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AB-959 Lesbian, Gay, Bisexual, and Transgender Disparities Reduction Act. (2015-2016)

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Assembly Bill No. 959

CHAPTER 565

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

[Approved by Governor October 07, 2015. Filed with Secretary of State October 07, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 959, 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, 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, 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 Local Program: no

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

SECTION 1. The Legislature finds and declares all of the following:

(a) It is the goal of state government, in collecting demographic data, to gather accurate information in order to understand, compare, report, and apply that data to the enhancement and improvement of public services.

(b) Currently, the state does not consistently collect demographic data related to sexual orientation or gender identity.

(c) The limited data available for the Lesbian, Gay, Bisexual, and Transgender (LGBT) communities includes all of the following:

(1) According to a University of California, Los Angeles, study from the Williams Institute, nearly one in five children being raised by same-sex couples (approximately 24 percent) live in poverty compared to 14 percent of children being raised by different-sex couples.

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

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

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

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

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

(e) It is in the best interests of the state to respect, embrace, and understand the full diversity of its residents and to collect accurate data to effectively implement and deliver critical state services and programs.

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

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

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

(A) The State Department of Health Care Services.

(B) The State Department of Public Health.

(C) The State Department of Social Services.

(D) The California Department of Aging.

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

(b) (1) Except as specified in paragraph (2), in addition to the duties imposed by Section 8310.5 and to the extent permissible by federal law, the state departments identified in subdivision (a), in the course of collecting demographic data directly or by contract as to the ancestry or ethnic origin of Californians, shall collect voluntary self-identification information pertaining to sexual orientation and gender identity.

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

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

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

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

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

(c) (1) During the regular process of reporting of demographic data to the Legislature, the state departments identified in subdivision (a) shall report the data collected pursuant to this section and the method used to collect that 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 shall not be disclosed.

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

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

(d) The state departments identified in subdivision (a) shall come into compliance with the requirements of this section as early as possible following the effective date of this section, but no later than July 1, 2018.

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

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