

117TH CONGRESS
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H. R. 6296

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 HOUSE OF REPRESENTATIVES

DECEMBER 16, 2021

Ms. BASS (for herself, Ms. MACE, Mr. RASKIN, Mr. BACON, Mr. TRONE, Ms. NORTON, Mr. BUTTERFIELD, Ms. PRESSLEY, Mr. BROWN of Maryland, Mr. BOWMAN, Mr. LIEU, Mr. NEGUSE, Mr. JONES, Mr. RUSH, and Ms. ROYBAL-ALLARD) introduced the following bill; which was 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,*

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 2021”.

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 Eighteenth
13 Amendment and Due Process Clause of the Four-
14 teenth Amendment.

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

23 (3) On Easter Sunday of 2016, Wakiesha Wil-
24 son was found dead in her cell in the Los Angeles
25 Police Department’s Metropolitan Detention Center.
26 Her mother called the police to determine Ms. Wil-

1 son's whereabouts but was not initially given any in-
2 formation. It was not until March 30, 3 days later,
3 when Ms. Wilson's mother was told to call the cor-
4 oner that she learned her daughter had died.

5 (4) In Georgia, Jennifer Bradley testified before
6 the General Assembly in September 2021 that she is
7 still waiting for answers about the stabbing death of
8 her 23-year-old son at Macon State Prison in March
9 2020. She told the committee that it was an incar-
10 cerated person, not a prison official, who first noti-
11 fied her of her son's death. As of the hearing, she
12 had not yet received his belongings.

13 (5) Jordan Fisher found out about the death of
14 her father, Thomas Willis, at Valdosta State Prison
15 in Georgia when a letter she had sent her father was
16 returned back to her stamped: "Return to sender:
17 inmate dead". She was unable to obtain further in-
18 formation about her father's death from prison offi-
19 cials. What information she uncovered came from
20 letters from her father's cellmate.

21 (6) Sara Roth did not receive notice from the
22 Clayton County Jail in Georgia that her mother, Re-
23 gina Salman, had fallen and suffered serious inju-
24 ries, including a collapsed lung that required hos-
25 pitalization. When her mother's longtime boyfriend

1 went to visit the jail, he was told Ms. Salman was
2 no longer there but was not provided additional in-
3 formation. More than a month later, the hospital
4 called Ms. Roth and informed her that her mother
5 was on a ventilator and dying of a severe brain
6 tumor. Her mother was taken off the ventilator 3
7 days later without ever regaining consciousness.

8 (7) The failure to release autopsy results can
9 prevent families and loved ones from seeking justice
10 for wrongful deaths. After Harvey Hill was arrested
11 for trespassing and booked into jail in Canton, Mis-
12 sissippi, guards beat him severely and kicked him re-
13 peatedly in the head. Mr. Hill died in an isolation
14 cell. The State medical examiner's report recorded
15 his death as a homicide, but it was not released until
16 25 months after his death and 13 months after the
17 statute of limitations expired for assault.

18 (8) In recent years, deaths in custody have
19 reached the highest levels on record. In 2018, two
20 years prior to the rapid spread of COVID-19 behind
21 bars, at least 1,120 people died while detained in
22 local jails and 4,513 people died in the custody of
23 State and Federal prisons. This represented an all-
24 time high in the number of deaths in both local jails

1 and State prisons since the Bureau of Justice Sta-
2 tistics (BJS) started collecting mortality data.

3 (9) The spread of COVID–19 behind bars sig-
4 nificantly increased the death toll of people in cus-
5 tody. At least 2,700 people are estimated to have
6 died of COVID–19 in prisons, jails and detention
7 centers, and the COVID–19 death rate in State and
8 Federal prisons between April 2020 and April 2021
9 was more than double that of the general population.
10 This is likely a significant undercount, given uneven
11 and inconsistent reporting. In some instances, people
12 are released from local jails to die in hospitals,
13 whether of COVID–19 or other causes, and their
14 deaths are not recorded as a death in custody.

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

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

20 (2) DETENTION AGENCY.—The term “detention
21 agency” means any government agency, including a
22 law enforcement agency or correctional agency, that
23 has the authority to detain people for violations or
24 alleged violations of criminal or civil law.

1 (3) IN CUSTODY OF A DETENTION AGENCY.—
2 The term “in the custody of a detention agency” in-
3 cludes, but is not limited to, a person who is de-
4 tained, under arrest, or is in the process of being ar-
5 rested, is en route to be incarcerated, or is incarcer-
6 ated at a jail, prison, boot camp prison, contract cor-
7 rectional facility, community correctional facility, or
8 other correctional facility (including any juvenile de-
9 tention facility).

10 (4) TAKING CUSTODY.—The term “taking cus-
11 tody” means the point at which the detention agency
12 takes custody or control of an individual, including
13 during or prior to booking or intake screening as a
14 new commitment, in transfer from another institu-
15 tion, as a court return, as a return from a writ, or
16 as a holdover.

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

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

23 (1) implement policies and procedures for the
24 detention agencies of the Department of Justice to
25 notify the next-of-kin or other emergency contact in

1 the event of the death, or serious illness or serious
2 injury, of an individual in the custody of a detention
3 agency of the Department of Justice; and

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

14 (b) CONTENTS OF EMERGENCY CONTACT NOTIFICA-
15 TION POLICIES AND PROCEDURES.—

16 (1) EMERGENCY CONTACT INFORMATION.—The
17 policies and procedures described in subsection (a)
18 shall address the collection and use of emergency
19 contact information for individuals in custody, in-
20 cluding the following:

21 (A) EMERGENCY CONTACT INFORMATION
22 REQUESTED UPON TAKING CUSTODY.—In the
23 case of an individual taken into the custody of
24 a detention agency, the agency shall, at the
25 time of taking custody, ask the individual—

1 (i) for the name, last known address,
2 telephone number, and email of any person
3 or persons who shall be notified in the
4 event of the individual in custody's death
5 or serious illness or serious injury, and
6 who are authorized to receive the individ-
7 ual's body;

8 (ii) the order in which the individual
9 in custody prefers the emergency contacts
10 described in clause (i) to be notified;

11 (iii) whether the individual in custody
12 would like a faith leader to participate in
13 such notification process and, if so, of
14 what denomination; and

15 (iv) whether the individual has in
16 place a medical proxy decision maker or
17 medical power of attorney, advanced direc-
18 tive, or do not resuscitate order.

19 (B) EMERGENCY CONTACT LIST MODIFICA-
20 TION.—The detention agency shall permit an
21 individual in custody to modify their emergency
22 contact information at any time and provide a
23 periodic opportunity, but not less than annually,
24 for individuals in custody to update their emer-
25 gency contact information and to fill out a med-

1 ical power of attorney, health care proxy, ad-
2 vanced directive, a do not resuscitate order, or
3 any other similar document that complies with
4 the State law in the location of detention.

5 (C) DISCLOSURE OF PURPOSE AND PER-
6 MISSIBLE USES OF EMERGENCY CONTACT IN-
7 FORMATION.—The detention agency shall pro-
8 vide the individual in custody information about
9 the purpose and permissible uses of the emer-
10 gency contact information provided pursuant to
11 this section.

12 (D) STANDARDIZED EMERGENCY CONTACT
13 FORM.—The policies and procedures described
14 in subsection (a) shall include a template form
15 for recording the individual in custody’s next-of-
16 kin or other emergency contact and other infor-
17 mation under subsection (b)(1)(A).

18 (E) CUSTODIAL RECORD.—The detention
19 agency shall record the individual’s next-of-kin
20 or other emergency contact information on the
21 form described in subparagraph (D) and in-
22 clude that form in the individual’s custodial
23 record.

24 (2) NOTIFICATION REQUIREMENTS FOR DEATH,
25 SERIOUS ILLNESS, AND SERIOUS INJURY WHILE IN

1 CUSTODY.—The policies and procedures described in
2 subsection (a) shall describe the notification require-
3 ments in the event an individual dies, is seriously in-
4 jured or becomes seriously ill while in the custody of
5 a detention agency, including the following:

6 (A) NOTIFICATION TIMEFRAME.—

7 (i) NOTIFICATION OF DEATH.—In the
8 event an individual dies while in the cus-
9 tody of the detention agency, the detention
10 agency shall notify the individual’s emer-
11 gency contact not later than 12 hours after
12 the declaration of death and between the
13 hours of 6:00 a.m. and to midnight local
14 time.

15 (ii) NOTIFICATION OF SERIOUS ILL-
16 NESS OR SERIOUS INJURY.—Notice to the
17 next-of-kin or other emergency contact
18 shall be made as soon as practicable after
19 the serious injury or serious illness occurs,
20 but in any event not later than 48 hours
21 from such determination and between the
22 hours of 6:00 a.m. and to midnight local
23 time. The notification should occur prior to
24 any required medical procedure, where
25 practical and if such timeframe will not

1 delay treatment, but in any event, not later
2 than any medical discharge or clearance.

3 (B) DEATH NOTIFICATION INFORMATION
4 REQUIRED.—

5 (i) IN GENERAL.—Such notification
6 shall include all pertinent circumstances
7 surrounding the death, including—

8 (I) the official time of death;

9 (II) the cause of death (if deter-
10 mined); and

11 (III) whether the individual's
12 death is under investigation and the
13 reason for opening an investigation.

14 (ii) NO CAUSE OF DEATH DETER-
15 MINED.—If the cause of death has not
16 been determined at the time of the notifi-
17 cation, the detention agency shall follow up
18 with the individual's emergency contact
19 once such a determination has been made
20 to provide that information within 24
21 hours of such determination.

22 (C) SERIOUS ILLNESS OR SERIOUS INJURY
23 NOTIFICATION INFORMATION REQUIRED.—Such
24 notification shall include pertinent details of the
25 serious injury or serious illness, including—

1 (i) the cause and nature of the serious
2 injury or serious illness event;

3 (ii) whether the individual is incapacitated,
4 unconscious, or unable to speak;

5 (iii) whether any medical procedures
6 or lifesaving measures were, or will be, performed
7 in response to the incident; and

8 (iv) contact information of the facility
9 and provider that is providing medical
10 treatment.

11 (D) DEFINITION OF SERIOUS ILLNESS OR
12 SERIOUS INJURY.—The policies and procedures
13 described in subsection (a) shall define when a
14 medical event, episode, condition, accident, or
15 other incident constitutes a serious illness or serious
16 injury. In defining such term, the Attorney
17 General shall require notification in at least
18 in cases in which—

19 (i) without immediate treatment for
20 the condition, death is imminent;

21 (ii) admission to a hospital is required;
22

23 (iii) an individual is unconscious or incapacitated
24 such that they are incapable of

1 providing consent for medical treatment;

2 and

3 (iv) an individual has been diagnosed
4 with a terminal illness.

5 (E) ADDITIONAL REQUIREMENTS RELATED
6 TO NOTIFICATION.—The policies and proce-
7 dures described in subsection (a) shall include
8 the following:

9 (i) COMPASSIONATE AND PROFES-
10 SIONAL NOTIFICATION.—Standards for
11 providing notification in a compassionate
12 and professional manger to minimize con-
13 fusion and trauma suffered by the next-of-
14 kin or other emergency contact, includ-
15 ing—

16 (I) a description of what informa-
17 tion cannot be included in a voicemail,
18 such as notification of death or seri-
19 ous illness;

20 (II) an offer for an in-person or
21 virtual face-to-face meeting in the
22 event a notification of a death in cus-
23 tody is provided to the emergency con-
24 tact during a live conversation over
25 the phone; and

1 (III) a requirement that notifica-
2 tions are provided in a private setting
3 and, when practicable, in person and
4 by a mental health professional, des-
5 ignated case worker, or chaplain
6 trained in notification best practices.

7 (3) NOTIFICATION OPT OUT.—Standards to en-
8 sure that notifications should not occur where the
9 individual is advised of their right to notification and
10 instructs the agency not to do so, or where they re-
11 quest the opportunity to provide such notification
12 personally, in which case the detention agency shall
13 provide an opportunity for the individual to deliver
14 such notification within the time period identified
15 above.

16 (4) BELONGINGS AND REMAINS.—Standards
17 for handling the belongings and remains of an indi-
18 vidual who died in custody, including—

19 (A) returning the individual’s belongings
20 and remains, if desired, to the next-of-kin or
21 other emergency contact and providing at least
22 7 days for the emergency contact to make a de-
23 cision as to the disposition of the belongings
24 and remains;

1 (B) following up with the individual's next-
2 of-kin or other emergency contact in the event
3 of a death in custody with the outcome of any
4 critical incident review or other internal inves-
5 tigation not available at the time of the initial
6 notification; and

7 (C) documenting and maintaining within
8 the individual's custodial record any incident of
9 unclaimed or a rejected claim for the body or
10 property of the deceased, including a detailed
11 description of where any unclaimed body and
12 property have been disposed.

13 (5) DOCUMENTATION OF ATTEMPTS.—Require-
14 ments that each notification attempt shall be docu-
15 mented and maintained within the custodial record,
16 including—

17 (A) the staff name and corresponding
18 agency or department contact information for
19 each individual responsible for carrying out the
20 notification;

21 (B) the date and time of each successful
22 and unsuccessful contact; and

23 (C) the name and contact information to
24 which each attempt was made, and any reason
25 for failed or unsuccessful contact.

1 (6) ADDITIONAL PROCEDURES IN THE EVENT
2 OF SERIOUS ILLNESS OR INJURY.—Standards to en-
3 sure that detention agencies—

4 (A) implement medical proxy decision
5 maker or medical power of attorney, advanced
6 directive, or “do not resuscitate” orders;

7 (B) provide meaningful opportunity for
8 communication between the emergency contact
9 and medical staff caring for an individual in
10 custody;

11 (C) ensure emergency contacts are given
12 the meaningful opportunity to visit with a seri-
13 ously ill or seriously injured individual in cus-
14 tody, with the opportunity for in-person visita-
15 tion when practicable; and

16 (D) provide information about an individ-
17 ual’s emergency contact at to an outside hos-
18 pital facility, and allow the hospital to follow its
19 established bylaws concerning communication
20 with next-of-kin or other emergency contacts.

21 (7) AUTOPSY NOTIFICATIONS.—Requirements
22 that, in the event an autopsy is performed following
23 a death in custody—

24 (A) the next-of-kin or other emergency
25 contact shall be informed not later than 12

1 hours after any determination that an autopsy
2 shall be performed and given the option to re-
3 ceive the results of the autopsy described in
4 subparagraph (B). Such notification shall in-
5 clude the reason that the autopsy is being per-
6 formed and the procedures by which the next-
7 of-kin or other emergency contact can obtain
8 the autopsy report; and

9 (B) pursuant to subparagraph (A), a copy
10 of the autopsy report and results shall be made
11 available to the next-of-kin or emergency con-
12 tact upon completion.

13 (c) WRITTEN NOTIFICATION PLAN.—The policies
14 and procedures described in subsection (a) shall instruct
15 detention agencies to develop a written notification plan,
16 or revise an existing written notification plan, that pro-
17 vides for notification of a death, serious illness, or serious
18 injury of an individual in custody that conforms with the
19 policies described in subsection (b). Such written notifica-
20 tion plans shall be published on the detention agency’s
21 website and made accessible to individuals in the agency’s
22 custody through inclusion in any intake information,
23 manuals, or other materials distributed or made available
24 to individuals upon being taken into custody.

25 (d) ADDITIONAL REQUIREMENTS.—

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

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

20 (3) INTERGOVERNMENTAL SERVICE CON-
21 TRACTS.—Any Department of Justice detention
22 agency, including the U.S. Marshals Service, that
23 contracts with State, municipality, Tribal, private, or
24 other entities to house individuals in custody shall
25 require adoption of the procedures or substantially

1 similar processes as described in subsection (b)(2) as
2 a condition of such contract or contract renewal as
3 soon as practicable but not later than 7 days of tak-
4 ing the individual into custody.

5 (4) DEPARTMENT OF JUSTICE OFFICE OF IN-
6 SPECTOR GENERAL TO MONITOR COMPLIANCE WITH
7 NOTIFICATION AND COMMUNICATION REQUIRE-
8 MENTS.—The Attorney General shall appoint an
9 Ombudsman within the Department of Justice with
10 the authority to receive and investigate complaints
11 regarding the failure to provide the notifications re-
12 quired in the Act, and inadequate notifications, and
13 the failure to provide opportunities for communica-
14 tion and visitation in accordance with this Act.

15 (e) CONFIDENTIALITY.—Information collected under
16 this Act by a detention agency, or any agent working on
17 behalf of such detention agency, may not be disclosed or
18 used for any purpose except as provided in this Act.

19 (f) VOLUNTARY COLLECTION.—

20 (1) RULE OF CONSTRUCTION.—Nothing in this
21 Act shall be construed to require the individual in
22 custody to provide the emergency contact informa-
23 tion described in subsection (a).

24 (2) NO COERCION.—The detention agency may
25 not—

1 (A) attempt to coerce or persuade the indi-
2 vidual in custody to provide the information de-
3 scribed in subsection (a); or

4 (B) impose a penalty, fine, or fee on the
5 individual for the individual's failure or refusal
6 to provide the information requested or for pro-
7 viding information that is later determined to
8 be inaccurate.

9 (g) INADMISSIBILITY.—No information disclosed or
10 used in violation of this Act may be admitted into any
11 State, Federal, or other court as evidence or for any other
12 purpose, except in the case of information that has been
13 discovered through any independent means.

14 **SEC. 5. RULE OF CONSTRUCTION.**

15 Nothing in this Act may be construed to create any
16 legal or financial obligation on the part of any individual
17 designated as a next-of-kin or other emergency contact
18 under this Act.

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