



Councilmembers Dan Kalb and Lynette Gibson McElhaney

CITY OF OAKLAND

CITY HALL - ONE FRANK H. OGAWA PLAZA, 2ND FLOOR - OAKLAND - CALIFORNIA 94612

Agenda Memorandum

To: Rules & Legislation Committee

From: Councilmembers Dan Kalb and Lynette Gibson McElhaney

Date: March 30, 2017

Subject: Support of SB 31: Religious Freedom Act

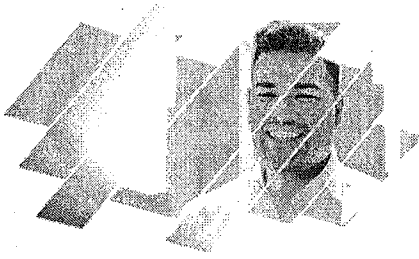
Colleagues on the City Council and Members of the Public,

With our Resolution of Support for SB 31 (Lara), we are submitting the attached Fact Sheet and text of the bill.

Respectfully submitted,

Dan Kalb, Councilmember

Lynette Gibson McElhaney, Councilmember



SENATOR
RICARDOLARA
LEGISLATIVE FACTSHEET

Senate Bill 31 – Fight4CAReligiousFreedom

Summary:

SB 31 prohibits a state or local agency from providing or disclosing to federal authorities personally identifying information regarding a person's religious affiliation when the information is sought for compiling a database of individuals based on religious affiliation, national origin, or ethnicity. SB 31 also prohibits state and local law enforcement from collecting information about an individual's religious beliefs or affiliations except under certain circumstances.

Background:

In California, we celebrate the rich cultural heritage and diversity of our residents. Freedom of religion and protection from discrimination on the basis of religion are founding ideals of our nation. Section 4 of Article I of the California Constitution guarantees the free exercise and enjoyment of religion without discrimination. 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.

The National Security Entry-Exit Registration System (NSEERS), created after the September 11th terrorist attacks and recently ended under the Obama Administration, was a program once used to register and track mostly Arab and Muslim men across the nation. NSEERS registered and monitored non-citizen visa holders— such as students, workers, and tourists— and targeted males 16 or older from 25 different countries. The program disproportionately focused on Arabs and Muslims, caused widespread fear within those communities, undermined trust in law enforcement, and needlessly punished immigrants, regardless of whether or not they were suspected of any criminal activities.

NSEERS resulted in over 80,000 registrants, and of those, more than 13,000 people were placed in deportation proceedings for technical visa violations, which resulted in families being torn apart, businesses being disrupted, and educational opportunities being cut short. By 2011, almost 10 years after the program was created, NSEERS did not result in a single terrorism conviction.

Problem:

The repeated statements from the Trump Administration in regards to instituting a program to track Muslim individuals in the United States are not only troubling but unconstitutional. California has a duty to protect the rights of all people and ensure equal justice under the law, regardless of race, religion, or national origin. We must work to prevent another failed counterterrorism tool that will only work to spread fear, dislocate families, and discriminate against vulnerable communities.

Solution:

SB 31 will bar state and local agencies from sharing data with federal authorities for the purposes of compiling a federal registry based on religious belief, practice, affiliation, national origin, or ethnicity. State and local law enforcement shall not collect information about an individual's religious beliefs or affiliations unless it is needed to provide religious accommodations, or there is a targeted investigation of an individual based on reasonable suspicion that he or she has engaged in criminal activity and where there is a clear nexus between the criminal activity and the specific information collected about religious belief or affiliation. State and local law enforcement are also prohibited from assisting in the enforcement of any violation of any requirement to register with the federal government based on religion, national origin, or ethnicity.

This bill does not prohibit state or local agencies from sending to or receiving from any local, state, or federal agencies information regarding an individual's citizenship or immigration status. This bill does not prevent any state or local agency from compiling aggregate, non-personal information about religious beliefs or affiliations, national origin, or ethnicity or from exchanging it with other local, state, or federal agencies. SB 31 promotes religious freedom and ensures that California is protecting basic civil and human rights for all.

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AMENDED IN SENATE MARCH 27, 2017
AMENDED IN SENATE FEBRUARY 27, 2017
AMENDED IN SENATE JANUARY 24, 2017

SENATE BILL

No. 31

Introduced by Senator Lara
(Coauthors: Senators Anderson, *Dodd*, Hertzberg, Monning, and
Wiener)
(Coauthors: Assembly Members *Bloom*, Bonta, Chiu, *Gallagher*, and
Cristina Garcia)

December 5, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

SB 31, as amended, 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~~ *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.

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) In California, we celebrate the rich cultural heritage and
- 4 diversity of our residents.
- 5 (b) Freedom of religion and protection from persecution on the
- 6 basis of religion are founding ideals of our nation.
- 7 (c) California must uphold the protection of religious freedom
- 8 enshrined in the United States Constitution for all of its people,
- 9 and the state has a moral obligation to protect its citizens from
- 10 religious persecution.
- 11 (d) Section 4 of Article I of the California Constitution
- 12 guarantees the free exercise and enjoyment of religion without
- 13 discrimination or preference.
- 14 SEC. 2. Section 8310.3 is added to the Government Code, to
- 15 read:
- 16 8310.3. (a) This section shall be known, and may be cited, as
- 17 the California Religious Freedom Act.

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

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

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

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

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

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

31 (2) Use agency money, facilities, property, equipment, or
32 personnel to investigate, enforce, or assist in the investigation or
33 enforcement of any criminal, civil, or administrative violation, or
34 warrant for a violation, of any requirement that individuals register
35 with the federal government or any federal agency based on
36 religious belief, practice, or affiliation, national origin, or ethnicity.

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

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

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

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

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

17 MAR 30 PM 4:18

DRAFT

City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBERS DAN KALB AND LYNETTE GIBSON
MCELHANEY

RESOLUTION IN SUPPORT OF SENATE BILL 31 (LARA) THAT WOULD PROHIBIT (1) STATE AND LOCAL AGENCIES FROM ASSISTING THE FEDERAL GOVERNMENT IN COMPILING A RELIGIOUS AFFILIATION DATABASE AND (2) STATE AND LOCAL LAW ENFORCEMENT AGENCIES FROM COLLECTING RELIGIOUS AFFILIATION INFORMATION OR ASSISTING IN THE ENFORCEMENT OF ANY RELIGIOUS REGISTRY REQUIREMENT

WHEREAS, freedom of religion is a founding ideal of our nation; and

WHEREAS, in the City of Oakland and throughout California, we celebrate the rich cultural heritage and diversity of our residents; and

WHEREAS, in 2002, National Security Entry-Exit Registration System began registering and tracking mostly Arab and Muslim men, causing much fear and mistrust, as well numerous deportation proceedings for technical visa violations, but, despite tens of thousands of registrations, did not result in a single terrorism conviction; and

WHEREAS, we have seen the horrible result of a religion-based registry leading up to World War II; and

WHEREAS, the Trump Administration has made numerous statements regarding instituting a system to track Muslim individuals in the United States, which is not only troubling but unconstitutional; and

WHEREAS, Senate Bill (SB) 31 (Lara) would prohibit state and local agencies from assisting the federal government in compiling a religious affiliation database; and

WHEREAS, Senate Bill 31 would also prohibit state and local law enforcement agencies from collecting religious affiliation information or assisting in the enforcement of any religious registry requirement; and

RESOLVED: That the Oakland City Council hereby endorses SB 31 (Lara) and urges the California State Legislature and Governor Jerry Brown to support its enactment into law.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

**AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY,
GUILLÉN, KALB, KAPLAN, AND PRESIDENT REID**

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

**LATONDA SIMMONS
City Clerk and Clerk of the
Council of the City of Oakland,
California**