

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

AB 3031 (Lee)
Version: April 11, 2024
Hearing Date: June 18, 2024
Fiscal: Yes
Urgency: No
ID

SUBJECT

LGBTQ+ Commission

DIGEST

This bill establishes the LGBTQ+ Commission with the goals of acting in an advisory capacity to the Legislature and the Governor, engaging in fact finding and data collection, reviewing and assessing programs affecting the state's LGBTQ+ community, and providing the Legislature and Governor with information and recommendations to address the needs of California's LGBTQ+ community.

EXECUTIVE SUMMARY

There are 2.7 million LGBTQ+ people in California, comprising 9.1% of the state's adult population. California's LGBTQ+ community represents a broad swath of the state's population and its racial diversity. However, LGBTQ+ people in California and throughout the nation have long experienced discrimination, threats of harm, familial rejection, and denials of their basic rights. In recent years, the LGBTQ+ community has come under significant attack across the country and in California. Thus, while the state has made significant strides in protecting its LGBTQ+ communities, much more work is needed to ensure LGBTQ+ individuals' rights, health, equity, and prosperity. This bill aims to address the needs of California's LGBTQ+ community through the creation of a statewide LGBTQ+ Commission (hereafter, Commission), which would make recommendations to the Legislature and the Governor. The Commission will consist of nine members appointed by the Governor and the Legislature, as specified. The Commission would be required to meet quarterly starting July 1, 2025, and to submit annual reports to the Legislature and Governor on the information it has collected and its policy recommendations annually beginning January 1, 2027. AB 3031 is sponsored by Equality California and supported by a variety of democratic clubs, professional associations, and local governments. The Committee has received no timely opposition. If AB 3031 passes this Committee, it will next be heard in the Senate Committee on Governmental Organization.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Lesbian, Gay, Bisexual, and Transgender Disparities Reduction Act, which requires specified state entities, in the course of collecting demographic data directly or by contract as to the ancestry or ethnic origin of Californians, to also collect voluntary self-identification information pertaining to sexual orientation, gender identity, and intersexuality. (Gov. Code § 8310.8.)
- 2) Provides that no person in the State of California shall be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity administered or funded by the state, on the basis of their sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, shall be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state. (Gov. Code § 11135.)
- 3) Requires the Superintendent of Education to convene an advisory task force to identify the needs of LGBTQ+ students and make recommendations to the Legislature, Governor, and Superintendent. (Edu. Code § 219.)

This bill:

- 1) Establishes the LGBTQ+ Commission to be composed of nine members, appointed with consideration to individuals who represent the geographical, racial, gender, diverse identities, ethnic, socioeconomic, cultural, age, and educational diversity of California's lesbian, gay, bisexual, transgender, queer, questioning, and other (LGBTQ+) community as follows:
 - a) five members appointed by the Governor;
 - b) two members appointed by the Speaker of the Assembly;
 - c) two members appointed by the Senate Committee on Rules.
- 2) Establishes the LGBTQ+ Commission's goals to:
 - a) act in an advisory capacity to the Legislature and the Governor on policy matters affecting the state's LGBTQ+ community and its members;
 - b) engage in fact finding, data collection, and information gathering on matters impacting the state's LGBTQ+ community, including LGBTQ+ experiences and needs;
 - c) review, evaluate, and assess programs affecting the state's LGBTQ+ community; and,

- d) provide the Legislature and the Governor with information and recommendations for actions to be taken by the Governor and the Legislature, including, but not limited to, policy solutions and legislation that will help the state respond to the needs of the state's LGBTQ+ community.
- 3) Requires the LGBTQ+ Commission to convene quarterly meetings beginning July 1, 2025, to identify the statewide needs of the LGBTQ+ community and to assist in implementing supportive policies and initiatives to address the needs of the LGBTQ+ community, including, but not limited to, the following:
 - a) identifying systemic inequalities and barriers that affect the LGBTQ+ community;
 - b) identifying methods to improve and protect the health, safety, and well-being of the state's LGBTQ+ community and its members across all levels of state and local government;
 - c) monitoring state legislation and regulations affecting the LGBTQ+ community;
 - d) working with state agencies to assess programs and policies that affect the LGBTQ+ community;
 - e) coordinating with other related commissions to address issues of mutual concern;
 - f) working as a liaison between the public and private sector to eliminate barriers to economic and health equity for the LGBTQ+ community;
 - g) holding public hearings and gathering input on issues related to the unique problems and needs of the LGBTQ+ community; and
 - h) identifying challenges that impact current and former LGBTQ+ foster youth.
 - 4) Requires the LGBTQ+ Commission to submit a report to the Legislature and the Governor by January 1, 2027, and annually thereafter, summarizing the information gathered as described in 3) above and making policy recommendation to address the needs of the LGBTQ+ community.
 - a) Specifies that this report shall be submitted in compliance with the requirements under Government Code section 9795.

COMMENTS

1. Author's statement

According to the author:

California is one of the most diverse states in the country. According to the Public Policy Institute of California, we have the largest share of adults who identify as lesbian, gay, bisexual or transgender, compared to any other highly

populated state. About 2.7 million or roughly 9% of Californian adults identify as lesbian, gay, bisexual or transgender.

But there continue to be attempts at silencing the LGBTQ+ community in California and across the U.S. Between 2021 to 2022, there were over 391 reported hate crime events motivated by sexual orientation bias in California, an increase of 29% from the previous year. Meanwhile, local school boards are also moving to reverse the gains made by the LGBTQ+ community, whether it be banning displays of the pride flag or requiring parental notifications of students' gender identities. In addition, more than 200 pieces of anti-LGBTQ+ legislation in over 40 state legislatures were introduced in 2022, according to the State of Pride Report by the California Department of Justice.

As a state level body, the LGBTQ+ Commission will play an important role in informing policy and programs for the LGBTQ+ community, and is another important step forward to ensure that everyone can live authentically and inclusively in our community.

2. California's LGBTQ+ population and continued issues facing the LGBTQ community

Lesbian, gay, bisexual, transgender, and queer (LGBTQ) individuals have always been a part of California's communities. It is estimated that there are 2.7 million LGBTQ people in California, comprising 9.1% of the state's adult population.¹ California's LGBTQ community represents a broad swath of the state's population, and reflects the state's racial diversity. LGBTQ people contribute to California's communities, raise families, participate in the education system, and are a vibrant and valued part of California.

However, because of prejudice and misunderstanding, LGBTQ people in California and throughout the nation have long experienced discrimination, threats of harm, familial rejection, and denials of their basic rights. They have been denied employment opportunities or experienced harassment in the workplace. And they have been denied the rights to enjoy and access the same benefits that non-LGBTQ individuals enjoy. According to the Center for American Progress, 36% of LGBTQ Americans report facing some form of discrimination in the previous year, and more than 62% of transgender Americans reported experiencing discrimination.² This discrimination often happens in public spaces, at work, or in school. In fact, 35% of LGBTQ Americans report that discrimination negatively affected their ability to be hired, with a staggering 53%

¹ Hans Johnson, California's LGBT Population, Public Policy Institute of California (Jun. 28, 2022), available at <https://www.ppic.org/blog/californias-lgbt-population/>

² Caroline Medina & Lindsay Mahowald, "Discrimination and barriers to well-being; the state of the LGBTQI+ community in 2022," Center for American Progress (Jan. 12, 2023), available at <https://www.americanprogress.org/article/discrimination-and-barriers-to-well-being-the-state-of-the-lgbtqi-community-in-2022/>.

percent of transgender individuals reporting that discrimination moderately or significantly negatively impacted their ability to be hired.³ This impact was most significantly reported by lower-income LGBTQ+ individuals.

This discrimination and hate has a serious impact on LGBTQ+ individuals. 52% of LGBTQ+ people reported that their psychological well-being was negatively affected to a moderate or significant degree by discrimination.⁴ Moreover, many LGBTQ+ individuals change their behavior to avoid discrimination or harm, such as by hiding or not discussing their significant other, avoiding displays of affection in public spaces, or hiding or not disclosing their identity. The Center for American Progress's study showed that two-thirds of LGBTQ+ Americans report changing their behavior to avoid discrimination based on their sexual orientation, with another 55% of transgender individuals reporting changing their behavior to do so.⁵ In addition, more than half of LGBTQ+ individuals reported hiding a personal relationship to avoid discrimination, and around a third reported avoiding houses of worship, public places, family, certain work places, and law enforcement in order to avoid discrimination.⁶

In addition to discrimination, LGBTQ+ individuals often experience inequities and discrimination in healthcare, and a lack of LGBTQ-sensitive medical care. 33% of LGBTQ+ individuals report experiencing disrespectful or unfair treatment in access to medical care & gender-affirming care.⁷ Transgender individuals in particular experience discrimination and disparities in healthcare, with nearly half in a nationwide survey reporting a medical provider being visibly uncomfortable while treating them and reporting that they were intentionally mis-gendered.⁸ 34% report medical doctors or providers refused to provide gender-affirming healthcare.⁹

LGBTQ individuals face challenges and discrimination in school and at home as well. According to the California LGBTQ Youth Report produced by the Human Rights Campaign, only 32% of LGBTQ students say they can be themselves at school as an LGBTQ person, and 28% and 50% report having been threatened with physical violence or been teased or bullied because of their actual or perceived sexual orientation or gender identity.¹⁰ Many also experience discrimination and rejection at home: only 36% of LGBTQ youth, and fewer than one in three transgender and gender non-binary

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Alex Montero et al, "LGBT Adults' Experiences with Discrimination and Health Care Disparities: Findings from the KFF Survey of Racism, Discrimination, and Health," Kaiser Family Foundation (Apr. 2, 2024), available at <https://www.kff.org/report-section/lgbt-adults-experiences-with-discrimination-and-health-care-disparities-findings/>.

⁸ Medina, *supra* note 2.

⁹ *Id.*

¹⁰ Vincent Pompei, *California LGBTQ Youth Report*, Human Rights Campaign Foundation (2019).

youth, report their home being an LGBTQ-affirming space.¹¹ Many LGBTQ+ individuals experience familial and housing instability due to this rejection, and many are even kicked out of their homes for who they are. In fact, 28% of LGBTQ youth report experiencing homelessness or housing instability at some point in their lives.¹² These LGBTQ+ youth may leave their home to reside with other family, live with a friend or partner, experience homelessness, or end up in the foster care system. Such unsupportive environments have serious consequences for LGBTQ+ youth as well, as the Trevor Project reports that 45% of LGBTQ+ youth seriously considered taking their own lives in the past year.¹³ Those who have unsupportive families or school environments experience significantly higher rates of suicidality than those who do not.

Lastly, LGBTQ+ people continue to experience physical attacks and hate crimes because of their identity. 36% of LGBTQ+ youth report that they have been physically threatened or harmed due to their sexual orientation or gender identity.¹⁴ And in recent years, hate crimes toward LGBTQ+ Californians has increased. According to the Attorney General, hate crimes involving sexual orientation bias increased 47.8% in 2021, and between 2021 and 2022, hate crimes based on sexual orientation bias increased by 29%, while hate crimes against transgender individuals increased by 55%.¹⁵

3. California's progress on protecting the rights of and promoting the prosperity of its LGBTQ+ residents

The state of California has come a long way over the years in combating discrimination against LGBTQ individuals and protecting LGBTQ rights. It has ended its discriminatory laws against same-sex sexual activity, and has extended protections against discrimination in employment, housing, and public accommodations to protect against sexual orientation or gender identity discrimination. In 2011, the Legislature passed AB 9 (Ammiano, Ch. 723, Stats. 2011) to require public schools to adopt an enumerated anti-bullying policy that explicitly lists protections based on sexual orientation and gender identity. That same year, the Legislature enacted the FAIR Act (SB 48 (Leno), Ch. 81, Stats. 2011) to mandate the inclusion of LGBTQ individuals in school history and social science curriculum. A few years later the Legislature also enacted AB 1266 (Ammiano, Ch. 85, Stats. 2013) to require that a student at a public school be able to participate in gender-specific programs and activities, including school sports, and use school facilities consistent with their gender identity. In 2017, the

¹¹ The Trevor Project, "2022 National Survey on LGBTQ Youth Mental Health," (accessed Jun. 6, 2024), available at <https://www.thetrevorproject.org/survey-2022/>.

¹² The Trevor Project, *Homelessness and Housing Instability Among LGBTQ Youth*, (Feb. 3, 2022), available at <https://www.thetrevorproject.org/research-briefs/homelessness-and-housing-instability-among-lgbtq-youth-feb-2022/> (hereafter *Homelessness Among LGBTQ Youth*).

¹³ *Id.*

¹⁴ The Trevor Project, *supra* note 11.

¹⁵ California Attorney General, *2021: Hate Crime in California*, Cal. Dept. of Justice (Jun. 28, 2022); California Attorney General, *State of Pride Report*, Cal. Dept. of Justice (Jun. 2023).

Legislature enacted SB 179 (Atkins, Ch. 853, Stats. 2017), a landmark piece of legislation to recognize “non-binary” as a third gender marker in California’s codes, allowing people in the state to obtain a new birth certificate, driver’s license or identification card reflecting their gender as non-binary without having to obtain a court order. (Atkins, Ch. 853, Stats. 2017) In addition, in 2018 the Legislature passed ACR 260 (Low, Res. Ch. 190, Stats. 2018), calling for a coordinated effort among state agencies and the Legislature to draft laws, policies, regulations, and other state agency guidance in a manner that is inclusive of transgender people and people who do not identify with the gender binary.

Even more recently, the Legislature continued making progress for LGBTQ+ rights. In 2023, the Legislature enacted SB 407 (Wiener, Ch. 226, Stats. 2023), SB 760 (Newman, Ch. 227, Stats. 2023), and SB 857 (Laird, Ch. 228, Stats. 2023) to strengthen laws that ensure that LGBTQ+ foster youth are placed in homes affirming of their LGBTQ+ identities, require public schools in California to provide at least one accessible all-gender restroom for students to use safely and comfortably during school hours, and to convene an advisory taskforce to identify the needs of and solutions for LGBTQ+ students. The state also took the first steps toward repealing the constitutionally-void provisions of the state’s Constitution that define a marriage as between a man and a woman. (ACA 5 (Low), Ch. 125, Stats. 2023.)

However, significant challenges remain for the LGBTQ+ Californians, and in recent years, the LGBTQ+ community has been under attack. In 2023, the Human Rights Campaign identified over 520 anti-LGBTQ+ bills introduced in state legislatures throughout the country, with over 220 of those bills specifically targeting transgender and gender non-binary people.¹⁶ So far in 2024, the ACLU is tracking 515 anti-LGBTQ+ bills that have been introduced across the country since the start of the year.¹⁷ Local attacks on the LGBTQ+ community have developed within California as well. Just within the past year, local school boards, including a school board in Chino Hills, have passed policies requiring schools and teachers to forcibly out their students to their parents if the student identifies as transgender or asks to go by different pronouns or a name that differs from the name and gender they were assigned at birth.¹⁸ In addition, the state has seen schools ban the LGBTQ+ pride flag and books on LGBTQ+ topics and leaders, and has seen violent groups threaten and attack LGBTQ+ events and drag

¹⁶ Cullen Peele, “Roundup of Anti-LGBTQ+ Legislation Advancing in States Across the Country,” Human Rights Campaign (May 23, 2023), available at <https://www.hrc.org/press-releases/roundup-of-anti-lgbtq-legislation-advancing-in-states-across-the-country>.

¹⁷ ACLU, “Mapping Attacks on LGBTQ Rights in U.S. State Legislatures in 2024,” (as of May 31, 2024), available at <https://www.aclu.org/legislative-attacks-on-lgbtq-rights-2024>.

¹⁸ Jordan Darling, “Teachers, students reeling over Chino Valley policy to out transgender children to parents,” Daily Bulletin (Jul. 21, 2023), available at <https://www.dailybulletin.com/2023/07/21/teachers-students-reeling-over-chino-valley-policy-to-out-transgender-children-to-parents/>.

shows.¹⁹ While the state has fought back against these attacks, more is clearly needed to ensure the rights, health, safety, equity, and prosperity of California’s LGBTQ+ community.

4. AB 3031 proposes to help protect LGBTQ+ people and address these issues through the formation of a statewide LGBTQ+ Commission

To help address these issues and find solutions to some of the above-mentioned issues for the state’s LGBTQ+ population, AB 3031 proposes to create a statewide Commission on LGBTQ+ issues and policies. The author proposes this Commission in order to identify the statewide needs of the LGBTQ+ community, to assist in implementing policies and initiatives to address the needs of the community, and to act in an advisory capacity to the Legislature and Governor on policy matters affecting the LGBTQ+ community. The author asserts that the Commission “will play an important role in informing policy and programs for the LGBTQ+ community, and is another important step forward to ensure that everyone can live authentically and inclusively in our community.”

The Commission would be composed of nine members, with five being appointed by the Governor, and two each being appointed by leadership of both houses. AB 3031 specifies that appointments to the Commission must be considered among individuals who represent the geographical, racial, gender, ethnic, socioeconomic, cultural, age, educational, and other diversity of the state’s LGBTQ+ community. AB 3031 specifies some of the tasks for the Commission, including monitoring state policy proposals and regulations affecting the LGBTQ+ community, coordinating with other related commissions to address issues of mutual concern, holding public hearings and gathering input, working with state agencies to assess their programs and policies’ that impact the LGBTQ+ community, and identifying challenges that impact LGBTQ+ foster youth. The Commission must meet quarterly starting in 2025, and submit a report to the Legislature and the Governor by January 1, 2027, and every year thereafter, summarizing the information gathered by the Commission and its policy recommendations.

Commissions are not an entirely new concept in California. In 1965, the state established the California Commission on the Status of Women (CSW). Other commissions created by the state have included the California State Lands Commission

¹⁹ Claire Thornton, “California schools join growing list of districts across the country banning Pride flags,” USA Today (Sept. 14, 2023), available at <https://www.usatoday.com/story/news/nation/2023/09/14/lgbtq-pride-flags-banned-by-california-school-districts/70850498007/>; Carolyn Jones, “California pushing back on school book bans,” (Sept. 12, 2023), available at <https://calmatters.org/education/k-12-education/2023/09/california-book-bans/>; Lucy Hodgman, “Woodland bar stormed by hateful protestors after violent threats cancel LGBTQ event,” The Sacramento Bee (Jul. 1, 2022), available at <https://www.sacbee.com/news/local/crime/article263095433.html>.

and the California Coastal Commission. The CSW ultimately became a permanent agency of the state. While the CSW initially was created for the purpose of developing recommendations, its scope also expanded over the years to include acting as an information center on the status of women's needs, and to administer various programs.²⁰ In its 50-year history, the CSW has undoubtedly made a significant impact on policymaking and helped advance equality and progress for women in California. AB 3031 envisions a similar commission aimed at addressing the needs and finding solutions for California's LGBTQ community.

5. Amendments

The author has agreed to take amendments that clarify the authorities that the Commission possesses and the terms for which Commission members serve. The amendments will also create the LGBTQ+ Commission fund to carry out the Commission's mission, upon appropriation of the Legislature. Because this bill is being heard in the Committee on Governmental Organization shortly after this Committee, the author will take these amendments in that committee.

SUPPORT

Equality California (sponsor)
AAUW California
American Association of University Women
American Association of University Women, San Jose Branch
API Equality-LA
APLA Health
BAYMEC
California Academy of Child and Adolescent Psychiatry
California Commission on the Status of Women & Girls
California Democratic Party
California Dental Association
California TRANScends
CA LULAC
County of Santa Clara
Courage California
El/La Para TransLatinas
Gilroy City Council Member Zach Hilton
GlendaleOUT
GLSEN
GLSEN San Diego
GUSD Parents for Public Schools

²⁰ See, "About the Commission," California Commission on the Status of Women (2024), <https://women.ca.gov/about-us/>.

Insurance Commissioner Ricardo Lara
Iranian American Democrats of California
LGBT Community Network
Long Beach Forward
LYRIC
Oasis Legal Services
Parivar Bay Area
Positive Images
Pride at the Pier
Sacramento LGBT Community Center
San Mateo County Pride Center
Santa Clara County Office of Education
Santa Monica Democratic Club
Somos Familia Valle
SPIRITT Family Services
The Center for Sexuality & Gender Diversity
The TransLatin@ Coalition
The Trevor Project
TransFamily Support Services
Transgender Health & Wellness Center
Transgender Resource, Advocacy and Network Service
TransYouth Liberation
Voices for Progress

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 857 (Laird, Stats. 2023) requires the Superintendent of Education to convene an advisory task force to identify the needs of LGBTQ+ students and make recommendations to the Legislature, Governor, and Superintendent.

ACR 260 (Low, Res. Ch. 190, Stats. 2018), calls for a coordinated effort among state agencies to draft laws, policies, regulations, and other state agency guidance in a manner that is gender neutral and inclusive of transgender people and people who do not identify with the gender binary.

AB 959 (Chiu, Ch. 565, Stats. 2015) created the Lesbian, Gay, Bisexual, and Transgender Disparities Reduction Act, to require specified state entities, in the course of collecting demographic data directly or by contract as to the ancestry or ethnic origin of Californians, to also collect voluntary self-identification information pertaining to sexual orientation, gender identity, and intersexuality.

PRIOR VOTES:

Assembly Floor (Ayes 62, Noes 0)
Assembly Appropriations Committee (Ayes 11, Noes 1)
Assembly Human Services Committee (Ayes 5, Noes 0)
