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AB-2761 Deaths while in law enforcement custody: reporting. (2021-2022)

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Assembly Bill No. 2761

CHAPTER 802

An act to add Section 10008 to the Penal Code, relating to law enforcement.

[Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2761, McCarty. Deaths while in law enforcement custody: reporting.

Existing law establishes a system of state prisons under the jurisdiction of the Department of Corrections and Rehabilitation. Existing law also establishes a system of county and city jails under the jurisdiction of the sheriff or chief of police.

If a death occurs while a person is in custody, this bill would require the agency with jurisdiction over the state or local correctional facility with custodial responsibility for the person to post specified information, including the facility and location within that facility where the death occurred and the decedent's age, race, and gender, on its internet website within 10 days of the death. The bill would grant an agency an additional 10 days to make good faith efforts to notify next of kin if the agency seeks to notify the next of kin and is unable to do so within 10 days of the death. If any information regarding the death changes, the bill would also require the agency to update the posting within 30 days of the change. By placing a new duty on local agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 10008 is added to the Penal Code, to read:

10008. (a) When a person who is in custody dies, the agency with jurisdiction over the state or local correctional facility with custodial responsibility for the person at the time of their death shall, consistent with reporting requirements pursuant to Section 12525 of the Government Code, post all of the following on its internet website:

- (1) The full name of the agency with custodial responsibility at the time of death.
- (2) The county in which the death occurred.

(3) The facility in which the death occurred, and the location within that facility where the death occurred.

(4) The race, gender, and age of the decedent.

(5) The date on which the death occurred.

(6) The custodial status of the decedent, including, but not limited to, whether the person was awaiting arraignment, awaiting trial, or incarcerated.

(7) The manner and means of death.

(b) (1) Subject to paragraph (2), the information shall be posted for the public to view on the agency's internet website within 10 days of the date of death. If any of the information changes, including, but not limited to, the manner and means of death, the agency shall update the posting within 30 days of the change.

(2) If the agency seeks to notify the next of kin and is unable to notify them within 10 days of the death, the agency shall be given an additional 10 days to make good faith efforts to notify next of kin before the information shall be posted for the public to view on the agency's internet website.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.