

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 1094 (Arambula)
Version: June 22, 2021
Hearing Date: July 13, 2021
Fiscal: Yes
Urgency: No
JT

SUBJECT

Sexual orientation and gender identity data collection pilot project

DIGEST

This bill requires the California Department of Public Health (department) to establish a three-year pilot program in up to six counties for the identification and collection by coroners and medical examiners of sexual orientation and gender identity data in cases of violent death.

EXECUTIVE SUMMARY

The California Violent Death Reporting System, which is managed by the department, provides key data on violent deaths in California based on numerous variables, including the type of death, county, age range, sex, marital status, veteran status, race/ethnicity, and weapon/mechanism. However, it does not provide any data on sexual orientation or gender identity. In fact, while evidence shows that LGBTQ people – particularly those with intersecting identities such as transgender and non-binary people of color – are at elevated risk of violence and suicidality, no U.S. jurisdiction or agency systematically collects information about a person’s sexual orientation and gender identity at the time of death. This omission is a major blind spot in the ability of policymakers and researchers to understand patterns affecting a vulnerable community that comprises over five percent of the California’s population.

To begin to address this blind spot and foster a better understanding of disparities in the mortality rate in the LGBTQ community, and to assist the development of policies to address those disparities at the county level, the Trevor Project has sponsored this bill to create a pilot program under which coroners and medical examiners would be trained to collect sexual orientation and gender identity data in all cases of violent death. The bill is supported by several civil rights advocacy organizations, including the Human Rights Campaign and Equality California. There is no known opposition. The bill passed the Senate Health Committee by a vote of 10-0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Requires each death to be registered with the local registrar of births and deaths in the district in which the death was officially pronounced or the body was found, within eight calendar days after death and before any disposition of the human remains. (Health & Saf. Code § 102775.)¹
- 2) Requires the coroner to state on the certificate of death the disease or condition directly leading to death, antecedent causes, other significant conditions contributing to death and other medical and health section data as may be required on the certificate, and the hour and day on which death occurred. (§ 102860.)
- 3) Requires the department to implement an internet-based electronic death registration system for the creation, storage, and transfer of death registration information. (§ 102778.)
- 4) Requires department, to the extent that funding is appropriated or available, to establish and maintain the California Violent Death Reporting System, which collects data from death certificates, law enforcement reports, and coroner or medical examiner reports. Requires a summary and analysis of information collected in the system to be posted by the department or its designee. (§ 131230.)

This bill:

- 1) Finds and declares:
 - a) There is a lack of understanding about the relationship between risk of violent death, such as suicide or homicide, and an individual's sexual orientation and gender identity. This is because, unlike veteran status or ethnicity, the sexual orientation and gender identity of deceased individuals are only captured in special circumstances. By training coroners and medical examiners how to gather mortality data with regard to sexual orientation and gender identity, researchers and policymakers can begin to learn who the most vulnerable in the LGBTQ community are, and allocate resources that will reduce the number of preventable deaths.
 - b) The department maintains statewide vital statistics data, including records of births, deaths, and marriages. The department administers the state's electronic death registration system. Sexual orientation and gender identity data is not currently collected in that information.
 - c) It is the intent of the Legislature to create a pilot program under which coroners and medical examiners are trained to collect sexual orientation and gender identity data in all cases of violent death, in order to

¹ All further section references are to the Health and Safety Code.

encourage a better understanding of disparities in the mortality rate in the LGBTQ community and to assist the development of policies to address those disparities at the county level.

- 2) Requires the department to establish a three-year pilot program in up to six counties that agree to participate, for the identification and collection by coroners and medical examiners of gender identity and sexual orientation in cases of violent death.
- 3) Requires the department to select at least one county from the northern, southern, and central regions of the state to participate in the pilot program and shall take into account representation of urban, rural, and suburban areas.
- 4) Requires a participating county to agree to receive training from a qualified public or private agency with expertise in identifying and collecting clinical data pertaining to sexual orientation and gender identity, including cultural competency, respect of confidentiality, and other best practices in the collection of that data. Requires the department to provide participating counties with a list of approved training entities.
- 5) Requires the coroner or medical examiner to begin data collection upon completion of the training. For each year of the pilot program, the data must be aggregated, deidentified, and reported to the board of supervisors and the department.
- 6) For each year of the pilot program, the department must include the data reported pursuant to the bill's provisions in the California Violent Death Reporting System.
- 7) Becomes inoperative on the date the State Public Health Officer certifies that the final year of data from the pilot program has been submitted to the California Violent Death Reporting System, and repeals the following January 1st.

COMMENTS

1. Author's statement

The author writes:

When policymakers in the United States seek to address public health concerns, be it COVID-19, suicide prevention, or funding cancer research, they often base their decisions on mortality data. Data may sound like a scientific subject, but, at its core, it leads us to better help and serve all our communities with compassion and empathy. Unfortunately there are gaps in our data and that means potential public health blind spots. One gap AB 1094 aims to fill is data about the sexual orientation and gender

identity of victims of violent deaths. We must begin collecting this data to understand the scope of what's happening in our LGTBQ community – especially among youth – when it comes to violent deaths, including homicide and suicide. This data will allow researchers and policymakers to identify trends and patterns affecting LGBTQ people that might otherwise be overlooked. This information will be a crucial guidepost to violence prevention efforts, ultimately saving lives.

2. Background

While an estimated 5.3 percent of California's adult population identify as LGBTQ, the State does not systematically gather data on their causes of death. This bill seeks to lay the foundation to remedy this major omission. Supporters of the bill include various civil rights advocacy organizations. "According to the CDC," writes the Western Center on Law and Poverty in support, "more than seven people per hour die a violent death in the United States. More than 18,800 people were victims of homicide and over 48,000 people died by suicide in 2018 alone. Unlike veteran status or ethnicity, data collection around sexual orientation is not required to be recorded and gender identity is only captured in special circumstances." The National Center for Lesbian Rights adds: "There is a dearth of solid and usable data regarding the mortality of, and causes of death for, LGBTQ people. Many LGBTQ people pass almost invisibly through our society, and their health and survival are affected by social, economic, and other factors that do not affect other populations in the same ways."

Pursuant to Health and Safety Code section 131230, the department maintains the California Violent Death Reporting System. The department collects data on violent deaths as reported from data sources, including death certificates, law enforcement reports, and coroner or medical examiner reports, and the department posts on its website a summary and analysis of the collected data.² The website allows for searches based on the type of death, county, age range, marital status, veteran status, race/ethnicity, and weapon/mechanism. It also allows for search based on whether the person was male or female. However, it does not provide any data on sexual orientation or gender identity, depriving researchers and policymakers of key information. The Human Rights Campaign (HRC), in support, writes:

The California Electronic Violence Death Reporting System (CEVDRS) provides detailed information on violent deaths, including homicides and suicides, by linking data from death certificates, law enforcement reports, and coroner or medical examiner reports. While other demographic data must be collected under CEVDRS, sexual orientation data is not required and gender identity data is only captured in special circumstances. This

² CalEVDRS – California Electronic Violent Death Reporting System, available at <http://epicenter.cdph.ca.gov/ReportMenus/ViolentDeathTable.aspx> (as of Jun. 27, 2021).

leaves LGBTQ people out of vital data that the state uses to inform funding, programmatic, and policy decisions aimed at reducing preventable violent deaths.

Evidence shows that LGBTQ people are at high risk of suicide. In a survey of over 40,000 LGBTQ youths ages 13-24 across the United States, the Trevor Project, the bill's sponsor, found:

- 48 percent of LGBTQ youth reported engaging in self-harm in the past twelve months, including over 60 percent of transgender and nonbinary youth.
- 40 percent of respondents seriously considered attempting suicide in the past twelve months, with more than half of the transgender and nonbinary youth having seriously considered suicide.

According to CDC data, LGBTQ youth are more than four times as likely to attempt suicide than their straight/cisgender peers.³

Evidence also shows that LGBTQ people are at a high risk of hate crimes. According to the Trevor Project survey, 1 in 3 LGBTQ youth reported they had been physically threatened or harmed in their lifetime due to their LGBTQ identity.⁴ The FBI's annual hate crime report found that hate crimes based on sexual orientation accounted for 16.7 percent of hate crimes, the third largest category after race and religion. The report also showed that gender identity-based hate rose from 4.2 percent in 2018 to 4.8 percent in 2019.⁵

Supporters note the particular vulnerability of gender minorities with intersecting identities. According to a report from HRC, there were 44 violent fatal incidents against transgender and gender non-conforming people in 2020, marking the most violent year since HRC began tracking these crimes in 2013. 2021 has already seen at least 29 transgender or gender non-conforming people fatally shot or killed by other means. HRC notes that these figures are often underreported or inaccurately reported by misgendering the person. Furthermore, in some cases, "the victim's transgender status may have put them at risk in other ways, such as forcing them into unemployment, poverty, homelessness and/or survival sex work." HRC adds: "While the details of these cases differ, it is clear that fatal violence disproportionately affects transgender women of color -- particularly Black transgender women -- and that the intersections of

³ The Center for Disease Control and Prevention, *LGBT Youth*, available at <https://www.cdc.gov/lgbthealth/youth.htm> (as of Jul. 4, 2021).

⁴ The Trevor Project, *The National Survey on LGBTQ Youth Mental Health 2020*, (2020), p. 1, available at <https://www.thetrevorproject.org/wp-content/uploads/2020/07/The-Trevor-Project-National-Survey-Results-2020.pdf> (as of Jul. 4, 2021).

⁵ U.S. Department of Justice—Federal Bureau of Investigation, *Hate Crime Statistics 2019*, (2020), available at <https://ucr.fbi.gov/hate-crime/2019/topic-pages/victims> (as of Jul. 4, 2021).

racism, sexism, homophobia, biphobia, transphobia and unchecked access to guns conspire to deprive them of employment, housing, healthcare and other necessities.”⁶

The bill’s sponsor, the Trevor Project, states:

At The Trevor Project, we constantly hear from LGBTQ youth in crisis who are experiencing increased anxiety and loneliness as a result of COVID-19. Even prior to the pandemic, research has shown that LGBTQ youth are at a significantly greater risk for seriously considering and attempting suicide. Additional research has also shown that LGBTQ youth experience higher rates of violence, particularly gender minorities such as transgender and non-binary youth of color. However, we still do not know the rate of completed suicides or violence leading to fatal injury in these populations, leaving a wide gap in our understanding of the health of the LGBTQ community.

(Footnotes omitted.)

3. Pilot program to better understand the relationship between sexual orientation/ gender identity and violent death

This bill requires the department to establish a three-year pilot program in up to six counties with diverse geographic and demographic characteristics, for the identification and collection by coroners and medical examiners of gender identity and sexual orientation in cases of violent death. Participating counties would receive training from a qualified public or private agency with expertise in identifying and collecting clinical data pertaining to sexual orientation and gender identity, including cultural competency, respect of confidentiality, and other best practices in the collection of that data. Data would be aggregated, deidentified, and reported to the board of supervisors, the California Department of Public Health, and the California Electronic Violent Death Reporting System. The data collected can be used to best direct resources to local public health entities and non-profit violence prevention programs.

The Western Center on Law and Poverty writes: “By training coroners and medical examiners on how to gather mortality data with regard to an individual’s sexual orientation or gender identity (SOGI), researchers and policymakers can begin to understand how orientations and identities are uniquely impacted in the LGBTQ community as well as how to allocate resources that will reduce the number of preventable deaths.”

⁶ Human Rights Campaign, *Fatal Violence Against the Transgender and Gender Non-Conforming Community in 2021* (2021), available at <https://www.hrc.org/resources/fatal-violence-against-the-transgender-and-gender-non-conforming-community-in-2021> (as of Jul. 4, 2021).

4. Support

Equality California writes:

Research continues to show that LGBTQ+ people – particularly people with intersecting identities such as transgender and non-binary people of color – experience higher rates of violence and victimization. Leading research also indicates LGBTQ+ youth and young adults are at a significantly greater risk for seriously considering and attempting suicide. However, we still do not know the rate of completed suicides or violence leading to fatal injury in these populations, leaving a wide gap in our understanding of the health of the LGBTQ+ community.

Data is an important means of understanding community health, public safety, and whether important government programs and services are reaching vulnerable populations. Accurate and comprehensive mortality data can inform policy to reduce preventable deaths and improve quality of life. This data will benefit those who seek to address California’s public health concerns, including violence against the transgender community, LGBTQ+ youth suicidal ideation, and fatal interactions with law enforcement. Higher quality SOGI mortality data will make it easier to assess the need for public policies and initiatives that address disparities in health and social outcomes and to evaluate the impact of such policies and initiatives.

Californians support collecting LGBTQ+ mortality data. According to recent polling conducted by Morning Consult on behalf of The Trevor Project, more than four in five adults (84%) feel it is important to include sexual orientation and gender identity when evaluating suicide and other violent death statistics, including 91% of Democrats, 80% of independents and 77% of Republicans. Californians need to know that their public health is informed by evidence-based research utilizing quality data. AB 1094 puts California on the right track. For these reasons, we ask that you support AB 1094 (Arambula) and continue California’s leadership in LGBTQ+ health.

The Williams Institute at the UCLA School of Law writes:

As scholars dedicated to conducting research on sexual orientation and gender identity (SOGI), we are writing to express our support for Assembly Bill 1094 (Arambula). This bill will establish a pilot program to train coroners and medical examiners in California to collect important information about the sexual orientation and gender identity of individuals whose deaths require investigation, including those who die

from violence. Sexual and gender minorities (also referred to as LGBT people), especially those who are people of color, experience disproportionate levels of violence. This includes elevated rates of lifetime suicide attempts, intimate partner violence, and hate crimes. Lifetime suicide attempts are five to eight times more common among LGBT people than the general population. LGBT adults experience physical and/or sexual victimization and/or stalking by an intimate partner at rates similar to or higher than non-LGBT adults; including among bisexual (61.1%) and lesbian (43.8%) women and bisexual men (37.3%). Intimate partner violence is also more common among transgender than cisgender adults and among bisexual compared to heterosexual adults – particularly in the context of male-female relationships. In 2016, 17.9% of reported hate crimes were attributed to anti-LGBT bias, whereas LGBT people were only 4.5% of the population. However, it is not yet clear whether similar disparities exist in mortality from violence.

Mortality data, such as that which would be collected in the pilot program established by AB1094, provides a necessary first step for critical public health data to inform strategies to reduce preventable deaths. Mortality data have been used to identify and research emerging issues and patterns, such as veteran suicide and firearm deaths. Without these data, researchers and public health officials are blind to regional and demographic trends, as well as to the subgroups which disproportionately experience different types of violent deaths. Most available mortality data are coded as ‘unknown’ for sexual orientation and transgender status. As few as 20% of cases include sexual orientation data and information about whether the deceased was transgender. Consistent data collection is essential for accurate information to develop public health prevention and intervention strategies for all Californians.

Sexual and gender minorities experience higher than average levels of violence; improving the availability and quality of SOGI mortality data in California is a critical step towards improving our state’s vital statistics system. Californians need to know that their public health is informed by quality data.

(Endnotes omitted.)

SUPPORT

The Trevor Project (sponsor)
ACLU California Action
AFSCME, AFL-CIO
American Civil Liberties Union

American Foundation for Suicide Prevention
California Pan - Ethnic Health Network
California State Association of Psychiatrists
Center for LGBTQ Economic Advancement & Research
County of Santa Clara
Desert AIDS Project dba DAP Health
Equality California
Human Rights Campaign
Los Angeles LGBTQ Center
Los Angeles LGBTQ Chamber of Commerce
National Association of Social Workers, California Chapter
National Center for Lesbian Rights
National Health Law Program
National LGBTQ Cancer Network
PFLAG Los Angeles
Religious Coalition for Reproductive Choice California
Sacramento LGBTQ Community Center
Stanford Health Care
The Kennedy Forum
The Source LGBT+ Center
The Williams Institute – UCLA School of Law
Transfamily Support Services
Western Center on Law & Poverty

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: AB 218 (Ward, 2021) provides processes for petitioners changing their names and/or genders to update their marriage certificates and the birth certificates of their children within the framework under existing law for petitioners to update their own birth certificates. The bill is pending in the Senate Health Committee.

AB 439 (Bauer-Kahan, 2021) specifies that gender identity includes female, male, or nonbinary for purposes of completing a death certificate. The bill was recently enrolled and presented to the Governor.

Prior Legislation: AB 650 (Low, 2019) would have required the department to collect and analyze data, in conjunction with the Department of Justice, on violent deaths and would have required that information reported to the California Electronic Violent Death Reporting System to list a decedent's sexual orientation and/or gender identity. AB 650 was held on the Assembly Appropriations suspense file.

PRIOR VOTES:

Senate Health Committee (Ayes 10, Noes 0)

Assembly Floor (Ayes 76, Noes 0)

Assembly Appropriations Committee (Ayes 16, Noes 0)

Assembly Judiciary Committee (Ayes 11, Noes 0)

Assembly Health Committee (Ayes 15, Noes 0)
