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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair  
2021 - 2022 Regular Session

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### AB 2761 (McCarty) - Deaths while in law enforcement custody: reporting

**Version:** April 21, 2022

**Urgency:** No

**Hearing Date:** August 8, 2022

**Policy Vote:** PUB. S. 4 - 0

**Mandate:** Yes

**Consultant:** Matthew Fleming

**Bill Summary:** AB 2761 would require a death certificate to reflect when the decedent died through use of force by a peace officer, while in the custody of a peace officer or while in the custody of state or local law enforcement, including a city or county jail or state prison, and the death was precipitated by law enforcement conduct.

#### Fiscal Impact:

- The Department of Public Health (DPH) reports one-time costs of \$300,000 in state operation contract costs to update the California Integrated Vital Records System (Cal-IVRS) to incorporate the new fields and additional staff resources for the revision death certificates, updating resources, and training (General Fund).
- Unknown, potentially reimbursable costs to county coroners and/or medical examiners to investigate and report if a person died at the hands of law enforcement, and for local law enforcement agencies to post specific information about the death of a person in custody to their websites (Local Funds, General Fund). General Fund costs will depend on whether the duties imposed by this bill are considered a state reimbursable mandate by the Commission on State Mandates.
- Minor and absorbable costs to the California Department of Corrections and Rehabilitation (CDCR) to post information about in-custody deaths on its website.

**Background:** Under existing law, a death certificate consists of two sections that require personal information, medical and health data, and coroner's information regarding death. The California Electronic Death Registration System, is a web-based system that provides the ability for coroners, funeral directors, doctors, and hospitals to submit electronic death certificates. The first section is usually completed by a funeral director or other staff in coordination with the individual best qualified to provide the deceased's personal information. The second section must be completed by a physician/surgeon, medical examiner, or coroner to provide the medical and health data necessary, including information on the manner of death and investigation determinations.

DOJ currently reports on in-custody deaths on its OpenJustice portal. Law enforcement agencies are required to report an in-custody death within 10 days of the death. If the manner and means of death are not readily apparent, local law enforcement is required to report it as "pending investigation." DOJ requests updated information from law

enforcement agencies twice a year, and these designations are adjusted if and when new information becomes available.

**Proposed Law:**

- Requires a death certificate to state whether the person died through use of force by a peace officer, while in the custody of a peace officer, or while in the custody of state or local law enforcement, including a city or county jail or state prison, if the death was precipitated by law enforcement conduct.
- Requires a state or local correctional facility to post the following information on its website within 10 days after the death of a person who died while in custody: the full name of the agency, the county in which the death occurred, the facility in which the death occurred and the location within that facility where the death occurred, the race, gender, and age of the decedent, the date on which the death occurred, the custodial status of the decedent, including, but not limited to, whether the person was awaiting arraignment, awaiting trial, or incarcerated; and, the manner and means of death.
- Provides that 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.

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