

Senate Bill No. 31

CHAPTER 826

An act to add Section 8310.3 to the Government Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 15, 2017. Filed with
Secretary of State October 15, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 31, Lara. California Religious Freedom Act: state agencies: disclosure of religious affiliation information.

Existing law prohibits a state agency from including a question regarding an applicant's race, sex, marital status, or religion in any application form for employment.

This bill would prohibit a state or local agency or a public employee acting under color of law from providing or disclosing to the federal government personal information regarding a person's religious beliefs, practices, or affiliation, as specified, when the information is sought for compiling a database of individuals based on religious belief, practice, or affiliation, national origin, or ethnicity for law enforcement or immigration purposes. The bill would also prohibit a state agency from using agency resources to assist with any government program compiling such a database, or from making state databases available in connection with an investigation or enforcement under such a program. The bill would prohibit state and local law enforcement agencies and their employees from collecting personal information on the religious beliefs, practices, or affiliation of any individual, except as part of a targeted investigation, as provided, or where necessary to provide religious accommodations. The bill would also prohibit law enforcement agencies from using agency or department moneys, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any criminal, civil, or administrative violation, or warrant for a violation, of any requirement that individuals register with the federal government or any federal agency based on religion, national origin, or ethnicity. The bill would also terminate, to the extent of any conflict, any existing agreements that make any agency or department information or database available in conflict with these provisions. The bill would not prevent the collection, retention, or disclosure of personal information or documents as required by Federal law or a court order. The bill would provide that an agency or employee would only be deemed to be in violation of its provisions if the agency or employee acted with actual knowledge that the information shared would be used for purposes prohibited by these provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

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

(a) In California, we celebrate the rich cultural heritage and diversity of our residents.

(b) Freedom of religion and protection from persecution on the basis of religion are founding ideals of our nation.

(c) California must uphold the protection of religious freedom enshrined in the United States Constitution for all of its people, and the state has a moral obligation to protect its citizens from religious persecution.

(d) Section 4 of Article I of the California Constitution guarantees the free exercise and enjoyment of religion without discrimination or preference.

SEC. 2. Section 8310.3 is added to the Government Code, to read:

8310.3. (a) This section shall be known, and may be cited, as the California Religious Freedom Act.

(b) Notwithstanding any other law, a state or local agency or public employee acting under color of law shall not:

(1) Provide or disclose to federal government authorities personal information regarding the religious beliefs, practices, or affiliation of any individual for the purpose of compiling a list, registry, or database of individuals based on religious affiliation, national origin, or ethnicity.

(2) Use agency money, facilities, property, equipment, or personnel to assist in creation, implementation, or enforcement of any government program compiling a list, registry, or database of personal information about individuals based on religious belief, practice, or affiliation, or national origin or ethnicity, for law enforcement or immigration purposes.

(3) Make personal information from agency databases available, including any databases maintained by private vendors contracting with the agency, to anyone or any entity for the purpose of investigation or enforcement under any government program compiling a list, registry, or database of individuals based on religious belief, practice, or affiliation, or national origin or ethnicity for law enforcement or immigration purposes.

(c) Notwithstanding any other law, state and local law enforcement agencies and their employees shall not:

(1) Collect information on the religious belief, practice, or affiliation of any individual except (A) as part of a targeted investigation of an individual based on reasonable suspicion to believe that individual has engaged in, or been the victim of, criminal activity, and when there is a clear nexus between the criminal activity and the specific information collected about religious belief, practice, or affiliation, or (B) where necessary to provide religious accommodations.

(2) Use agency money, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any

criminal, civil, or administrative violation, or warrant for a violation, of any requirement that individuals register with the federal government or any federal agency based on religious belief, practice, or affiliation, national origin, or ethnicity.

(d) Any agreements in existence on the operative date of this section that make any agency or department information or database available in conflict with the terms of this chapter are terminated on that date to the extent of the conflict.

(e) Nothing in this section prohibits any state or local agency from sending to, or receiving from, any local, state, or federal agency, information regarding an individual's citizenship or immigration status. "Information regarding an individual's citizenship or immigration status, lawful or unlawful" for purposes of this section, shall be interpreted consistent with Sections 1373 and 1644 of Title 8 of the United States Code.

(f) Nothing in this section is intended to prevent any state or local agency from compiling aggregate nonpersonal information about religious belief, practice, or affiliation, national origin, or ethnicity, or from exchanging it with other local, state, or federal agencies.

(g) Nothing in this section prevents the collection, retention, or disclosure of personal information or documents as required by Federal law, or to comply with a court order, or as necessary to comply with Federal programs of assistance.

(h) An agency or employee will only be deemed to be in violation of this section if the agency or employee acted with actual knowledge that the information shared would be used for purposes prohibited by this section.

(i) Nothing in this section shall prevent a state or local law enforcement agency from assisting, participating with, or requesting participation from, federal authorities, so long as the state or local agency acts in accordance with this section and any other applicable law.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the people of California from religious or ethnic persecution or discrimination by law enforcement or by any public agency, it is necessary that this measure take immediate effect.