

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 3233**

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 11, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3233 (1R).

Under the bill, laboratories will be required to electronically record each patient's race, ethnicity, sexual orientation, and gender identity, if the patient presents with a non-electronic order for testing at a clinical laboratory patient service center. If a clinical laboratory processes a specimen without the presence of a patient, the clinical laboratory will not be responsible for recording and reporting the patient's gender identity, sexual orientation, and racial and ethnic information.

Race and ethnicity selections are to include, but are not to be limited to: African American, Alaska Native, American Indian, Asian, Black, Hispanic, Latino, more than one race, Native Hawaiian, Other Pacific Islander, White, and does not wish to disclose. Sexual orientation selections are to include, but are not to be limited to: bisexual, do not know, heterosexual, homosexual, gay, lesbian, something else, straight, and does not wish to disclose. Gender identity selections are to include, but are not to be limited to: male, female, transgender-female, transgender-male, non-binary, other, and does not wish to disclose.

Any health care related data that is required under State law to be reported by a clinical laboratory to a local or State governmental entity is to include any corresponding gender identity, sexual orientation, and racial and ethnic data recorded pursuant to the provisions of the bill, and is to be incorporated into the corresponding disease surveillance reporting system of the local or State governmental entity.

Non-electronic specimen collection and analysis requisition forms distributed by a clinical laboratory are to contain a section for the manual entry of the patient's racial, ethnic, sexual orientation, and gender identity information.

Any electronic medical records or laboratory information management system used in this State, on or after the effective date of this bill, is to be configured in a manner that prevents an authorized user from saving or storing a patient's demographic information into the electronic medical records or laboratory information management systems unless a patient's gender identity, sexual orientation, and racial and ethnic information is recorded. The gender identity, sexual

orientation, and racial and ethnic information of a patient is to be included in laboratory orders generated by electronic medical record systems. The vendor of an electronic medical records or laboratory information management system that is not in compliance with the requirements of the bill will be subject to a civil penalty of \$1,000 for each day the vendor's system is noncompliant.

Nothing in the bill is to be construed to compel a patient to disclose the patient's race, ethnicity, sexual orientation, or gender identity to a clinical laboratory, health care provider, or any other entity.

Under the bill, race and ethnicity, sexual orientation, and gender identity information that is required to be recorded or reported under the bill is to be recorded or reported using a program that is compatible with the State's disease surveillance reporting system using data fields as are available or necessary using the version of the Health Level Seven International recording and reporting standards or equivalent adopted by the clinical laboratory.

All clinical laboratories, and hospitals that collect data concerning patient race, ethnicity, sexual orientation, and gender identity, will be required to establish cultural competency training programs for employees who have direct contact with patients and who collect this demographic information, which programs will provide information concerning issues related to race and ethnicity, sexual orientation, and gender identity and how to engage in conversations with patients regarding these subjects.

As reported, this bill is identical to Assembly Bill No. 4253 (ACS/2R), as also reported by the committee.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes this bill would result in an indeterminate increase in costs incurred by University Hospital, an independent non-profit legal entity that is an instrumentality of the State, and Bergen New Bridge Medical Center (formerly the Bergen Regional Medical Center) in Paramus due to the implementation of an evidence-based cultural competency training program for certain employees mandated under the bill.

State revenues may also increase marginally under a provision that would impose financial penalties on vendors of electronic medical records or laboratory information management systems that fail to comply with the reporting requirements established under this bill.