

AMENDED IN SENATE SEPTEMBER 4, 2015

AMENDED IN SENATE AUGUST 31, 2015

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AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 959

Introduced by Assembly Member Chiu
(Coauthors: Assembly Members Bonta, Eggman, Gordon, and
Low)
(Coauthors: Senators Hall and Pan)

February 26, 2015

An act to add Section 8310.8 to the Government Code, relating to data collection.

LEGISLATIVE COUNSEL'S DIGEST

AB 959, as amended, Chiu. Lesbian, Gay, Bisexual, and Transgender Disparities Reduction Act.

(1) Existing law requires a state agency, board, or commission that directly or by contract collects demographic data as to the ancestry or ethnic origin of Californians to use separate collection categories and tabulations for each major Asian and Pacific Islander groups, as specified.

This bill would require 4 specific state departments, in the course of collecting demographic data directly or by contract as to the ancestry or ethnic origin of Californians, to collect voluntary self-identification information pertaining to sexual orientation and gender ~~identity~~. *identity*, *except as specified*. This bill would require these state departments,

during the regular process of reporting of demographic data to the Legislature, to report the collected data and method used to collect the data and make the data available to the public in accordance with state and federal law, except for personal identifying information, which shall be deemed confidential and prohibited from disclosure. *The bill would prohibit these state departments from reporting demographic data that would permit identification of individuals or would result in statistical unreliability.* The bill would limit the use of the collected data by these state departments, as specified. The bill would require these state departments to come into compliance with these provisions as early as ~~possible or whenever first updating forms, software, hardware, or information collection procedures,~~ *possible*, but no later than July 1, 2018. This bill would make legislative findings and declarations relating to this act.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) It is the goal of state government, in collecting demographic
- 4 data, to gather accurate information in order to understand,
- 5 compare, report, and apply that data to the enhancement and
- 6 improvement of public services.
- 7 (b) Currently, the state does not consistently collect demographic
- 8 data related to sexual orientation or gender identity.
- 9 (c) The limited data available for the Lesbian, Gay, Bisexual,
- 10 and Transgender (LGBT) communities includes all of the
- 11 following:
- 12 (1) According to a University of California, Los Angeles, study
- 13 from the Williams Institute, nearly one in five children being raised
- 14 by same-sex couples (approximately 24 percent) live in poverty

1 compared to 14 percent of children being raised by different-sex
2 couples.

3 (2) Data from a 2013 Williams Institute report on patterns of
4 poverty of LGBT communities shows that one-third of lesbian
5 couples and 20.1 percent of gay male couples without a high school
6 diploma are in poverty, compared to 18.8 percent of different-sex
7 married couples. The report further showed African American
8 same-sex couples have poverty rates more than twice the rate of
9 different-sex married African American couples and there are high
10 levels of poverty in bisexual individuals in California reaching
11 approximately 25 percent of bisexual people compared to 17
12 percent for heterosexual people.

13 (3) According to the California Department of Justice, in 2013,
14 hate crimes with a sexual orientation bias motivation were the
15 second most common type of hate crime, comprising 25 percent
16 of all hate crimes.

17 (4) Various studies, including those by the United States
18 Department of Health and Human Services and the Institute of
19 Medicine, found that health disparities impacting lesbian, gay,
20 bisexual, and transgender include higher risks for cancer, mental
21 illness, and other diseases, as well as higher rates of smoking and
22 substance abuse.

23 (5) Research from the Lesbian, Gay, Bisexual, Transgender,
24 Queer, and Questioning (LGBTQ) Reducing Disparities Project
25 found that LGBTQ respondents statewide reported troublesome
26 experiences with service providers in regard to how accepting or
27 rejecting service providers have been of their sexual orientation
28 and gender identity/expression. Further, LGBTQ respondents
29 reported difficulty finding providers knowledgeable and accepting
30 of sexual orientation and gender identity concerns.

31 (d) Due to historical systemic exclusion of data collection of
32 LGBT communities, significant disparities in their health and
33 welfare have been prolonged compared to the broader community.
34 LGBT communities face disproportionately high rates of poverty,
35 suicide, homelessness, isolation, substance abuse, and violence,
36 and low rates of health insurance. These problems are more
37 prevalent for youth and seniors, communities of color, and bisexual
38 and transgender and undocumented communities.

39 (e) It is in the best interests of the state to respect, embrace, and
40 understand the full diversity of its residents and to collect accurate

1 data to effectively implement and deliver critical state services
2 and programs.

3 (f) It is the intent of the Legislature that the state departments
4 specified in Section 8310.8 of the Government Code, as added by
5 Section 2 of this act, utilize existing work and research, including,
6 but not limited to, referencing research on promising and
7 community-defined practices and stakeholders when developing
8 questions to collect voluntary self-identified information pertaining
9 to sexual orientation and gender identity. *Further, it is the intent*
10 *of the Legislature that the state departments specified in*
11 *subdivision (a) of Section 8310.8 of the Government Code, as*
12 *added by Section 2 of this act, that collect demographic data*
13 *consider urging the collection of voluntary self-identified*
14 *information pertaining to sexual orientation and gender identity*
15 *in circumstances where an entity not covered by this act does not*
16 *already collect this information.*

17 SEC. 2. Section 8310.8 is added to the Government Code, to
18 read:

19 8310.8. (a) (1) This section shall only apply to the following
20 state departments:

21 (A) The State Department of Health Care Services.

22 (B) The State Department of Public Health.

23 (C) The State Department of Social Services.

24 (D) The California Department of Aging.

25 (2) This section shall be known and may be cited as the Lesbian,
26 Gay, Bisexual, and Transgender Disparities Reduction Act.

27 (b) ~~In~~(1) *Except as specified in paragraph (2), in addition to*
28 *the duties imposed by Section 8310.5 and to the extent not*
29 *prohibited permissible by federal law, the state departments*
30 *identified in subdivision (a), in the course of collecting*
31 *demographic data directly or by contract as to the ancestry or ethnic*
32 *origin of Californians, shall collect voluntary self-identification*
33 *information pertaining to sexual orientation and gender identity.*

34 (2) *The departments identified in subdivision (a) may, but are*
35 *not required to, collect demographic data pursuant to this section*
36 *under either of the following circumstances:*

37 (A) *Pursuant to federal programs or surveys, whereby the*
38 *guidelines for demographic data collection categories are defined*
39 *by the federal program or survey.*

40 (B) *Demographic data is collected by other entities including:*

1 (i) State offices, departments, and agencies not included in
2 subdivision (a).

3 (ii) Surveys administered by third-party entities and where the
4 state department is not the sole funder.

5 (c) (1) During the regular process of reporting of demographic
6 data to the Legislature, the state departments identified in
7 subdivision (a) shall report the data collected pursuant to this
8 section and the method used to collect that data, and make the data
9 available to the public in accordance with state and federal law,
10 except for personal identifying information, which shall be deemed
11 confidential and shall not be disclosed. ~~The~~

12 (2) *The state departments identified in subdivision (a) shall not*
13 *report demographic data that would permit identification of*
14 *individuals or would result in statistical unreliability. Demographic*
15 *reports on data collected pursuant to this section, to prevent*
16 *identification of individuals, may aggregate categories at a state,*
17 *county, city, census tract, or zip code level to facilitate comparisons*
18 *and identify disparities.*

19 (3) The state departments identified in subdivision (a) may use
20 information voluntarily provided about sexual orientation and
21 gender identity only for demographic analysis, coordination of
22 care, quality improvement of its services, conducting approved
23 research, fulfilling reporting requirements, and guiding policy or
24 funding decisions. All information about sexual orientation and
25 gender identity collected pursuant to this section shall be used only
26 for purposes specified in this section.

27 (d) The state departments identified in subdivision (a) shall
28 come into compliance with the requirements of this section as early
29 as possible ~~or whenever first updating forms, software, hardware,~~
30 ~~or information collection procedures~~ following the effective date
31 of this section, but no later than July 1, 2018.

32 SEC. 3. The Legislature finds and declares that Section 2 of
33 this act, which adds Section 8310.8 to the Government Code,
34 imposes a limitation on the public's right of access to the meetings
35 of public bodies or the writings of public officials and agencies
36 within the meaning of Section 3 of Article I of the California
37 Constitution. Pursuant to that constitutional provision, the
38 Legislature makes the following findings to demonstrate the interest
39 protected by this limitation and the need for protecting that interest:

1 Due to the sensitive general nature of data relating to sexual
2 orientation and gender identity and the need to protect the safety
3 of those who would provide voluntary self-identification
4 information pertaining to their sexual orientation and gender
5 identity, it is necessary to prohibit the public disclosure of personal
6 identifying information that would allow the identification of an
7 individual who provided voluntary self-identification information
8 pertaining to sexual orientation and gender identity.

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