

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

SB 435 (Gonzalez)
Version: March 16, 2023
Hearing Date: April 11, 2023
Fiscal: Yes
Urgency: No
AM

SUBJECT

State agencies: collection of demographic data

DIGEST

This bill requires specified state agencies, in the course of collecting demographic data as to the ancestry or ethnic origin of California residents, to use separate collection categories that offer respondents the option of selecting one or more ethnic or racial designations or languages and tabulations for each major Latino group, each major Mesoamerican Indigenous nation, and each major Mesoamerican Indigenous language group, as provided. The bill requires the data collected to be included in every demographic report on ancestry or ethnic origins of Californians by the state agency published or released on or after July 1, 2025, but prohibits any personal identifying information from being disclosed.

EXECUTIVE SUMMARY

According to the author and the sponsors of the bill, the Latino community is very diverse and varies widely in terms of ethnicity, culture, and language. During the COVID-19 pandemic, Latino subgroups and Indigenous Latin Americans experienced disparate health and life outcomes based on these differences and these disparities continue to exist today. Without accurately disaggregated data, policymakers and public health experts are unable to properly address the needs within these communities because their experiences are concealed under the monolithic term "Latino." This bill addresses this issue by requiring certain state agencies to expand the demographic data they collect to include more detailed information about each major Latino group and each major Mesoamerican Indigenous nation. The bill is sponsored by Latino Coalition for a Healthy California, Mixteco/Indígena Community Organizer Project, and Centro Binacional Para El Desarrollo Indígena Oaxaqueño. The bill is supported by a broad coalition of organizations and groups. There is no known opposition. The bill passed the Senate Governmental Organization Committee on a vote of 10 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Requires a state agency, board, or commission that directly or by contract collects demographic data as to the ancestry or ethnic origin of Californians to use separate collection categories and tabulations for specified Asian groups and Pacific Islander groups. (Gov. Code § 8310.5(a).)
 - a) Requires the data collected to be included in every demographic report on ancestry or ethnic origins of California residents that the agency, board, or commission publishes or releases. (*Id.* at (b).)
 - b) Provides that the data is to be made available to the public in accordance with state and federal law, except for personal identifying information, which shall be deemed confidential. (*Ibid.*)
- 2) Requires the Department of Industrial Relations (DIR) and the Department of Fair Employment and Housing (DFEH) to use additional separate collection categories and other tabulations for major Asian groups and Native Hawaiian and other Pacific Islander groups. (Gov. Code § 8310.7.)
- 3) Requires California Department of Public Health (CDPH), on or after July 1, 2022, to the extent funding is appropriated, when collecting demographic data as to the ancestry or ethnic origin of persons for a report that includes rates for major diseases, leading causes of death per demographic, subcategories for leading causes of death in California overall, pregnancy rates, or housing numbers to use additional separate collection categories and other tabulations for major Asian groups and Native Hawaiian and other Pacific Islander groups. (*Ibid.*)
- 4) Requires that a statute limiting the right to access to the meetings of public bodies or the writing of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.
- 5) Provides, pursuant to the California Constitution, that the people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies are required to be open to public scrutiny. (Cal. const. art. I, § 3(b)(1).)
 - a) Requires a statute to be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. (Cal. const. art. I, § 3(b)(1).)
 - b) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)

- 6) Governs the disclosure of information collected and maintained by public agencies pursuant to the CPRA. (Gov. Code §§ 7920.000 et seq.)
 - a) States that, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Code § 7922.530.)
 - b) Provides that all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure. (Gov. Code § 7922.530.)

This bill:

- 1) Requires a state agency, in the course of collecting demographic data as to the ancestry or ethnic origin of California residents, to use separate collection categories that offer respondents the option of selecting one or more ethnic or racial designations or languages and tabulations for all of the following:
 - a) each major Latino group, including, but not limited to, Mexican, Salvadoran, Guatemalan, Honduran, Nicaraguan, Costa Rican, Panamanian, Belizean, Puerto Rican, Dominican, Cuban, South American;
 - b) each major Mesoamerican Indigenous nation, including, but not limited to, Maya, Aztec, Mixteco, Zapoteco, and Triqui; and
 - c) each major Mesoamerican Indigenous language group, including, but not limited to, Zapoteco, Chinanteco, K'iche, Nahuatl, Mixteco, Purépecha, Tzotsil, Mayan, Amuzgo, Ayuujk (Mixe), Mam, Popti, Q'anjob'al, Triqui, Chatino.
- 2) Defines "state agency" to mean any of the following state entities:
 - a) State Department of Health Care Services.
 - b) State Department of Social Services.
 - c) California Department of Aging.
 - d) Department of Health Care Access and Information.
- 3) Requires the data collected pursuant to this bill to be included in every demographic report on ancestry or ethnic origins of Californians by the state agency published or released on or after July 1, 2025.
- 4) Requires, to the extent funding is specifically appropriated, on or after January 1, 2024, the State Department of Public Health to collect and tabulate data for the groups described above whenever collecting demographic data as to the ancestry or ethnic origin of persons for a report that includes rates for major diseases, leading causes of death in California overall, pregnancy, housing, and mental health rates.

- 5) Requires, on or after July 1, 2025, and annually thereafter, a state agency to report to the Legislature data collected pursuant to this bill and the methods used to collect the data.
 - a) Requires a state agency to make the data available to the public in accordance with state and federal law, including posting the data on the internet website of the state agency, except for personal identifying information, which is deemed confidential and prohibited from being disclosed.
 - b) Prohibits a state agency from reporting demographic data that would permit identification of individuals and from reporting demographic data that would result in statistical unreliability.
- 6) Requires a state agency, 18 months after a decennial United States Census is released to the public, to update the agency's data collection to reflect the additional Latino groups, major specific Mesoamerican Indigenous nations, and major Mesoamerican groups as they are reported by the United States Census Bureau.

COMMENTS

1. Stated need for the bill

The author writes:

Latinos make up 40% of California's population. However, within the Latino community there are several ethnic subgroups that have diverse health outcomes. Within the state, instead of looking at these subgroups individually and understanding the challenges they each face, they are viewed as a monolith, which can lead to policymakers and researchers relying on less detailed information that may be collected inconsistently. An example that illustrates the need for more detailed information is current research that has shown that Puerto Ricans have the highest prevalence of asthma in the US mainland at 16%, whereas Latinos of Mexican origin have the lowest prevalence of asthmas at 5.4%. This highlights how health data collected by the State isn't necessarily reflective of the diversity of various subgroups within Latino populations and ignores the health trends within those subgroups.

Data disaggregation is imperative for discovering disparities among the Latino community and addressing them effectively. During the height of the COVID-19 pandemic, Indigenous communities could not access timely and reliable information to access vaccines in California and suffered a higher death rate as a result. SB 435 takes the critical and necessary first step to uncover trends and potential disparities that are often hidden in aggregated numbers for Latinos and Indigenous Latin Americans in California by requiring public health state agencies, to collect and disaggregate data for specified subgroups.

2. Limiting access to personal identifying information collected by state agencies appears consistent with the state's right to privacy and limits on disclosure of public records

This bill seeks to have certain state agencies collect more detailed demographic data under their existing data collection duties for each major Latino group, each major Mesoamerican Indigenous nation, and each major Mesoamerican Indigenous language group. The bill exempts personal identifying information collected by those state agencies from being disclosed to the public and deems it confidential. The bill provides that this limitation on access to public records ensures the privacy of California residents is protected while also publicizing useful demographic data. To ensure further protection, the bill also prohibits an agency from reporting demographic data that would permit identification of individuals. The bill's exemption for personal identifying information is in line with other existing exemptions related to the collection of demographic data by state agencies and, therefore, the finding on the need for protecting the privacy of California residents seems warranted. (See Gov. Code § 8310.5(b).)

3. Statements in support

The Latino Coalition for a Healthy California, one of the sponsors of the bill, writes in support stating:

Latino subgroups and Meso-American Indigenous Nations have specific needs, such as Indigenous language access, to obtain quality and reliable information and services from our state agencies and programs. During the height of the COVID-19 pandemic, Indigenous communities could not access timely and reliable information to access vaccines in California and suffered higher deaths as a result. Without disaggregated data, policymakers and researchers must rely on less detailed data released by state agencies or local data that may be collected inconsistently in different jurisdictions, leading to health and related inequities.

SUPPORT

Latino Coalition for a Healthy California (sponsor)

Mixteco/Indigena Community Organizer Project (sponsor)

Centro Binacional Para El Desarrollo Indígena Oaxaqueño (sponsor)

AARP

ACCESS Reproductive Justice

Alliance for a Better Community

AltaMed Health Services

API Equality-LA

Asian Americans Advancing Justice-Southern California

Asian Pacific Partners for Empowerment, Advocacy and Leadership

Asociacion De Migrantes Guatemaltecos, LA
Berkeley Health Initiative of the Americas
Buen Vecino
California Black Health Network
California Dental Association
California Food and Farming Network
California Institute for Rural Studies
California Latinas for Reproductive Justice
California LGBTQ Health and Human Services Network
California Pan - Ethnic Health Network
California Rural Legal Assistance Foundation, Inc.
Casa Del Diabetico Gualan
Center for Asian Americans in Action
Central California Environmental Justice Network
Central Coast Alliance United for a Sustainable Economy
Central Valley Immigrant Integration Collaborative
Ceres Community Project
Children Now
Chinatown Service Center
Coalition for Humane Immigrant Rights
Communities United for Restorative Youth Justice
Community Health Councils
Diligencias Corporation
Disability Rights California
Food Empowerment Project
Fund for Santa Barbara
Having Our Say Coalition
Health Education Council
Health Equity Initiative, UCSB
Interface Children & Family Services
Justice in Aging
Kids in Need of Defense
Leaders LA
Los Amigos de la Comunidad, Imperial Valley
Maternal and Child Health Access
National Health Law Program
Nourish California
Public Health Advocates
Regional Asthma Management & Prevention
Sacramento Native American Health Center, Inc.
San Francisco Aids Foundation
San Ysidro Health
Sistahfriend's Women's Counseling and Eldercare Management
Service Employees International Union California (SEIU)

Southeast Asia Resource Action Center
Thai Community Development Center
The Children's Partnership
The Unity Council
Training in Early Abortion for Comprehensive Health Care
Training Occupational Development Educating Communities
UCLA Latino Policy and Politics Institute
Union De Guatemaltecos Emigrantes
Vision Y Compromiso
Western Center on Law & Poverty
1 individual

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

AB 1358 (Muratsuchi, 2022) would have expanded the requirement for certain state agencies to collect disaggregated ethnicity data and would have standardized the collection and tabulation of demographic information by local health officers and health care providers. (Held in the Senate Appropriations Suspense File)

AB 1726 (Bonta, Ch. 607, Stats. 2016) requires CDPH to collect demographic data related to each major Asian and Pacific Islander group, as specified.

AB 176 (Bonta, 2015) would have added a requirement for the collection of demographic data by the state's public segments of postsecondary education and the Department of Managed Health Care pertaining to the collection and tabulation categories for Native Hawaiian, Asian, and Pacific Islander groups. This bill was vetoed by then Governor Brown who stated "[d]espite this utility, I am wary of the ever growing desire to stratify. Dividing people into ethnic or other subcategories may yield more information, but not necessarily greater wisdom about what actions should follow. To focus just on ethnic identity may not be enough..."

AB 1088 (Eng, Ch. 689, Stats. 2011) requires certain state agencies to collect and tabulate data for additional major Asian groups, as listed, in order to better reflect the diversity of Asian American, Hawaiian and Pacific islander Communities in California.

PRIOR VOTES:

Senate Governmental Organization Committee (10 Ayes, 0 Noes)
