITIONS.**

25 In this Act:

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

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

9 (3) IN CUSTODY OF A DETENTION AGENCY.—
10 The term “in the custody of a detention agency”
11 means a person who, after being detained and
12 booked into a jail or holding facility for a state,
13 local, or Federal offense, is physically housed at a
14 jail, prison, boot camp prison, contract correctional
15 facility, community correctional facility, halfway
16 house, or other correctional facility (including any
17 juvenile detention facility), or has been or is being
18 transferred to a medical facility from a correctional
19 facility.

20 **SEC. 4. EMERGENCY CONTACT NOTIFICATION POLICIES**
21 **AND PROCEDURES.**

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

1 (1) implement policies and procedures for the
2 detention agencies of the Department of Justice to
3 notify the next-of-kin or other emergency contact in
4 the event of the death, or serious illness or serious
5 injury, of an individual in the custody of a detention
6 agency of the Department of Justice; and

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

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

21 (1) EMERGENCY CONTACT INFORMATION.—In
22 the case of an individual that is in the custody of
23 a detention agency as defined in this section, the de-
24 tention agency shall obtain, to the extent prac-
25 ticable—

1 (A) the name, last known address, tele-
2 phone number, and email of any person or per-
3 sons who shall be notified in the event of the
4 individual in custody's death or serious illness
5 or serious injury, and who are authorized to re-
6 ceive the individual's body and personal effects;

7 (B) whether the individual in custody
8 would like a faith leader to participate in such
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 person or persons holding such au-
16 thorities.

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 individual's emer-
24 gency contact not later than 12 hours after the
25 declaration of death and between the hours of

1 6:00 a.m. and to midnight local time. Such no-
2 tification 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 individual's death is under in-
6 vestigation and, if so, the reason for opening an
7 investigation.

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 in-
13 dividual's emergency contact as soon as prac-
14 ticable after the serious injury or serious illness
15 occurs. Such notification shall include informa-
16 tion about the serious illness or injury, includ-
17 ing: the cause and nature of the serious injury
18 or serious illness event; whether the individual
19 is incapacitated, unconscious, or unable to
20 speak; whether any medical procedures or life-
21 saving measures were, or will be, performed in
22 response to the incident; and contact informa-
23 tion 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: providing notification by a person
10 trained in notification best practices; when notifica-
11 tion occurs in person, providing the next of kin or
12 other emergency contact a point of contact at the
13 detention facility; using written notifications (e.g.,
14 letters and electronic mail) as a last resort) and pro-
15 viding a description of what information can and
16 cannot be provided over voicemail.

17 (4) DEFINITION OF SERIOUS ILLNESS OR SERI-
18 OUS INJURY.—The policies and procedures described
19 in subsection (a) shall define when a medical event,
20 episode, condition, accident, or other incident con-
21 stitutes a serious illness or serious injury. In defin-
22 ing such term, the Attorney General shall require
23 notification in at least situations where—

24 (A) without immediate treatment for the
25 condition, death is imminent;

1 (B) admission to a hospital is required;

2 (C) an individual attempted suicide;

3 (D) an individual is unconscious or inca-
4 pacitated such that they are incapable of pro-
5 viding consent for medical treatment; and

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

8 (5) EMERGENCY CONTACT FORM.—The policies
9 and procedures described in subsection (a) shall in-
10 clude a template form for detention agencies to
11 record the individual’s emergency contact informa-
12 tion for inclusion in the individual’s custodial record.

13 (6) ADDITIONAL BEST PRACTICES.—The poli-
14 cies and practices described in subsection (a) shall
15 include best practices to—

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

18 (B) provide individuals in custody the op-
19 portunity to fill out a medical power of attor-
20 ney, health care proxy, advanced directive, a do
21 not resuscitate order, or any other similar docu-
22 ment that complies with the State law in the lo-
23 cation of detention;

24 (C) return the individual’s belongings and
25 remains to the emergency contact, if desired;

1 (D) document and maintain within the in-
2 dividual's custodial record each notification at-
3 tempt performed pursuant to this Act by the
4 detention agency;

5 (E) provide the emergency contact mean-
6 ingful opportunity to visit with a seriously ill or
7 seriously injured individual in custody and to
8 communicate with the medical staff caring for
9 that individual;

10 (F) provide the individual in custody infor-
11 mation about the purpose and permissible uses
12 of the emergency contact information provided
13 pursuant to this section; and

14 (G) in the event of a death in custody, no-
15 tify the emergency contact if an autopsy is
16 going to be performed and the procedures for
17 obtaining any autopsy report.

18 (c) WRITTEN NOTIFICATION PLAN.—The policies
19 and procedures described in subsection (a) shall instruct
20 detention agencies to develop a written notification plan,
21 or revise an existing written notification plan, that pro-
22 vides for notification of a death, serious illness, or serious
23 injury of an individual in custody that conforms with the
24 policies described in subsection (b). Such written notifica-
25 tion plans shall be published on the detention agency's

1 website and made accessible to individuals in the agency's
2 custody through inclusion in any intake information,
3 manuals, or other materials distributed or made available
4 to individuals upon being taken into custody.

5 (d) ADDITIONAL REQUIREMENTS.—

6 (1) DOJ SUPPORT OF STATE AND LOCAL IM-
7 PLEMENTATION OF MODEL POLICIES.—To support
8 implementation of the model policies and procedures
9 described in subsection (a)(2), the Attorney General
10 shall provide ongoing online training and directed
11 outreach to law enforcement, prosecution and de-
12 fense agencies through national and State member-
13 ship associations and by other means.

14 (2) PUBLICATION OF EMERGENCY CONTACT
15 POLICIES AND PROCEDURES.—The Attorney Gen-
16 eral, acting through the Assistant Attorney General
17 of the Office of Justice Programs, shall publish the
18 policies and procedures described in subsection (b)
19 on its website and shall include a copy of the proce-
20 dures described subsection (b)(1) in any intake in-
21 formation, manuals, or other materials distributed
22 or made available to individuals upon being taken
23 into custody of a detention agency of the Depart-
24 ment of Justice.

1 (3) INTERGOVERNMENTAL SERVICE CONTRACTS
2 AND AGREEMENTS.—Any Department of Justice de-
3 tention agency, including the U.S. Marshals Service,
4 that contracts with State, municipality, Tribal, pri-
5 vate, or other entities to house individuals in custody
6 shall require adoption of the procedures or substan-
7 tially similar procedures as described in subsection
8 (b)(2) as a condition of such contract or contract re-
9 newal.

10 (4) DEPARTMENT OF JUSTICE TO MONITOR
11 COMPLIANCE WITH NOTIFICATION AND COMMUNICA-
12 TION REQUIREMENTS.—The Attorney General shall
13 appoint an individual within the Department of Jus-
14 tice with the authority to receive and investigate
15 complaints regarding the failure to provide the noti-
16 fications required in the Act, and inadequate notifi-
17 cations, and the failure to provide opportunities for
18 communication and visitation in accordance with
19 this Act.

20 (e) VOLUNTARY COLLECTION.—The detention agen-
21 cy may not—

22 (1) attempt to persuade or coerce the individual
23 in custody to provide the information described in
24 subsection (a); or

1 (2) impose any penalty, fine, or fee on the indi-
2 vidual for the individual's failure or refusal to pro-
3 vide the information requested or for providing in-
4 formation that is later determined to be inaccurate.

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

6 Nothing in this Act may be construed to—

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

10 (2) require the individual in custody to provide
11 the emergency contact information described in sub-
12 section (a); or

13 (3) create a private right of action for enforce-
14 ment of any provisions of this Act.