



LAWS OF DELAWARE
VOLUME 85
CHAPTER 361
153rd GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 291

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO REPORTING AND REVIEW OF DEATHS OF INDIVIDUALS IN CUSTODY OF LAW ENFORCEMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Part V, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 87A. Reporting and Review of Deaths of Individuals in Custody of Law Enforcement Agencies.

§ 8701A. Definitions.

For purposes of this chapter:

(1) "Correctional facility" means a facility operated for correctional purposes by the Department of Correction or the Department of Services for Children, Youth & Their Families or a facility operated for correctional purposes by a person contracted by the Department of Correction or the Department of Services for Children, Youth & Their Families.

(2) "Criminal Justice Council" means the public body created under Chapter 87 of this title.

(3)a. "Individual in custody" means an individual contacted by a law-enforcement officer while the individual is going about the individual's business and who does not have the freedom to leave that encounter, regardless of whether the law-enforcement officer formally detains the individual.

b. "Individual in custody" includes an individual to whom any of the following apply:

1. The individual is being pursued by a law-enforcement officer.

2. The individual is stopped or detained by a law-enforcement officer.

3. The individual is in the process of being arrested by a law-enforcement officer.

4. The individual is placed under arrest by a law-enforcement officer.

5. While under arrest, the individual is in the secured custody of a law-enforcement officer.

6. While incarcerated, the individual is transported to or from any other location in the secured custody of a law enforcement officer.

7. The individual is incarcerated at a correctional facility.

(4)a. "Law-enforcement agency" means a governmental entity authorized to enforce criminal laws or investigate suspected criminal activity.

b. "Law-enforcement agency" includes the Department of Correction and the Division of Youth Rehabilitative Services of the Department of Services for Children, Youth & Their Families.

c. "Law-enforcement agency" does not include a law-enforcement officer.

(5) "Law-enforcement officer" means either of the following:

a. An individual employed by a law-enforcement agency whose responsibilities include enforcing criminal laws or investigating suspected criminal activity.

b. An individual acting at the request or direction of an individual described in paragraph (5)a. of this section.

(6) "Statistical Analysis Center" means the state agency created under Chapter 89 of this title.

§ 8702A. Duties of Criminal Justice Council and Statistical Analysis Center.

(a) The Criminal Justice Council shall ensure this State's compliance with the Death in Custody Reporting Act of 2013, 34 U.S.C. Section 60105.

(b) The Statistical Analysis Center shall coordinate and manage the reporting related to the Death in Custody Reporting Act of 2013, 34 U.S.C. Section 60105, for the Criminal Justice Council.

§ 8703A. Reporting requirements for law-enforcement agencies.

(a) A law-enforcement agency shall do all of the following:

(1) If the death of an individual in custody occurs, report the death of the individual in custody to the Statistical Analysis Center as required by, and on a form provided by, the Statistical Analysis Center.

(2) Within 15 calendar days after the end of a federal fiscal year quarter, submit a quarterly affirmation form to the Statistical Analysis Center to affirm that the law enforcement agency did not have a death of an individual in custody.

(3) Respond in a reasonable time to requests from the Statistical Analysis Center for information regarding the death of an individual in custody of the law enforcement agency.

(b) A law-enforcement agency shall provide the Statistical Analysis Center with an individual employed by the law-enforcement agency to serve as a point of contact for the information required under subsection (a) of this section.

§ 8704A. Compliance reporting.

(a) On or before December 1 of each year, the Criminal Justice Council shall do all of the following:

(1) Prepare a report including all of the following information:

a. Compliance with the submission of the reports required under § 8703A(a) of this title by law-enforcement agencies.

b. Compliance with the submission of the report required under the Death in Custody Reporting Act of 2013, 34 U.S.C. Section 60105(b), by the Criminal Justice Council.

(2) Submit the report under paragraph (a)(1) of this section to all of the following:

a. The President Pro Tempore and Secretary of the Senate, for distribution to all Senators.

b. The Speaker and Chief Clerk of the House of Representatives, for distribution to all Representatives.

c. The Director and Librarian of the Division of Legislative Services.

d. The Director of the Delaware Public Archives.

e. The Attorney General.

f. The Governor.

(b) On or before July 1 of each year, the Department of Justice shall do all of the following:

(1) Review for each report submitted under paragraph (a)(2) of this section the accuracy of the information provided in the report under paragraph (a)(1) of this section.

(2) Submit a report with the Department of Justice's findings to the Criminal Justice Council and the individuals under paragraph (a)(2) of this section:

§ 8705A. Failure to comply; ineligibility for funding.

(a) If the Criminal Justice Council finds by case decision under subchapter III of Chapter 101 of Title 29 that a law-enforcement agency has failed to comply with this chapter, the law-enforcement agency may not receive funds from any of the following:

(1) Funds allocated to this State under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. Section 3750 et seq., whether characterized as the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, the Local Government Law Enforcement Block Grants Program, the Edward Byrne Memorial Justice Assistance Grant Program, or otherwise.

(2) Funds allocated under subchapter II of Chapter 41 of this title.

(b) When a law-enforcement agency is found to have failed to comply with this chapter under subsection (a) of this section the law-enforcement agency may not receive any funds under paragraph (a)(1) or (a)(2) of this section until the Criminal Justice Council finds by case decision under subchapter III of Chapter 101 of Title 29 that the law-enforcement agency is in compliance with this chapter.

§ 8706A. Notation of death of an individual in custody in DeIVERS required.

If an individual in custody dies, the medical examiner shall make a notation that the individual died in custody in the individual's death record in the Delaware Vital Events Registration System (DeIVERS).

§ 8707A. Regulatory authority.

The Criminal Justice Council may adopt forms, guidance documents, rules, or regulations to administer, implement, or enforce this chapter.

Approved July 23, 2026