

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

SB 17 (Pan)  
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Fiscal: Yes  
Urgency: No  
AWM

**SUBJECT**

Office of Racial Equity

**DIGEST**

This bill establishes, until January 1, 2029, the Office of Racial Equity, which would develop statewide guidelines for inclusive policies and practices that reduce racial inequities, promote racial equity, address individual, institutional, and structural racism, and establish goals and strategies to advance racial equity and address structural racism and racial inequities.

**EXECUTIVE SUMMARY**

Over the past few decades, California has enacted piecemeal measures to combat the structural and institutional racism that remain prevalent in state policies as a result of historical policies deliberately aimed at enforcing white supremacy. There is not, however, a single state body tasked with ensuring that all agencies and departments are working to excise racist policies and policies that exacerbate racial inequity.

This bill establishes the Office of Racial Equity (the Office) as an independent public entity governed by the Racial Equity Advisory and Accountability Council (the Council), to create statewide approaches and solutions for eliminating institutional racism. The bill provides criteria for appointing the members of the Council and tasks them and the Office with developing a statewide Racial Equity Framework that will set forth guidelines for practices and policies to promote racial equity in the state. The bill further requires state agencies to develop and implement their own Racial Equity Action Plans in alignment with the Council's Racial Equality Framework. The bill will sunset on January 1, 2029. The author has agreed to technical amendments to clarify the language of the bill and expand the findings relating to mental health care.

SB 17 is sponsored by Advancement Project California, Community Coalition, NextGen Policy, Public Health Advocates, SEIU State Council, and The Greenlining Institute, and it is supported by a wide range of racial equity, health advocacy, municipal, and social

justice groups. There is no known opposition. SB 17 passed out of the Senate Governmental Organization Committee with a 9-3 vote.

### **PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Establishes the Office of Health Equity (OHE) in the Department of Public Health for purposes of aligning state resources, decisionmaking, and programs. OHE's duties include developing policies and plans to address social and environmental inequities that improve health and mental health, and establishing a comprehensive, cross-sectoral strategic plan to eliminate health and mental health disparities and inequities. In order to develop and implement its plans, OHE is tasked with conducting biannual demographic analyses on health and mental health and the factors that contribute and/or correlate to those disparities, such as income security, food security, child development and education, access to housing, and environmental quality. (Health & Saf. Code, § 131095.5.)
- 2) Establishes the Health in All Policies (HiAP) Task Force, which is charged with identifying priority programs, policies, and strategies to improve the health of Californians, as specified. (Governor's Exec. Order No. S-4-10 (Feb. 23, 2010).)
- 3) Directs OHE to work with the HiAP Task Force to assist state agencies and departments in developing policies, systems, programs, and environmental change strategies that have population health impacts by, among other things, prioritizing building cross-sectoral partnerships within and across departments and agencies to change policies and practices to advance health equity. (Health & Saf. Code, § 131095.5(c).)
- 4) Establishes the Task Force to Study and Develop Reparation Proposals for African Americans, with a Special Consideration for African Americans Who are Descendants of Persons Enslaved in the United States to, among other things, identify, compile, and synthesize the relevant corpus of evidentiary documentation of the institution of slavery that existed within the United States and the Colonies, as specified, and develop reparations proposals. (Gov. Code, §§ 8301 et seq.)
- 5) Issues formal apologies for the state's role in racist policies and actions, including:
  - a) California's participation in the forcible removal of persons of Mexican ancestry – frequently conducted via massive raids of Mexican-American communities – during the 1920s and 1930s; approximately 400,000 American citizens and legal residents of Mexican ancestry were forced to leave California and go to Mexico, and many were never allowed to return to the United States. (Gov. Code, §§ 8721-8722.)
  - b) California's role in the unjust exclusion, removal, and exclusion of persons of Japanese ancestry during World War II. (HR 44 (Muratsuchi, 2020).)

This bill:

- 1) Makes findings and declarations relating to the structural racism and white supremacy inherent in United States', and California's, government and history.
- 2) Makes findings and declarations regarding California's need to confront its record of creating, upholding, or exacerbating racial inequalities and violence against people of color through the state's laws, policies, and actions, with specific examples of racist laws, policies, and actions.
- 3) Makes findings and declarations about how the effects of racist government policies and institutional practices have marginalized, disenfranchised, stripped resources and power from, targeted, and otherwise brought violence on Californians of color; and how, to the present day, government action has created, failed to address, or exacerbated racial inequalities and disparities in housing, public health, economic conditions, education, employment, incarceration rates, and environmental conditions, with specific examples of those disparities.
- 4) Makes findings and declarations relating to the COVID-19 pandemic, the ensuing economic crisis, and protests against institutional violence committed against Black communities, and how they have highlighted the racial injustices and health inequities that have long threatened communities of color.
- 5) Finds and declares that racism harms health, with examples of both the systematic and individual-level negative health effects associated with racism.
- 6) Finds and declares that racism harms the economy, noting that research shows that closing the racial wealth gap – itself the product of centuries of institutional discriminatory policies – could raise the United States Gross Domestic Product by 4 to 6 percent by 2028.
- 7) Finds and declares that racism is a public health crisis, and must, in order to advance and improve public health for all Californians, approach laws and regulations with an antiracist, equity-focused approach that interrogates whether policies play a role in creating, maintaining, or dismantling racist systems.
- 8) States that the Legislature intends to institute a new policy framework for racial equity that would provide an instructive model for local governments seeking to establish offices and infrastructure designed to remedy racial inequality, and to facilitate further dialogue, exchange, and collaboration between the state and local governments that have already begun such efforts.
- 9) Defines the following relevant terms:
  - a) "Institutional racism" is the ways in which policies and practices perpetuated by institutions, including governments and private groups, produce different

- outcomes for different racial groups in a manner that benefits the dominant group.
- b) “Racial Equity” means the condition achieved when race can no longer be used to predict life outcomes and conditions for all groups are improved. Racial equity includes transforming the behaviors, institutions, and systems that disproportionately harm marginalized communities, including increasing access to power, redistributing and providing additional resources, and eliminating barriers to opportunity, in order to empower low-income communities of color to thrive and reach their full potential.
  - c) “Structural racism” means the macro-level systems, social forces, institutions, ideologies, and processes that interact with one another to generate and reinforce inequities among racial and ethnic groups.
- 10) Establishes the Office of Racial Equity, an independent public entity not affiliated with an agency or department, that is governed by a nine-member Racial Equity Advisory and Accountability Council. For the Council, the bill provides:
- a) Procedures for appointing councilmembers, criteria and qualifications for councilmembers, and provisions for payment of expenses;
  - b) A provision for hiring an executive director to manage operations of the Office; and
  - c) A requirement that the Council must meet at least quarterly.
- 11) Provides that the Office shall coordinate, analyze, develop, evaluate, and recommend strategies for advancing racial equity across state agencies, departments, and the office of the Governor. At a minimum, the Office must do all of the following:
- a) In consultation with state agencies and departments, develop a statewide Racial Equity Framework (Framework) that shall be submitted to the Governor and Legislature no later than a date to be determined. The Framework shall set forth a vision for racial equity in the state by providing guidelines for inclusive policies and practices that reduce racial inequities, promote racial equity, address individual, institutional, and structural racism, and establish goals and strategies to advance racial equity and address structural racism and racial inequities. The Framework shall also describe the historical legacy and impacts of institutional racism in California, including its impacts across the social determinants of health. The Governor shall direct the secretary of each state agency to adopt and implement the Framework through each agencies’ Racial Equity Action Plan (described below), and the framework shall be updated at least every three years.
  - b) In consultation with state agencies and departments, establish methodologies, a system of measurement, and data needs for assessing how state statutes, regulations, and practices contribute to uphold or exacerbate racial disparities. This includes creating and implementing budget tools to determine whether allocations benefit or burden communities of color, and

- establishing that data collected are managed effectively and provide meaningful information including disaggregation by specific characteristics.
- c) Review and identify existing policies, regulations, and practices in state government that contribute to, uphold, or exacerbate racial disparities in areas including, but not limited to, education, housing, land use, employment, environment, economic security, public health, health care, the wealth gap, policing, criminal justice, transportation, and public safety.
  - d) Review and approve each agency's Racial Equity Action Plan (Plan); the Office shall also provide technical assistance to the agencies during the development of their Plans and to agencies implementing strategies for racial equity consistent with their Plans.
  - e) Coordinate research activities of state government directed at advancing racial equity.
  - f) Engage stakeholders and community members to address the root causes of racial inequities and ensure that the Framework, Plans, and any other racial equity proposals repair historical harm done by government-sanctioned actions.
  - g) Engage, collaborate, and consult with policy experts in order to conduct analyses and develop policy recommendations, including building on and collaborating with existing offices, departments, agencies, and working groups as appropriate.
  - h) Promote the ongoing, equitable delivery of government benefits and opportunities, including coordinating and providing technical assistance to local government agencies engaging in racial equity programming and encouraging the formation and implementation of racial equity initiatives in local government entities.
- 12) Provides that the Office must prepare an annual report that evaluates and reports on progress in meeting statewide goals and policies established under the Framework, and must submit the report to the Governor, the Legislature, and be posted publicly on the website of the office and in compliance with Government Code section 9795.
- 13) Provides that each agency of the state must develop and implement a Racial Equity Plan, in alignment with the Office's Framework, and integrate the Plan into the agency's strategic plan. By July 1, 2023, each state agency shall submit its Plan to the Office for review and approval, and the Office shall hold a public meeting to review the plan prior to approval. Approved plans shall be submitted to the Governor and the Legislature, and be posted on each agency's website. The Plans shall be reviewed and updated, as necessary, every three years. The Plans shall describe how the agency will address racial inequities within the agency and its programs and departments, and include:
- a) A description of the historical legacy and impacts of institutional racism as it pertains to that agency and policy sector.

- b) Goals, strategies, and plans to achieve equity within the agency and for services provided to the public, including but not limited to employee training and support, development of racial equity programming.
  - c) Metrics to measure current conditions and outcomes resulting from program and policy changes, which may include ways of measuring equity outcomes in hiring, promotional opportunities, and contracts.
  - d) A description of how the agency will integrate the Racial Equity Action Plan into its agency strategic plan.
- 14) Provides that the provisions of the bill are severable, so that if any provision or its application is held invalid, that invalidity will not affect the other provisions or applications that can be given effect without the invalid provision or application.
- 15) Provides that the above provisions will remain in effect only until January 1, 2029, and as of that date be repealed.

### COMMENTS

#### 1. Author's comment

According to the author:

In the United States, Black, Indigenous, and People of Color (BIPOC) have experienced centuries of inequality and systemic, institutionalized racism, beginning when European colonizers stripped tens of millions of indigenous and native people of their identity, culture, language, lifestyle, families, work, history, and traditions. Even as it represents one of the most successful projects of modern democracy, the United States embedded racial inequality, violence, and trauma into its founding document. Institutional and systemic racism continues to permeate our society in insidious ways and extensive research has identified racism as a public health crisis leading to significant health disparities, including infant and maternal mortality, chronic disease prevalence, life expectancy and now COVID mortality. The state needs an independent body to hold us accountable by examining California's policies and budget with the goal of achieving racial equity and ending systemic racism. SB 17 will establish the Office of Racial Equity and the Racial Equity Advisory and Accountability Council, in order to address systemic and institutional racism that has resulted in poorer health outcomes and disparities in BIPOC and ensure the state plays a more active role in dismantling racial inequities, particularly those exacerbated by the pandemic.

2. Centuries of institutional and structural racism have created a degree of racial inequality that cannot be remedied without deliberate, conscious efforts

In 1970, the New York Times reported on “a quiet, little noted American success story – the almost total disappearance of discrimination against the 400,000 Chinese and 500,000 Japanese Americans since the end of World War II and their assimilation into the mainstream of American life.”<sup>1</sup> Over fifty years later, we are in the middle of a historic, appalling rash of hate crimes and hateful rhetoric directed at Asian Americans and Pacific Islanders.<sup>2</sup>

Again and again, we have seen declarations that racism is no longer a problem in America, or that things are getting better. People argued that the election of President Barack Obama “was proof we live in a ‘post-racial’ society,” but his election actually increased opposition to policies addressing racial inequality.<sup>3</sup> The United States Supreme Court struck down parts of the Voting Rights Act of 1965 because “the ‘pervasive,’ ‘flagrant,’ ‘widespread,’ and ‘rampant’ discrimination that faced Congress in 1965” had been resolved,<sup>4</sup> but at the end of March 2021, the state of Georgia passed a sweeping voter suppression law targeted at Black voters, just one of many efforts to restrict voting in Republican-controlled states.<sup>5</sup>

But even without the addition of *new* racist laws, the status quo remains saturated with policies that perpetuate racial inequity. Centuries of racist policies have created structural inequalities that will not evaporate with time. To the contrary, our history of institutional racism has erected barriers for people of color that make it increasingly difficult for each new generation to pull even with their white peers.

Before going further, it should be said that “race” has no biological or scientific basis.<sup>6</sup> “Race” is merely a hodgepodge of generalizations based on visual markers and perceived origins that has been given social meaning as a means of categorizing and ranking different groups of people – specifically, to place “white” people at the top of the hierarchy.<sup>7</sup>

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<sup>1</sup> *Orientalists Find Bias Is Sharply Down in U.S.*, New York Times (Dec. 13, 1970) at p. 1 (author unknown), available at <https://www.nytimes.com/1970/12/13/archives/orientals-find-bias-is-down-sharply-in-us-discrimination-against.html?searchResultPosition=5> [last visited Apr. 8, 2021].

<sup>2</sup> See, e.g., SB 308 (Min, 2012) (adopted Mar. 18, 2021).

<sup>3</sup> Valentino & Brader, *The Sword’s Other Edge: Perceptions of Discrimination and Racial Policy Opinion After Obama*, 75 Pub. Opn. Q. 201, 203.

<sup>4</sup> *Shelby County v. Holder* (2013) 570 U.S. 529, 553-554.

<sup>5</sup> Corasaniti, *Georgia G.O.P. Passes Major Law to Limit Voting Amid Nationwide Push*, New York Times (Mar. 25, 2021) at p. A1, available at <https://www.nytimes.com/2021/03/25/us/politics/georgia-voting-law-republicans.html?searchResultPosition=1> [last visited Apr. 8, 2021].

<sup>6</sup> E.g., Worrall, *Why Race Is Not a Thing, According to Genetics*, National Geographic (Oct. 14, 2017), <https://www.nationalgeographic.com/news/2017/10/genetics-history-race-neanderthal-rutherford/> [last visited Apr. 8, 2021] (“In many ways, genetics makes a mockery of race”).

<sup>7</sup> American Association of Physical Anthropologists, *Executive Summary: AAPA Statement on Race and Racism* (Mar. 8, 2019), at p. 1, available at <https://physanth.org/about/position-statements/aapa-statement-race-and-racism-2019/> [last visited Apr. 8, 2021].

The folly of the concept of race is readily apparent with any serious examination of the so-called races. The treatment of Latinos in America is a prime example of how notions of race shift over time, as needed to maintain white supremacy. Historically, Latinos were classified as “white” even as they were denied the privileges of whiteness because they did not fit the dominant (i.e., white) ideals about what whiteness requires.<sup>8</sup> In 1897, a federal judge puzzled over how to racially classify Latinos: while the treaty of Guadalupe Hidalgo appeared to deem them white, several attorneys argued that, because Latinos are not white in “color,” they should not qualify for naturalization laws extended to white persons.<sup>9</sup> While Latinos remained classified as white for purposes of the census,<sup>10</sup> there is little question that white supremacy rejects Latinos as part of the favored group.<sup>11</sup> Relatedly, the grouping of around half the world’s population – including people of Bangladeshi, Bhutanese, Burmese, Cambodian, Chinese, Filipino, Hmong, Hong Kong, Indian, Indonesian, Japanese, Korean, Laotian, Maldivian, Mien, Mongolian, Nepalese, Pakistani, Ryukyuan, Singaporean, Sri Lankan, Taiwanese, Thai, Tibetan, Vietnamese – into a single “race”<sup>12</sup> has no coherent basis or consistency with other applications of “race,” such as phenotype or a perceived shared culture.

Nevertheless, while race is biologically fake, it continues to have power because people give it power (consciously or unconsciously). The intertwined concepts of race and white supremacy are themselves inextricably bound to our nation and our state’s history. Governmental policies perpetuating white supremacy have compounded over time, so that even if every racist policy were ended today, people of color would be at a nearly insurmountable disadvantage.<sup>13</sup>

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<sup>8</sup> Bowman, *The New Face of School Desegregation*, 50 Duke L.J. 1751, 1763 (Apr. 2001) (*The New Face of School Desegregation*).

<sup>9</sup> *In re Rodriguez* (D.C.W.D.Tex., 1897) 81 F.337, 348-349.

<sup>10</sup> *The New Face of School Desegregation*, *supra*, fn. 8, at p. 2001 (Apr. 2001) (The Census Bureau categorized Latinos as white in every decennial census except for the 1930 census, when persons of Mexican ancestry were given the option to designate themselves as part of the “Mexican race,” but the category was removed for the 1940 census following outcry from Mexican Americans). Starting in 1970, the census started asking for the *origins* of Hispanic and Latino persons – in various formulations of the question – which further indicates that the legal classification of Latinos as white has not translated into an actual adoption into whiteness. (See NALEO Educational Fund, *The Hispanic Origin and Race Questions in Census 2020* (Dec. 2019),

<https://naleo.org/COMMS/PRA/The%20Hispanic%20Origin%20and%20Race%20Questions%20in%20Census%202020%20-%20Final.pdf> [last visited Apr. 8, 2021].)

<sup>11</sup> E.g., Lopez, Gonzalez-Barrera, and Krogstad, *Latinos and discrimination*, Pew Research Center (Oct. 25, 2018), <https://www.pewresearch.org/hispanic/2018/10/25/latinos-and-discrimination/> [last visited Apr. 8, 2021] (nearly four in ten Latinos experienced anti-Latino racism in the last year).

<sup>12</sup> See United States Census Bureau, *About Race* (last revised Oct. 16, 2020), <https://www.census.gov/topics/population/race/about.html> [last visited Apr. 8, 2021].

<sup>13</sup> See Coates, *The Case for Reparations*, *The Atlantic* (June 2014) (*The Case for Reparations*), available at [https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/?gclid=EAIAIQobChMIlf\\_3o5i36gIV5h-tBh0yUgN3EAAAYASAAEgJbAfD\\_BwE](https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/?gclid=EAIAIQobChMIlf_3o5i36gIV5h-tBh0yUgN3EAAAYASAAEgJbAfD_BwE) [last visited Apr. 8, 2021] (“It is as though we have run up a credit-card bill and, having pledged to charge no more, remain befuddled that the balance does not disappear. The effects of that balance, interest accruing daily, are all around us.”).



A complete history of the de jure and de facto policies implementing white supremacy and structural racism in California and the United States is beyond the scope of this analysis. In order to place this bill in context, however, this analysis provides an overview of some of the racist laws and policies that culminated in the degree of structural inequality present in California today. To be sure, this overview omits more than it includes, particularly with respect to events taking place outside of California. Nevertheless, it hopefully provides some sense of the extent to which racism has infected virtually every aspect of state policy.

Enslavement and genocide. Before the United States became a country, residents of the colonies gained wealth from the stolen labor of kidnapped Africans, their descendants, and Indigenous persons.<sup>14</sup> In 1860, enslaved persons were the single largest “financial asset” in the country.<sup>15</sup> This bounty was, of course, not shared with the enslaved persons;<sup>16</sup> the failure to provide reparations to descendants of Black slaves is a miscarriage of justice that California, at least, is attempting to remedy.<sup>17</sup>

For Indigenous persons in California, the arrival of colonizers brought enslavement and genocide. Spanish colonizers established missions in California that were “essentially coercive religious, labor camps organized primarily to benefit the colonizers” at the expense of the Indigenous residents.<sup>18</sup> Indigenous persons were subjected to horrors such as forced family separation, sexual assault, and coerced working conditions tantamount to slavery.<sup>19</sup> Nearly one-third of California’s Indigenous population died as a direct consequence of the missions, and the Spanish left Indigenous persons economically and culturally decimated.<sup>20</sup> The Mexican Republic continued the practice of holding Indigenous persons as slaves.<sup>21</sup> Then the Gold Rush “brought death, torture, rape, starvation, and disease to the Indigenous peoples whose ancestral territories included the sought-after goldfields north and east of San Francisco.”<sup>22</sup>

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<sup>14</sup> Gates, *Slavery by the Numbers*, The Root (Feb. 10, 2014), <https://www.theroot.com/slavery-by-the-numbers-1790874492> [last visited Apr. 8, 2021].

<sup>15</sup> Coates, *Slavery Made America*, The Atlantic (June 24, 2014), <https://www.theatlantic.com/business/archive/2014/06/slavery-made-america/373288/> [last visited Apr. 8, 2021].

<sup>16</sup> E.g., Blackmon, *Slavery by Another Name* (2008) at p. 18; Staples, *Forty Acres and a Mule*, New York Times (July 21, 1997), at p. A16.

<sup>17</sup> See AB 3121 (Weber, Ch. 319, Stats. 2020).

<sup>18</sup> Castillo, State of California Native American Heritage Commission, *Short Overview of California Indian History*, <http://nahc.ca.gov/resources/california-indian-history/> [last visited Apr. 8, 2021] (*Short Overview of California Indian History*).

<sup>19</sup> *Ibid.* One observer reported that “ ‘ [t]he treatment shown to the Indians is the most cruel I have ever read in history. For the slightest things, they receive heavy flogging, are shackled and put in the stocks, and treated with so much cruelty that they are kept whole days without water.’ ” (National Park Service, *A History of American Indians in California: 1769-1848* (Nov. 17, 2004), [https://www.nps.gov/parkhistory/online\\_books/5views/5views1b.htm](https://www.nps.gov/parkhistory/online_books/5views/5views1b.htm) [last visited Apr. 8, 2021].)

<sup>20</sup> *Short Overview of California Indian History*, *supra*, fn. 18.

<sup>21</sup> *Ibid.*

<sup>22</sup> Dunbar-Ortiz, *An Indigenous Peoples’ History of the United States* (2104) at p. 129 (*An Indigenous Peoples’ History of the United States*).

Over the next 25 years, “US occupation and settlement exterminated more than one hundred thousand California Native people...reducing the population to thirty thousand by 1870 – quite possibly the most extreme demographic disaster of all time.”<sup>23</sup> Many of the Indigenous persons who survived were rounded up and transported to reservations in Oregon and Oklahoma,<sup>24</sup> where, as discussed below, they were subjected to even more racist government policies. Of those who remained, many had their families ripped apart under a California law permitting Indigenous children and any “vagrant” Indigenous adult to be “put under the custody of Whites for the purpose of training.” The law permitted white people to essentially enslave these Indigenous people until the age of 40 for men and 35 for women.<sup>25</sup> The law was repealed in 1866,<sup>26</sup> but the next half-century of policies geared at crushing Indigenous culture and stealing Indigenous land took its toll: in 1900, the California Indigenous population was approximately 16,000.<sup>27</sup>

Limitations on citizenship. From 1790 until 1870, United States citizenship was limited to “free white person[s]... of good character,” excluding Black people, Indigenous persons, and persons of Asian descent entirely.<sup>28</sup> After the civil war, when Congress transmitted the Fourteenth Amendment to California for ratification – which, among other things, extended birthright citizenship regardless of race – California’s overtly white supremacist governor, Henry Haight, refused to transmit the amendment to the Legislature for ratification.<sup>29</sup> The California Legislature also voted against ratifying the Fifteenth Amendment, which granted all citizens the right to vote regardless of race or color.<sup>30</sup>

After the passage of the Fourteenth Amendment, racist restrictions on naturalization remained. The right of naturalization was also not extended to persons of Asian origin until the middle of the twentieth century. Immigrants from China were given the right to naturalize in 1943;<sup>31</sup> immigrants from the Philippines and India were given the right to naturalize in 1946;<sup>32</sup> and in 1952, all remaining nationality-based restrictions were

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<sup>23</sup> *Ibid.*

<sup>24</sup> *Id.* at p. 130.

<sup>25</sup> National Parks Service, *A History of American Indians in California: 1849-1879* (Nov. 17, 2004), [https://www.nps.gov/parkhistory/online\\_books/5views/5views1c.htm](https://www.nps.gov/parkhistory/online_books/5views/5views1c.htm) [last visited Apr. 8, 2021].

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> 1 Stat. 103 (1790) (Naturalization Act of 1790). In the *Dred Scott* Decision, the United States Supreme Court suggested that Native Americans could become citizens through naturalization. (*Scott v. Sanford* (1857) 60 U.S. 393, 403-404.)

<sup>29</sup> Bottoms, *An Aristocracy of Color: Race and Reconstruction in California and the West, 1850-1890* (2013) at p. 86.

<sup>30</sup> *Id.* at pp. 92-93. California did not ratify the Fourteenth Amendment until 1959 and the Fifteenth Amendment until 1962. (Cottrell, *It took 92 years for California to ratify the 15th Amendment*, *The Union* (Jun. 26, 2020), available at <https://www.theunion.com/news/steve-cottrell-it-took-92-years-for-california-to-ratify-the-15th-amendment/> [last visited Apr. 8, 2021].)

<sup>31</sup> 57 Stat. 600 (1943) (the Magnuson Act).

<sup>32</sup> 60 Stat. 416 (1946) (the Luce-Celler Act of 1946).

repealed.<sup>33</sup> Given that the right to vote, along with a wide range of government benefits (including many New Deal benefits), were contingent on citizenship, these policies preventing immigrants of color from naturalizing served to limit their political and economic power to the advantage of white people.<sup>34</sup> For Indigenous persons, conversely, the unsolicited extension of birthright citizenship in 1924 was yet another sign that the federal government was disclaiming tribal sovereignty.<sup>35</sup>

Attacks on citizenship for people of color are not a thing of the past. In the 2010s, arguments against the Fourteenth Amendment's grant of birthright citizenship and calls for a constitutional amendment to deny citizenship to the children of undocumented immigrants became increasingly common.<sup>36</sup> President Donald Trump repeatedly called for the end of birthright citizenship, even claiming (incorrectly) that he could do so via an executive order.<sup>37</sup>

Expulsion, internment, and incarceration. In the 1850s and 1860s, California oversaw a military campaign to remove Indigenous persons from their lands and onto "military reserves."<sup>38</sup> "These unsurveyed reserves lacked game, suitable agricultural lands and water."<sup>39</sup> Elsewhere in the country, the federal government violated multiple treaties with Indigenous tribes with the Homestead Act, the Morrell Act, and the Pacific Railroad Act, which transferred Indigenous lands to states to build land-grant universities, to settlers, and to private companies to build railroads.<sup>40</sup>

In 1858, the California Legislature passed a law – declared void in 1862 – that made it illegal for any person "of the Chinese or Mongolian races" to enter the state.<sup>41</sup> As detailed above, the federal government spent the next century enacting policies to prevent persons from Asia and Africa from emigrating to the United States.

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<sup>33</sup> 66 Stat. 163 (1952) (the Immigration and Nationality Act of 1952, or the McCarran-Walter Act).

<sup>34</sup> See U.S. Const., 15th Amend.; The Living New Deal, *Asian Americans and the New Deal – And the Second World War*, <https://livingnewdeal.org/what-was-the-new-deal/new-deal-inclusion/asian-americans-and-the-new-deal-and-the-second-world-war/#:~:text=The%20closure%20of%20borders%20led%20to%20some%20relaxation,included%20food%20assistance%2C%20cash%20relief%2C%20and%20work-relief%20jobs> [last visited Apr. 8, 2021].

<sup>35</sup> 43 Stat. 253 (1924) (the Indian Citizenship Act, or the Snyder Act). California's original constitution prohibited Indigenous persons from voting, and the California Legislature never passed legislation to the contrary. (Johnston-Dodds, *Early California Laws and Policies Related to California Indians*, California Research Bureau (Sept. 2020) at p. 3 (*Early California Laws and Policies Related to California Indians*); An Indigenous Peoples' History of the United States, *supra*, fn. 22, at p. 169.)

<sup>36</sup> Acuña, *Occupied America: A History of Chicanos* (2015) at pp. 276, 305 (Occupied America).

<sup>37</sup> E.g., Swan & Kight, *Exclusive: Trump targeting birthright citizenship with executive order*, *Axios* (Oct. 30, 2018), <https://www.axios.com/trump-birthright-citizenship-executive-order-0cf4285a-16c6-48f2-a933-bd71fd72ea82.html> [last visited Apr. 8, 2021]; Lyons, *Trump Wants to Abolish Birthright Citizenship. Can He Do That?*, *New York Times* (Aug. 22, 2019), *available at* <https://www.nytimes.com/2019/08/22/us/birthright-citizenship-14th-amendment-trump.html> [last visited Apr. 8, 2021].

<sup>38</sup> *Short Overview of California Indian History*, *supra*, fn. 18.

<sup>39</sup> *Ibid.*

<sup>40</sup> An Indigenous Peoples' History of the United States, *supra*, fn. 22, at p. 140.

<sup>41</sup> Ch. 113, Statutes of 1858; *Lin Sing v. Washburn* (1862) 20 Cal. 534.

In the 1870s and 1880s, the federal government ramped up its policy of removing Indigenous persons from their lands and imposed new policies to force Indigenous persons to adapt to “white” culture.<sup>42</sup> The General Allotment Act of 1887, better known as the Dawes Act, forcibly divided reservation tribal lands, cutting the total amount of land held by Indigenous persons in half; the remainder was doled out to white settlers for homesteading.<sup>43</sup> The allotment system was introduced in California in 1893, despite tribal opposition, and by 1930 approximately 2,300 allotments had been carved out of the already-tiny communal reservation lands.<sup>44</sup>

Between 1929 and 1936, California participated in the violent, forcible removal of persons of Mexican descent to Mexico, even though as many as 60 percent of the victims were American citizens and many others were lawful permanent residents.<sup>45</sup> An estimated 400,000 American citizens and legal residents were forced from California alone, and many were never able to return to the United States.<sup>46</sup> The rhetoric surrounding the government’s blatant violation of the constitutional rights of persons of Mexican descent was eerily similar to modern attacks on Latino immigration: politicians warned about Mexicans taking jobs and burdening public resources, with the racist message that persons of Mexican descent were less deserving of jobs and benefits than white Americans.<sup>47</sup>

In World War II, President Roosevelt signed Executive Order 9066, which permitted the Secretary of War and designated military officials to move forward with the removal and detention of Americans and residents of Japanese ancestry.<sup>48</sup> Almost immediately, General John DeWitt, who was designated to administer Executive Order 9066, ordered all Americans and immigrants of Japanese ancestry to be removed from the western portions of Washington and Oregon, all of California, and the southern portion of Arizona, and to be detained in concentration camps.<sup>49</sup> The order applied to approximately 120,000 people, which was close to 90 percent of all persons of Japanese

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<sup>42</sup> An Indigenous Peoples’ History of the United States, *supra*, fn. 22, at pp. 157-158.

<sup>43</sup> *Id.* at p. 158; *Short Overview of California Indian History*, *supra*, fn. 18.

<sup>44</sup> *Short Overview of California Indian History*, *supra*, fn. 18.

<sup>45</sup> Wagner, *America’s Forgotten History of Deportation*, *The Atlantic* (Mar. 6, 2017), <https://www.theatlantic.com/politics/archive/2017/03/americas-brutal-forgotten-history-of-illegal-deportations/517971/> [last visited Apr. 8, 2021].

<sup>46</sup> Gov. Code, § 8721. The State of California issued an apology to the forcibly expelled individuals in 2006. (*Id.*, § 8722.)

<sup>47</sup> E.g., *The time a president deported 1 million Mexican Americans for supposedly stealing U.S. jobs*, *Washington Post* (Aug. 13, 2018), <https://www.washingtonpost.com/news/retropolis/wp/2018/08/13/the-time-a-president-deported-1-million-mexican-americans-for-stealing-u-s-jobs/> [last visited Apr. 8, 2021].

<sup>48</sup> Exec. Order No. 9066, 7 Fed. Reg. 1407 (Feb. 25, 1942).

<sup>49</sup> Commission on Wartime Relocation and Internment of Civilians, *Personal Justice Denied* (Dec. 1982), at pp. 100, 111, available at <https://www.archives.gov/files/research/japanese-americans/justice-denied/> [last visited Apr. 8, 2021] (*Personal Justice Denied*). Decades later, the federal government found that “[u]nder General DeWitt’s guidance from the Presidio, the War Department moved toward the momentous exclusion of American citizens from the West Coast without any thoughtful, thorough analysis of the problems, if any, of sabotage and espionage on the West Coast or of realistic solutions to those problems.” (*Id.* at pp. 66-67.)

ancestry living in the continental United States; about 70,000 of the evacuees were California residents.<sup>50</sup> General DeWitt's final report setting forth the justification was "lifted, nearly verbatim, from testimony by [California] Attorney General Earl Warren before a Congressional committee after the Executive Order was promulgated."<sup>51</sup> Most internees were held until 1945, though some persons of Japanese descent were confined at the Tule Lake facility until 1946.<sup>52</sup>

Following World War II, the United States became increasingly reliant on migrant labor from Mexico but also continued the pattern of scapegoating persons of Mexican descent during times of economic downturn.<sup>53</sup> The United States Immigration and Naturalization Service (INS) would leave the border open at harvest time, then proceed with deportations after the picking season was over.<sup>54</sup> In response to the recession that followed the Korean War, INS waged a military-style campaign that deported over a million Mexicans each year between 1953 and 1955.<sup>55</sup>

In the 1970s, the electrical and garment industries became increasingly reliant on undocumented, and therefore exploitable, labor to keep wages down.<sup>56</sup> The ensuing nativist backlash included the criminalization of undocumented workers – which did virtually nothing to stop immigration but made it even easier for employers to take advantage of workers who had no recourse against abusive employment conditions – and more military-style deportation operations.<sup>57</sup> As immigration from Mexico and Central and South America increased – in part due to civil unrest caused by American interference in Central and South American governments – so did the rhetoric and policies overtly targeting Latinos.<sup>58</sup>

The twentieth century also saw the rise of the American carceral state, with the U.S. prison population quadrupling between 1980 and 2000.<sup>59</sup> The increase in imprisonment

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<sup>50</sup> Wollenberg, "Dear Earl," *The Fair Play Committee, Earl Warren, and Japanese Internment*, California History (2012) 89:4, at pp. 30-31.

<sup>51</sup> *Personal Justice Denied*, *supra*, fn. 49, at p. 53, fn. \*. Warren admitted that California "had made no sabotage or espionage of its own and that he had no evidence of sabotage or espionage," and instead relied on gross stereotypes about persons of Japanese descent and their purported motives. (*Id.* at pp. 96-98.)

<sup>52</sup> Japanese American History: An A-Z Reference from 1868 to the Present (Niiya edit., 2001) p. 160; Tule Lake Committee, "History," <https://www.tulelake.org/history> [last visited Apr. 8, 2021]. Tule Lake was kept open in large part to the "renunciation crisis" precipitated by the thousands of coerced renunciations of citizenship, which were used to suggest the remaining internees posed a national security threat. (See Japanese American History: An A-Z Reference from 1868 to the Present (Niiya edit., 2001) p. 397.)

<sup>53</sup> *Occupied America*, *supra*, fn. 36, at pp. 276, 305.

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.*

<sup>56</sup> *Id.* at pp. 344, 346.

<sup>57</sup> *Id.* at p. 345.

<sup>58</sup> E.g., Gibbs & Bankhead, *Preserving Privilege: California Politics, Propositions, and People of Color* (2001) at pp. 5-8 (discussing 1990s California Propositions 184, 187, 209, 227).

<sup>59</sup> Coates, *The Black Family in the Age of Mass Incarceration*, *The Atlantic* (Oct. 2015), available at <https://www.theatlantic.com/magazine/archive/2015/10/the-black-family-in-the-age-of-mass-incarceration/403246/> [last visited Apr. 8, 2021].

was not due to an increase in crime, but an increase in long prison sentences and other “tough-on-crime” measures targeted at people of color. Over the past 40 years, Black people have been incarcerated at rates ranging from six to eight times that of white people.<sup>60</sup>

California’s incarceration trends have matched, or exceeded, the national patterns. As of 2017, it is estimated that California incarcerates Black men at a rate of 4,236 per 100,000, and Black women at a rate of 171 per 100,000 – which are ten times and five times higher than the rates for white men and women, respectively.<sup>61</sup> For Latino men and women, incarceration rates are 1,106 per 100,000 and 38 per 100,000; these rates are approximately three times and 1.3 times the rates of white men and women.<sup>62</sup> Incarceration rates are even starker for minors: Latino youth are 65 percent more likely to be detained or committed than their white peers, and Black youth are 500 percent more likely than white youth to be detained or committed.<sup>63</sup>

Anti-Latino rhetoric and expulsion policies also increased over the course of the 2000s and 2010s. In the 2010s, President Barack Obama oversaw the greatest number of deportations from the U.S. interior in U.S. history.<sup>64</sup> Under President Donald Trump, the total number of persons deported went down, but the racist rhetoric and inhumane treatment of immigrants increased exponentially. One of his first acts as president was to implement a ban on immigration from several majority-Muslim countries;<sup>65</sup> his administration accepted historically few refugees fleeing persecution in their countries of origin;<sup>66</sup> and he implemented the horrific “family separation” program that tore

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<sup>60</sup> Sabol, Johnson, and Caccavale, *Trends in Correctional Control by Race and Sex*, Council on Criminal Justice (Dec. 2019) at p. 2, available at

[https://cdn.ymaws.com/counciloncj.org/resource/collection/4683B90A-08CF-493F-89ED-A0D7C4BF7551/Trends\\_in\\_Correctional\\_Control\\_-\\_FINAL.pdf](https://cdn.ymaws.com/counciloncj.org/resource/collection/4683B90A-08CF-493F-89ED-A0D7C4BF7551/Trends_in_Correctional_Control_-_FINAL.pdf) [last visited Apr. 8, 2021].

<sup>61</sup> Harris, et al., Public Policy Institute of California, *California’s Prison Population* (July 2019) available at <https://www.ppic.org/publication/californias-prison-population/> [last visited Apr. 8, 2021].

<sup>62</sup> *Ibid.* Evidence suggests that persons of Asian descent are imprisoned at rates lower than their proportion in the general population of California, and Native Americans slightly higher. (Vera Institute, *Incarceration Trends in California* (Dec. 2019) at p. 2, <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-california.pdf> [last visited Apr. 8, 2021].)

<sup>63</sup> Sentencing Project, *Latino Disparities in Youth Incarceration* (Oct. 2017), at p. 1, available at <https://www.sentencingproject.org/publications/latino-disparities-youth-incarceration/>.

<sup>64</sup> Thomson-DeVeaux, *Will The 2020 Democrats Reject Obama’s Immigration Legacy?*, FiveThirtyEight (Jul. 31, 2019), <https://fivethirtyeight.com/features/will-the-2020-democrats-reject-obamas-immigration-legacy/> [last visited Apr. 8, 2021].

<sup>65</sup> See Exec. Order No. 13769 (Jan. 27, 2017), 82 Fed. Reg. 8977 (Feb. 1, 2017); Exec. Order No. 13780 (Mar. 6, 2017), 82 F.R. 13209 (Mar. 9, 2017); Presidential Proclamation 9645 (Sept. 24, 2017), 82 Fed. Reg. 45161 (Sept. 27, 2017); see also, *Trump v. Hawaii* (2018) 138 S.Ct. 2392, 2423.

<sup>66</sup> Krogstad, *Key facts about refugees to the U.S.*, Pew Research Center, Oct. 7, 2019, available at <https://www.pewresearch.org/fact-tank/2019/10/07/key-facts-about-refugees-to-the-u-s/> [last visited Apr. 8, 2021].

children from the arms of their parents, who were fleeing violence to seek asylum in America.<sup>67</sup>

Land theft and limitations. The Spanish forcibly removed Indigenous persons from their lands and took them over for farming and ranching.<sup>68</sup> When the missions were closed, many Indigenous persons were allowed to return to their lands, but found them transformed by the introduction of livestock that had destroyed native flora.<sup>69</sup> In 1850, the California Legislature adopted the Act for the Government and Protection of Indians, which – in addition to permitting white persons to hold Indigenous persons as slaves – allowed any white person to apply to a Justice of the Peace for the removal of Indigenous persons from lands in the white person’s possession.<sup>70</sup> Although the federal government attempted to enter into treaties with 18 California Indigenous tribes, which would have set aside 7,488,000 acres, or 11,700 square miles, for Indigenous use, the California Legislature instructed its senators to oppose ratification “and called for the government to remove the Indians from the state as they had done in other states.”<sup>71</sup> The Senate failed to ratify the treaties.<sup>72</sup> These efforts took place in concert with the military’s removal of Indigenous persons from their land, as discussed above.

Around the same time Indigenous land was being stolen, California required Californian Mexicans to “authenticate” their land holdings; an estimated 40 percent of land held by California Mexicans was lost, often due to technicalities like the owner not being able to afford an attorney or to travel to San Francisco for the hearing.<sup>73</sup>

California also adopted laws imposing racist property restrictions on persons of Asian descent. In 1913, the California Legislature passed the Alien Land Law, which prevented immigrants from Asia from owning land and restricted them to three-year property leases.<sup>74</sup> The Legislature followed up with an even more restrictive law in 1920, which prohibited Japanese immigrants from acting as proxies or guardians for

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<sup>67</sup> Levin, ‘We tortured families’: The lingering damage of Trump’s separation policies, *The Guardian* (Jan. 4, 2021), <https://www.theguardian.com/us-news/2021/jan/04/trump-administration-family-separation-immigrants-joe-biden> [last visited Apr. 8, 2021].

<sup>68</sup> *Early California Laws and Policies Related to California Indians*, *supra*, fn. 35, at p. 23.

<sup>69</sup> *Id.* at p. 24.

<sup>70</sup> *Id.* at p. 5.

<sup>71</sup> National Parks Service, *A History of American Indians in California: 1849-1879* (Nov. 17, 2004), [https://www.nps.gov/parkhistory/online\\_books/5views/5views1c.htm](https://www.nps.gov/parkhistory/online_books/5views/5views1c.htm) [last visited Apr. 8, 2021].

<sup>72</sup> *Ibid.* In 1944, under a federal law allowing Indigenous persons to sue the federal government for loss of lands, as represented by the state attorney general, the California Attorney General agreed to a settlement of \$17,053,941.98 – but the government withheld “its ‘costs’ of providing reservations, supplies, and even salaries of the corrupt and do-nothing” reservation overseers, resulting in a payment of \$150 per Indigenous person. (*Short Overview of California Indian History*, *supra*, fn. 18.)

<sup>73</sup> De León, *Racial Frontiers: Africans, Chinese, and Mexicans in Western America, 1848-1890* (2002), at p. 53.

<sup>74</sup> Ch. 113, Stats. 1913, p. 206. The law did not call out Asian immigrants specifically, but instead restricted land ownership to “[a]ll aliens eligible to citizenship under the laws of the United States” – which at the time excluded Asian immigrants. (*See id.*; 34 Stats. at Large, Part I, p. 596 (1906).)

their children in connection with certain transactions, but the California Supreme Court declared the law unconstitutional.<sup>75</sup>

The United States' interment of persons of Japanese descent during World War II – which was enthusiastically encouraged by the government of California<sup>76</sup> – also resulted in a stunning loss of land and property. The federal government often provided only a few days, or at most a few weeks, of notice prior to forcing people to leave their homes, so Americans and residents of Japanese ancestry had no choice but to abandon their property, sell it for far below market value, or leave it in insecure storage facilities.<sup>77</sup> California compounded the property losses by amending the Alien Land Law to make it more difficult for Japanese immigrants to transfer their land to non-interned persons; if a land transfer was found to be in violation of the law, the property would escheat to the state and the parties to the transaction could be imprisoned up to ten years.<sup>78</sup> It is impossible to value precisely the amount of property lost by persons of Japanese ancestry as a result of internment, but one study put the amount between \$149 million and \$370 million in 1945 dollars, which would be between \$2.1 billion and \$5.3 billion today, not accounting for lost interest value.<sup>79</sup>

After World War II, the state and federal government targeted the property of people of color under the guise of progress. “Local officials rerouted the elaborate designs of freeway engineers – often at considerable expense – to destroy thousands of homes in racially diverse communities.”<sup>80</sup> In Los Angeles, homes in Boyle Heights were destroyed “just to give white suburban shoppers easier freeway access to a Sears,” and planners *moved* the path of the Santa Monica Freeway to drive it directly through the predominantly Black, upscale Sugar Hill neighborhood, wiping it off the map.<sup>81</sup> Los Angeles also uprooted Mexican homeowners so that the owner of the Los Angeles Dodgers could build a baseball stadium in Chavez Ravine.<sup>82</sup> This practice is not a thing of the past: the City of Los Angeles currently has a plan to bulldoze hundreds of homes in Latino neighborhoods in order to widen the 605 Freeway.<sup>83</sup>

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<sup>75</sup> See *In re Guardianship of Yano* (1922) 188 Cal. 645, 658-659.

<sup>76</sup> Hiroto, *The Evacuation and Relocation of the West Coast Japanese During World War II – How it Happened!*, U.S. Army War College (1991) at pp. 22-23.

<sup>77</sup> Okihiro, *The Japanese in America*, in *Japanese American History: An A-Z Reference from 1868 to the Present* (Niiya edit., 2001) at p. 16.

<sup>78</sup> Ch. 1059, Statutes of California 1943, at pp. 2999-3003.

<sup>79</sup> Pippert, *The economic losses of Japanese-Americans interned during World War II*, UPI (June 15, 1983) [amounts adjusted to 2020 dollars].

<sup>80</sup> Fleisher, *Opinion: Want to tear down insidious monuments to racism and segregation? Bulldoze L.A. freeways*, Los Angeles Times (Jun. 24, 2020), available at <https://www.latimes.com/opinion/story/2020-06-24/bulldoze-la-freeways-racism-monument> [last visited Apr. 8, 2021].

<sup>81</sup> *Ibid.*

<sup>82</sup> *Occupied America*, *supra*, fn. 36, at p. 288.

<sup>83</sup> Fleischer, *Opinion: L.A. wants to bulldoze Latino neighborhoods to expand a freeway. Biden shouldn't help*, Los Angeles Times (Apr. 1, 2021), <https://www.latimes.com/opinion/story/2021-04-01/opinion-l-a-wants-to-bulldoze-latino-neighborhoods-to-expand-a-freeway-biden-shouldnt-help> [last visited Apr. 8, 2021].



The second half of the twentieth century also saw the termination of federal authority over California's tribal reservations.<sup>84</sup> While Indigenous persons were at first ecstatic over the prospect of reclaiming their lands, the project was administrated in a way that left many Indigenous persons worse off than before, ultimately leaving Indigenous persons with 10,037 fewer acres of land than before, and with even worse socioeconomic conditions.<sup>85</sup>

Racism in education and housing. Although California is rarely associated with the notorious Jim Crow laws of the South, California enacted numerous segregation laws (de jure segregation), particularly in schools. California law expressly permitted localities to establish separate schools for children of "Chinese or Mongolian descent";<sup>86</sup> as the increase in Japanese and Korean immigration coincided with a further rise in racist anti-Asian backlash, the San Francisco school board transferred students of Japanese and Korean ancestry to these segregated schools as well.<sup>87</sup> The United States Supreme Court upheld the practice of relegating Asian students to separate schools in 1927.<sup>88</sup> Many Californian schools also had segregated schools for Black children, which the California Supreme Court upheld in 1924.<sup>89</sup> And while California law did not expressly provide for segregated schools for Latino children, many school districts established them anyway; a survey of school districts with large Latino populations in 1931 revealed that "over 80 [percent] of these districts were officially segregated and many of the remaining 20% had 'unofficial' segregatory practices."<sup>90</sup>

School segregation remained in place well into the twentieth century. A federal court ruled that Orange County's practice of maintaining separate schools for children of Mexican origin was unconstitutional in 1947,<sup>91</sup> and the United States Supreme Court declared racially segregated schools unconstitutional in 1954.<sup>92</sup> Desegregation efforts were stymied, however, by white-controlled school boards and state and local governments.<sup>93</sup> Some schools remained under de jure segregation regimes until the end

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<sup>84</sup> *Short Overview of California Indian History*, *supra*, fn. 18.

<sup>85</sup> *Ibid.*

<sup>86</sup> See *Wong Him v. Callahan* (C.C.N.D.Cal. 1902).

<sup>87</sup> Lucas, *Segregation of Japanese School Kids in San Francisco Sparks an International Outrage*, Cal@170 by the California State Library, <https://cal170.library.ca.gov/japanese-segregation/> [last visited Apr. 8, 2021].

<sup>88</sup> *Gong Lum v. Rice* (1927) 275 U.S. 78, 87 (Taft, C.J.).

<sup>89</sup> *Piper v. Big Pine School Dist.* (1924) 193 Cal. 664, 671.

<sup>90</sup> Bowman, *The New Face of School Desegregation*, 50 Duke L.J. 1751, 1770 (Apr. 2001).

<sup>91</sup> *Mednez v. Westminster School Dist.* (S.D.Cal. 1947) 64 F.Supp. 544, 548-549.

<sup>92</sup> *Brown v. Board of Education* (1954) 347 U.S. 483, 495.

<sup>93</sup> See, e.g., *Griffin v. County School Bd.* (1964) 377 U.S. 218, 221 (school districts closed public schools rather than integrate, cut off funding for public schools and instead provided private vouchers for private schools, then delayed adoption of integration plan); *Green v. County School Bd.* (1968) 391 U.S. 430, 433 (*Green*) (school board automatically reassigned children to schools they had attended the prior year, preventing integration); *Goss v. Bd. of Educ.* (1963) 373 U.S. 683, 686-687 (school board allowed students to request to be transferred if they had been assigned to a school previously attended only by members of a different race).

of the 1960s, refusing to desegregate without judicial intervention.<sup>94</sup> Even after the last de jure segregation regimes were dismantled, de facto segregation – caused in large part by decades of segregated housing practices – remained common.<sup>95</sup>

De jure housing segregation was also common in California well into the twentieth century. White homeowners in many California cities entered into “racial covenants,” agreements among white homeowners in a neighborhood not to sell homes to people of color.<sup>96</sup> The California Supreme Court expressly upheld the use of covenants prohibiting “occupation of the property by anyone not of the Caucasian race” in 1919.<sup>97</sup> Housing segregation was further exacerbated by “redlining,” the racist system by which federal home loans were distributed according to the number of people of color in the neighborhood.<sup>98</sup> Redlining was common across California.<sup>99</sup> And, as discussed above, neighborhoods where people of color were able to thrive despite racist housing policies were regularly destroyed or targeted for the placement of undesirable features such as freeways and industrial features, causing their homes to lose value and locking many into dangerous neighborhoods they could not afford to leave. Then in the subprime-lending boom leading up to the Great Recession, Black people and Latinos were targeted for subprime mortgages even when they would have qualified for prime loans;<sup>100</sup> in 2006, Black and Latino families making \$200,000 per year were more likely

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<sup>94</sup> See *Alexander v. Holmes County Bd. of Educ.* (1969) 396 U.S. 19, 20-21; *Crawford v. Bd. of Educ.* (1976) 17 Cal.3d 280, 284-285 (Los Angeles); *Jackson v. Pasadena City School Dist.* (1963) 59 Cal.2d 876, 881-882 (Pasadena).

<sup>95</sup> E.g., Occupied America, *supra*, fn. 36 at p. 366; Mehta & Finnegan, *Segregation has soared in America's schools as federal leaders largely looked away*, Los Angeles Times (Jul.8, 2019), available at <https://www.latimes.com/politics/la-na-pol-2020-school-segregation-busing-harris-biden-20190708-story.html> [last visited Apr. 8, 2021].

<sup>96</sup> E.g., Rosales, *Fighting Peace at Home: Mexican American Veterans and the 1944 GI Bill of Rights*, Pacific Historical Review, 80:4, at pp. 610-611 (*Fighting Peace at Home*); Garrison, *Living with a reminder of segregation*, Los Angeles Times (Jul. 27, 2008), <https://www.latimes.com/archives/la-xpm-2008-jul-27-me-covenant27-story.html> [last visited Apr. 8, 2021].

<sup>97</sup> *Los Angeles Inv. Co. v. Gary* (1919) 181 Cal.60, 684.

<sup>98</sup> *The Case for Reparations*, *supra*, fn. 13; Occupied America, *supra*, fn. 36, at p. 287.

<sup>99</sup> E.g., University of Richmond Digital Scholarship Program, *Home Owners' Loan Corporation (HOLC) Neighborhood Guide*, ArcGIS (Jun. 24, 2020), <https://www.arcgis.com/home/item.html?id=ef0f926eb1b146d082c38cc35b53c947> [last visited Apr. 8, 2021] (redlining map overlays for Fresno, Los Angeles, Sacramento, San Diego, San Francisco, San Jose, and Stockton.).

<sup>100</sup> Faber, *Racial Dynamics of Subprime Mortgage Lending at the Peak*, Housing Policy Debate, 23:2, at pp. 329-330 (*Racial Dynamics of Subprime Mortgage Lending at the Peak*). The United States Department of Justice settled several lawsuits against banks for these discriminatory lending practices, including a \$335 million settlement with Bank of America for “a widespread pattern or practice of discrimination against qualified African-American and Hispanic borrowers” in Countrywide’s mortgage lending from 2004 to 2008. (Department of Justice, Office of Public Affairs, Press Release, *Justice Department Reaches \$335 Million Settlement to Resolve Allegations of Lending Discrimination by Countrywide Financial Corporation* (Dec. 21, 2011), <https://www.justice.gov/opa/pr/justice-department-reaches-335-million-settlement-resolve-allegations-lending-discrimination> [last visited Apr. 8, 2021].)

to be given a subprime loan than a white family making \$30,000.<sup>101</sup> When the Great Recession hit, homeownership rates for Black and Latino people fell the furthest, and the wealth gap between them and white people reached record highs.<sup>102</sup>

These racist housing policies and practices further harmed schools attended by people of color. Because schools are funded in large part by property taxes, and communities in overwhelmingly white areas tend to have higher property values, schools predominately attended by people of color are underfunded in comparison.<sup>103</sup>

### 3. The result: the racial wealth gap and the racial health gap

The consequences of systematically enslaving, stealing from, discriminating against, and incarcerating people of color should be no surprise: people of color are worse off economically than white people. The racial wealth gap is stark: Black families' median and mean wealth is less than 15 percent of white families' wealth, and Latinos' median and mean wealth are less than 20 percent of white families' wealth.<sup>104</sup> Unfortunately, because the Federal Reserve grouped persons of all other races and ethnic groups, including multiracial persons, into a fourth "other" category, data specific to each group are not available; overall, however, the Federal Reserve reports that this "other" group's mean family wealth is 40 percent of white mean family wealth and their median family wealth is 49 percent of median white family wealth.<sup>105</sup> Other sources show that Indigenous persons, and persons of Asian descent from some South and East Asian countries, have strikingly high rates of poverty.<sup>106</sup>

This is not an accident. Centuries of racist policies have built in structural disadvantages for people of color that make accumulating wealth more difficult than it is for white people. For example, while redlining was outlawed under the Fair Housing Act in 1968, its effects continue: homeowners in redline neighborhoods have earned 52 percent less

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<sup>101</sup> Badger, *The Dramatic Racial Bias of Subprime Lending During the Housing Boom*, Bloomberg CityLab (Aug. 13, 2016) <https://www.bloomberg.com/news/articles/2013-08-16/the-dramatic-racial-bias-of-subprime-lending-during-the-housing-boom> [last visited Apr. 8, 2021].

<sup>102</sup> *Racial Dynamics of Subprime Mortgage Lending at the Peak*, *supra*, fn. 100, at p. 328.

<sup>103</sup> Meckler, *Report finds \$23 billion racial funding gap for schools*, Washington Post (Feb. 25, 2021) [https://www.washingtonpost.com/local/education/report-finds-23-billion-racial-funding-gap-for-schools/2019/02/25/d562b704-3915-11e9-a06c-3ec8ed509d15\\_story.html](https://www.washingtonpost.com/local/education/report-finds-23-billion-racial-funding-gap-for-schools/2019/02/25/d562b704-3915-11e9-a06c-3ec8ed509d15_story.html) [last visited Apr. 8, 2021].

<sup>104</sup> Bhutta, et al., Board of Governors of the Federal Reserve System, FEDS Notes, *Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances* (Sept. 28, 2020), <https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm> [last visited Apr. 8, 2021] (*Disparities in Wealth by Race and Ethnicity*).

<sup>105</sup> *Ibid.*

<sup>106</sup> E.g., Kaiser Family Foundation, *Poverty Rate by Race/Ethnicity* (2019), <https://www.kff.org/other/state-indicator/poverty-rate-by-raceethnicity/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> [last visited Apr. 8, 2021]; Kochhar & Cilluffo, *Income Inequality in the U.S. Is Rising Most Rapidly Among Asians*, Pew Research Center (Jul. 12, 2018), <https://www.pewresearch.org/social-trends/2018/07/12/income-inequality-in-the-u-s-is-rising-most-rapidly-among-asians/> [last visited Apr. 8, 2021].

in home equity than homeowners in greenlined neighborhoods.<sup>107</sup> Policies that made it easier for white families to enter the middle class and accumulate wealth, such as the G.I. Bill, provided no such assistance to many families of color.<sup>108</sup> The concentration of generational wealth in white families then compounds the wealth gap problem: white families are more likely to be able to help their children and relatives with bequests and financial assistance, thus easing the way to further financial success.<sup>109</sup> There is no evidence suggesting the racial wealth gap will close on its own.

Racism is also a public health issue. People of color suffer negative health consequences from racist events as well as from the structural inequities built into our society over hundreds of years.

Direct exposure to racism has been linked to negative health outcomes such as depression, anxiety, and cardiovascular problems.<sup>110</sup> At the beginning of the trial of Derek Chauvin, the Minneapolis police officer who killed George Floyd, many Black people reported experiencing anxiety and reliving trauma related to reliving the event and anticipating an unjust result from a judicial system that rarely holds law enforcement accountable.<sup>111</sup> Experiencing microaggressions also leads to elevated levels of depression and trauma, and is linked to higher rates of suicidal thoughts.<sup>112</sup> Direct experiences of racism might even shorten life span, as high levels of racial discrimination have been found to correlate to shorter leukocyte telomere length – a biological marker for aging and a possible factor in heart disease, diabetes, dementia, Alzheimer’s disease, and arthritis.<sup>113</sup>

Racism by health care providers and medical professionals can make these outcomes worse. For example, a pervasive racist belief that Black people suffer pain at a lower rate than white people means that medical professionals often underestimate and undertreat Black people’s pain symptoms.<sup>114</sup> Nonwhite patients are also less likely to

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<sup>107</sup> Richardson, *Redlining’s Legacy of Inequality: Low Homeownership Rates, Less Equity for Black Households*, Forbes (Jun. 11, 2020), <https://www.forbes.com/sites/brendarichardson/2020/06/11/redlinings-legacy-of-inequality-low-homeownership-rates-less-equity-for-black-households/?sh=683948252a7c> [last visited Apr. 8, 2021].

<sup>108</sup> E.g., Katznelson, *When Affirmative Action was White* (2005), pp. 139-140.

<sup>109</sup> *Disparities in Wealth by Race and Ethnicity*, *supra*, fn. 104.

<sup>110</sup> E.g., Paradies, et al., *Racism as a Determinant of Health: A Systematic Review and Meta-Analysis*, PLoS One (Sept. 2015), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4580597/> [last visited Apr. 8, 2021].

<sup>111</sup> E.g., All Things Considered, *The Trauma Of George Floyd's Killing Has Been Renewed With Start Of Chauvin Trial*, NPR (Mar. 29, 2021), <https://www.npr.org/2021/03/29/982417659/the-trauma-of-george-floyds-killing-has-been-renewed-with-start-of-chauvin-trial> [last visited Apr. 1, 2021].

<sup>112</sup> E.g., Torino, *How racism and microaggressions lead to worse health*, Center for Health Journalism (Nov. 10, 2017), available at <https://centerforhealthjournalism.org/2017/11/08/how-racism-and-microaggressions-lead-worse-health> [last visited Apr. 8, 2021];

<sup>113</sup> National Institute on Aging, *Telomere length associated with racial bias, discrimination*, U.S. Department of Health & Human Services (May 21, 2014), <https://www.nia.nih.gov/news/telomere-length-associated-racial-bias-discrimination> [last visited Apr. 8, 2021].

<sup>114</sup> E.g., Hoffman, et al., *Racial bias in pain assessment and treatment recommendations, and false beliefs about biological differences between blacks and whites*, Proceedings of the National Academy of Sciences of the

receive certain evaluations and procedures than white patients presenting the same symptoms.<sup>115</sup> In the context of law enforcement, direct racism is deadly: Black people are killed by police at more than twice the rate, and Latinos at nearly twice the rate, of white people.<sup>116</sup>

Indirect exposure to racism – simply living in a society shaped by racism – also causes health problems. The racist housing policies discussed above have pushed many people of color to live near freeways and other health hazards, which causes higher rates of asthma, heart attacks, strokes, lung cancer, pre-term births, childhood obesity, autism, and dementia.<sup>117</sup> Residents in formerly redlined areas also experience similarly high rates of health conditions such as asthma and cancer.<sup>118</sup> California has the worst racial gap in the western United States in terms of average exposure to nitrogen dioxide.<sup>119</sup> Race is the strongest predictor of access to indoor plumbing; Indigenous households are 19 times more likely than white households to lack indoor plumbing.<sup>120</sup>

The negative effects of racism are further exacerbated by the distrust many people of color have in the medical system<sup>121</sup> – for good historical reasons. The United States has a history of operating and experimenting on people of colors’ bodies without consent. Recent examples include the forced or coerced sterilization of Latinos under California’s eugenics laws;<sup>122</sup> the Tuskegee syphilis “study,” which ran from 1932-1972;<sup>123</sup> the forced

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United States of America (Apr. 19, 2016), available at <https://www.pnas.org/content/113/16/4296> [last visited Apr. 8, 2021].

<sup>115</sup> Dehon, et al., *A Systematic Review of the Impact of Physician Implicit Racial Bias in Decisionmaking*, *Academic Emergency Medicine*, Vol, 24, Iss. 8 (May 2017), available at <https://onlinelibrary.wiley.com/doi/full/10.1111/acem.13214> [last visited Apr. 8, 2021].

<sup>116</sup> Tate, Jenkins, & Rich, *Fatal Force*, *Washington Post* (updated Mar. 28, 2021), <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/> [last visited Apr. 8, 2021].

<sup>117</sup> Barboza & Schleuss, *L.A. keeps building near freeways, even though living there makes people sick*, *Los Angeles Times* (Mar. 2, 2017), available at <https://www.latimes.com/projects/la-me-freeway-pollution/> [last visited Apr. 8, 2021]; Katz, *People in Poor Neighborhoods Breathe More Hazardous Particulates*, *Scientific American* (Nov. 2021), <https://www.scientificamerican.com/article/people-poor-neighborhoods-breathe-more-hazardous-particles/> [last visited Apr. 8, 2021].

<sup>118</sup> Nardone, Chiang, & Corborn, *Historic Redlining Urban Health Today in U.S. Cities*, *Environmental Justice*, 13:4 (2020), at p. 110, available at [http://iurd.berkeley.edu/uploads/Nardone\\_Chiang\\_Corburn\\_2020\\_Redlining\\_Urban\\_Health.pdf](http://iurd.berkeley.edu/uploads/Nardone_Chiang_Corburn_2020_Redlining_Urban_Health.pdf) [last visited Apr.8, 2021].

<sup>119</sup> Badger, *Pollution is segregated, too*, *Washington Post* (Apr. 15, 2014), <https://www.washingtonpost.com/news/wonk/wp/2014/04/15/pollution-is-substantially-worse-in-minority-neighborhoods-across-the-u-s/> [last visited Apr. 8, 2021].

<sup>120</sup> U.S. Water Alliance, Report, *Closing the Water Access Gap in the United States* (2020) pp. 17, 22, [http://uswateralliance.org/sites/uswateralliance.org/files/Closing%20the%20Water%20Access%20Gap%20in%20the%20United%20States\\_DIGITAL.pdf](http://uswateralliance.org/sites/uswateralliance.org/files/Closing%20the%20Water%20Access%20Gap%20in%20the%20United%20States_DIGITAL.pdf) [last visited Apr. 8, 2021].

<sup>121</sup> Sullivan, *Trust, Risk, and Race in American Medicine*, *Hastings Center Report*, 50:1 (Feb. 18, 2020), available at <https://onlinelibrary.wiley.com/doi/10.1002/hast.1080> [last visited Apr. 8, 2021] (*Trust, Risk, and Race in American Medicine*).

<sup>122</sup> Novak, et al, *Disproportionate Sterilization of Latinos Under California’s Eugenic Sterilization Program, 1920–1945*, *Am. J. Pub. Health* (May 2018), at pp. 611-613.

<sup>123</sup> Brandt, *Racism and Research: The Case of the Tuskegee Syphilis Study*, *Hastings Center Report*, 8:6 (1977).

sterilization of Indigenous women in the 1960s and 1970s; and repeatedly using Indigenous children as test subjects without their parents' consent.<sup>124</sup> The result is that people of color are less likely to seek early care or preventive treatments.<sup>125</sup>

The COVID-19 pandemic is a stark example of how a history of racism continues to harm people of color. The historical factors that combined to cause today's racial wealth and health gaps also made communities of color especially susceptible to severe cases of COVID-19.<sup>126</sup> One study found that people living in formerly redlined neighborhoods are more susceptible to COVID-19 complications.<sup>127</sup> Yet due to centuries of treatment at the hands of a predominately white medical establishment, people of color have initially expressed more vaccine hesitancy than white people.<sup>128</sup>

4. This bill creates the Office of Racial Equality to proactively ensure California's policies do not perpetuate structural inequalities caused by institutional racism

We have all heard the story: two young fish are swimming along and they happen to meet an older fish swimming the other way, who nods at them and says, "Morning, folks. How's the water?" And the two young fish swim on for a bit, and then eventually one of them looks over at the other and says, "What's water?"

We should not let racism – individual, institutional, and structural – be our water. The California government has, in recent years, taken discrete steps to resolve and atone for past racist policies.<sup>129</sup> But there has not yet been a holistic effort to dismantle the racism that continues to lurk in our state's policies, nor has there been a statewide project dedicated to ensuring that all future policies are antiracist.

The federal government has recently undertaken such a project. On January 20, 2021, President Joseph R. Biden signed an executive order acknowledging the existence of systematic racism and announcing:

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<sup>124</sup> Controller General of the United States, Letter Report HRD-77-3 (Nov. 4, 1975), at p. 3, *available at* <https://www.gao.gov/assets/hrd-77-3.pdf> [last visited Apr. 8, 2021]; Hedgpeth, *How Native Americans were vaccinated against smallpox, then pushed off their land*, Washington Post (Mar. 28, 2021), <https://www.washingtonpost.com/history/2021/03/28/native-americans-vaccine-smallpox-covid/> [last visited Apr. 8, 2021].

<sup>125</sup> *Trust, Risk, and Race in American Medicine*, *supra*, fn. 121.

<sup>126</sup> E.g., McNeil, *Why People of Color Are Suffering More from COVID-19*, TuftsNow (Jul. 10, 2020), <https://now.tufts.edu/articles/why-people-color-are-suffering-more-covid-19> [last visited Apr. 8, 2021].

<sup>127</sup> Kim, *New Study Finds Formerly Redlined Neighborhoods Are More At Risk For COVID-19*, WBUR (Sept. 19, 2020), <https://www.wbur.org/hereandnow/2020/09/14/redlined-neighborhoods-coronavirus-study> [last visited Apr. 1, 2021].

<sup>128</sup> E.g., Golden, *COVID-19 Vaccines and People of Color*, Johns Hopkins Medicine (Mar. 18, 2021), <https://www.hopkinsmedicine.org/health/conditions-and-diseases/coronavirus/covid19-vaccines-and-people-of-color> [last visited Apr. 8, 2021].

<sup>129</sup> E.g., AB 3121 (Weber, Ch. 319, Stats. 2020) (establishing a Task Force to develop reparations proposals for African Americans, with special considerations for descendants of enslaved persons); AB 1467 (Committee on Budget, Ch. 23, Stats. 2012) (establishing Office of Health Equity); Health & Saf. Code, § 11361.8 (permitting persons convicted of certain cannabis-related offenses that are now legal to petition for a recall or dismissal of their sentence).

It is therefore the policy of my Administration that the Federal Government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Affirmatively advancing equity, civil rights, racial justice, and equal opportunity is the responsibility of the whole of our Government. Because advancing equity requires a systematic approach to embedding fairness in decision-making processes, executive departments and agencies (agencies) must recognize and work to redress inequities in their policies and programs that serve as barriers to equal opportunity.<sup>130</sup>

The order goes on to instruct the Director of the Office of Management and Budget, in partnership with the heads of agencies, to study methods for assessing whether agency policies and actions create or exacerbate barriers to full and equal participation by eligible individuals, and deliver a report to the President describing the best practices identified by the study.<sup>131</sup> Each agency head would also conduct a review of selected programs to assess whether existing programs have systematic barriers to access by members of underserved communities.<sup>132</sup>

This bill would create a similar program in the state of California, by establishing the Office of Racial Equity (Office), governed by the nine-member Racial Equity Advisory and Accountability Council (Council). The Office will, in consultation with state agencies and departments, develop a statewide Racial Equity Framework (Framework) that will be submitted to the Governor and the Legislature by January 1, 2023. The Framework will set forth a vision for racial equity in the state by providing guidelines for inclusive policies and practices to reduce racial inequalities, establish goals to advance racial equity, and address structural racism and racial inequities; and the Framework must be updated at least every three years. The Office will also prepare an annual report that evaluates and reports on progress in meeting statewide goals and policies established under the Framework, which will be submitted to the Governor and the Legislature and posted publicly online.

Under the guidance of the Office's Framework, each state agency will develop and implement a Racial Equity Action Plan, and submit it to the Office for review and approval. These Racial Equity Action Plans will describe how the state agency will address racial inequalities within the agency and through its programs. The Office will also, in consultation with state agencies and departments, establish methodologies for assessing how state statutes and policies continue to uphold or exacerbate racial disparities. The Office will also submit an annual racial equity impact analysis of the proposed budget to the Governor and the Legislature no later than 60 days after the

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<sup>130</sup> Exec. Order No. 13985, 86 Fed. Reg. 7009 (Jan. 25, 2021).

<sup>131</sup> *Ibid.*

<sup>132</sup> *Ibid.*

release of the Governor's proposed budget. The Office would thus ensure that the state is moving forward to deliberately and meaningfully eliminate racism from our existing policies and keep racism out of new policies moving forward.

The bill will sunset on January 1, 2029, giving the Legislature the opportunity to revisit the Office and its effectiveness after the Framework has been in place for several years.

## 5. Amendments

The author has agreed to take several technical amendments to the bill to correct punctuation and language issues, correct minor historical issues, and clarify the bill. The amendments also add co-authors and expand on the paucity of the public mental health system.

### Amendment 1

In the heading, in line 3, after "Senators," insert "Becker,"

### Amendment 2

In the heading, in line 3, after "Gonzalez," insert "Min,"

### Amendment 3

On page 3, in line 3, strike out "projects" and insert "project"

### Amendment 4

On page 3, in line 4, strike out "Democracy," and insert "democracy,"

### Amendment 5

On page 3, in line 30, strike out "The state's first Governor," and insert "California's first governor after becoming a state, Governor"

### Amendment 6

On page 4, in line 21, strike out the second "the"

### Amendment 7

On page 5, in line 10, strike out "leaders," and insert "leaders"



Amendment 8

On page 5, in line 15, after the first comma insert “force them to”

Amendment 9

On page 5, in line 19, after the second comma insert “the”

Amendment 10

On page 5, in line 20, strike out “city” and insert “City”

Amendment 11

On page 5, in line 24, strike out “up” and insert “up,”

Amendment 12

On page 5, in line 25, strike out “governor” and insert “Governor”

Amendment 13

On page 6, in line 4, strike out “crimes such as” and insert “crimes, including”

Amendment 14

On page 6, in line 4, strike out “theft” and insert “theft,”

Amendment 15

On page 6, in line 13, strike out “following,” and insert “following”

Amendment 16

On page 6, in line 28, strike out “quality,” and insert “quality”

Amendment 17

On page 6, in line 29, strike out “contributing” and insert “contribute”

Amendment 18

On page 6, in line 30, after “including” insert “in”

Amendment 19

On page 7, in line 26, strike out “transwomen” and insert “transwomen,”

Amendment 20

On page 7, in line 36, strike out “qualities” and insert “quality”

Amendment 21

On page 7, between lines 37 and 38, insert “(8) Disparities exist in California’s system of mental health care, and the identification and incorporation of culturally and linguistically appropriate practices and data in public mental health is lagging.”

Amendment 22

On page 9, in line 6, after the period insert “This new policy framework and leadership will also help our state, local governments, and community-based agencies craft strategies for reducing mental health disparities in BIPOC communities that will become an estimated 62 percent of the state’s population by 2030.”

Amendment 23

On page 9, in line 8, strike out “prove” and insert “provide”

Amendment 24

On page 9, in line 10, strike out “inequity,” and insert “inequity”

Amendment 25

On page 9, in line 31, strike out “article, the following terms have the”, strike out line 32, and insert “chapter:”

Amendment 26

On page 12, in line 30, strike out “Legislature” and insert “Legislature, pursuant to Section 9795,”

Amendment 27

On page 13, in line 19, strike out “analysis” and insert “analyses”

6. Arguments in Support

According to the bill’s sponsors Advancement Project California, Community Coalition NextGen Policy, Public Health Advocates, SEIU State Council, and The Greenlining Institute:

Advancement Project California, along with its partners, recently introduced a platform called *RACE COUNTS COVID-19: Statewide Vulnerability and Recovery Index*, which found that people of color are less likely to have access to early childhood education programs, carry health insurance, own a home, vote, and feel safe in their neighborhoods. According to state data, Latino, African American, and Native Hawaiian/Pacific Islander Californians have suffered disproportionately high rates of COVID-19 deaths. The deep racial inequities that underlie these statistics are not coincidental – they are the product of decades of governmental and non-governmental policies and practices that were explicitly racist and unequal.

For many generations, Californians of color have felt the social and economic weight of these inequities – redlining, insufficient educational funding, income inequality, mass incarceration, and disproportionately negative health outcomes without avenues for relief and/or redress. This lack of equal access to services, programs, and other resources has exacerbated the plight of our most vulnerable populations and historically underserved communities. It is incumbent on California to take the next step to address systematic racism in government policies and programs by establishing an Office of Racial Equity which will provide the state with the framework, tools, and statutory standing to not only address the harms of the past but the perspective and statutory authority to create an equitable future for all Californians.

**SUPPORT**

Advancement Project California (co-sponsor)  
Community Coalition (co-sponsor)  
NextGen Policy (co-sponsor)  
Public Health Advocates (co-sponsor)  
SEIU State Council (co-sponsor)  
The Greenlining Institute (co-sponsor)  
A New Way of Life Reentry Project  
Alliance San Diego  
American Academy of Pediatrics, California  
APLA Health  
Asian Pacific Environmental Network  
Asian Pacific Policy & Planning Council  
Bay Area Rapid Transit District  
Black Leadership Council

Brotherhood Crusade  
CA4Health  
California Access Coalition  
California Alliance of Child and Family Services  
California Association of Food Banks  
California Association of Public Hospitals and Health Systems  
California Black Women's Health Project  
California Calls  
California Dental Association  
California Health+ Advocates  
California Hepatitis Alliance  
California Latinas for Reproductive Justice  
California League of Conservation Voters  
California Nurses Association/National Nurses United  
California Pan-Ethnic Health Network  
California ReLeaf  
California State PTA  
California Teachers Association  
Californians for Safety and Justice  
Climate Action Campaign  
Community Clinic Association of Los Angeles County  
County Behavioral Health Directors Association of California  
County Health Executives Association of California  
County of San Diego  
County Welfare Directors Association of California  
Courage California  
Desert AIDS Project  
Disability Rights California  
Empowering Pacific Islander Communities  
End Hep C SF  
End the Epidemics  
Environmental Defense Fund  
Friends Committee on Legislation of California  
Human Impact Partners  
L.A. Health Care Plan  
Latino Coalition for a Healthy California  
Little Manila Rising  
Los Angeles County Board of Supervisors  
Los Angeles LGBT Center  
Mid-City Community Advocacy Network  
NARAL Pro-Choice California  
National Alliance on Mental Illness - California  
National Union of Healthcare Workers

Prevention Institute  
PolicyLink  
Rising Sun Center for Opportunity  
San Francisco AIDS Foundation  
San Francisco Hep B Free – Bay Area  
San Francisco-Marin Food Bank  
Southeast Asia Resource Action Center  
State Treasurer Fiona Ma  
Union of Concerned Scientists  
United Ways of California  
West Coast Children’s Clinic  
Western Center on Law & Poverty

### **OPPOSITION**

None known

### **RELATED LEGISLATION**

#### **Pending Legislation:**

SB 682 (Rubio, 2021) requires the Health and Human Services Agency, in collaboration with other state entities, to develop and implement a plan that establishes targets to reduce racial disparities in health outcomes by 50 percent by December 31, 2030. SB 682 is pending before the Senate Health Committee.

SB 471 (Hueso, 2021) establishes the Racial and Economic Equity Bond Act of 2021, which would issue bonds and allocate the proceeds to various historically underserved and underresourced communities. SB 471 is pending before the Senate Business, Professions, and Economic Development Committee.

AB 1204 (Wicks, 2021) establishes the Medical Equity Disclosure Act, which requires specified medical providers to prepare annual equity reports setting forth an analysis of the provider’s health status and access to care disparities for patients on the basis of race, ethnicity, and payor, an analysis of employment disparities for employees on the basis of race, ethnicity, and gender, and plans for addressing those health care and employment disparities. AB 1204 is pending before the Assembly Health Committee.

AB 656 (Carrillo, 2021) establishes a pilot project for the purposes of addressing racial disparities in the child welfare system, with the goal of advancing racial equity in that system. AB 656 is pending before the Assembly Committee on Human Services.

AB 595 (Medina, 2021) requires the Trustees of the California State University, and requests the Regents of the University of California, prior to adding undergraduate eligibility requirements, to determine whether the proposed requirement would have a

disparate impact on underrepresented groups and present the policy change to the appropriate Legislative committees prior to adoption. AB 595 is pending before the Assembly Committee on Higher Education.

AB 318 (Cooper, 2021) requires the Department of Human Resources to, prior to January 1, 2023, and once every two years thereafter, evaluate all state civil service classifications in the Personnel Classification Plan and prepare a detailed report on gender and ethnicity pay equity in each classification where there is an underrepresentation of women and minorities. AB 318 is pending before the Assembly Committee on Public Employment and retirement.

Prior Legislation:

SCR 92 (Pan, 2020) would have recognized racism as a public health crisis and resolved that the Legislature intends to, and urges the Governor to, approach laws and regulations with an antiracist, Health-in-All policy equity-driven focus that interrogates whether policies play a role in upholding or dismantling racist systems and to secure adequate resources to address the crisis. SCR 92 was held in the Senate Rules Committee due to the COVID-19 pandemic.

AB 3121 (Weber, Ch. 319, Stats. 2020) established a Task Force to study and develop proposals for making reparations to African Americans, with special considerations for African Americans Who are Descendants of Persons Enslaved in the United States.

AB 1930 (Medina, 2020) would have required the Trustees of the California State University, and requested the Regents of the University of California, prior to adding undergraduate eligibility requirements, to determine whether the proposed requirement would have a disparate impact on underrepresented groups and present the policy change to the appropriate Legislative committees prior to adoption. AB 1930 died in the Senate Appropriations Committee.

AB 2434 (Bloom, 2018) would have established the Health in All Policies Program, for the purposes of incorporating health, equity, and sustainability considerations into decision-making across sectors and policy areas. AB 2434 died in the Senate Appropriations Committee.

**PRIOR VOTES:**

Senate Governmental Organization Committee (Ayes 9, Noes 3)

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