

HOUSE No. 5109

Sections 6, 176 and 184 contained in the engrossed Bill making appropriations for the fiscal year 2023 (see House, No. 5050), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment D of House, No. 5132). July 28, 2022.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to the the collection of demographic data.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to further regulate the collection of demographic data, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Said chapter 6A of the General Laws is hereby further amended by adding
2 the following section:-

3 Section 105. (a) For the purposes of this section, the following words shall have the
4 following meanings unless the context clearly requires otherwise:

5 “Government agency”, any state agency, quasi-state agency, subdivision of a state
6 agency, or board, commission or any other entity created by the commonwealth.

7 “Personal identifying information”, information: (i) that directly identifies an individual,
8 including name, address, social security number or other identifying number or code; (ii) by
9 which an agency intends to identify specific individuals in conjunction with other data elements,

10 which shall include indirect identification which can compile an identity, such as a combination
11 of gender, race, birth date, geographic indicator and other descriptors; or (iii) that permits the
12 physical or online contacting of a specific individual.

13 (b) Every government agency that collects demographic data as to the race or ethnicity
14 of residents of the commonwealth shall use separate collection and tabulations for the following:

15 (i) each major Asian group, as reported by the United States Census Bureau, including,
16 but not limited to, Chinese, Japanese, Filipino, Korean, Vietnamese, Asian Indian, Laotian,
17 Cambodian, Bangladeshi, Hmong, Indonesian, Malaysian, Pakistani, Sri Lankan, Taiwanese,
18 Nepalese, Burmese, Tibetan and Thai;

19 (ii) each major Pacific Islander group, as reported by the United States Census Bureau,
20 including, but not limited to, Native Hawaiian, Guamanian, Samoan, Fijian and Tongan;

21 (iii) each other Asian or Pacific Islander group;

22 (iv) each major Black or African American group, as reported by the United States
23 Census Bureau, including, but not limited to, African American, Jamaican, Haitian, Nigerian,
24 Ethiopian, Cape Verdean and Somali;

25 (v) each major Latino group, as reported by the United States Census Bureau, including,
26 but not limited to, Mexican, Puerto Rican, Cuban, Salvadoran, Dominican and Colombian; and

27 (vi) each major white or Caucasian group, as reported by the United States Census
28 Bureau, including, but not limited to, German, Irish, English, Italian, Polish, Portuguese and
29 French.

30 (c) Each government agency shall allow individuals to choose more than 1 group, write
31 in their own group or choose the aggregate category. No government agency shall fill out racial
32 or ethnic information unless directed to do so by the individual.

33 (d) Except for personal identifying information, which shall be deemed confidential,
34 each government agency shall make the data available to the public in accordance with state and
35 federal law. This information may be maintained in either paper, electronic or other media form.
36 To prevent identification of individuals, the information may be aggregated into data categories
37 at a state, county, city, census tract or ZIP code level to facilitate comparisons, identify
38 disparities and to be included in studies and reports. This subsection shall not be construed to
39 prevent any other government agency from posting data collected on the agency's website, in a
40 manner prescribed in this section.

41 (e)(1) The secretary of administration and finance shall promulgate regulations and issue
42 guidelines on the collection of demographic data, which shall include, but not be limited to: (i) a
43 standardized form for information collection; (ii) expanding the categories of race or ethnicity;
44 (iii) a standard format for agencies to make data publicly available and to update said data on an
45 annual basis; (iv) a method to ensure no personal identifying information is publicly released; (v)
46 a standardized written disclosure to the individual filling the form out that information collection
47 is voluntary; (vi) procedures to ensure that nonparticipation in information collection shall have
48 no impact on an individual's eligibility for state services; and (vii) annual cost impact and review
49 of the successfulness of collecting information.

50 (2) Annually, there shall be not less than 1 public hearing on the implementation of or
51 changes in the regulations and guidelines.

52 (3) Annually, not later than August 1, the secretary of administration and finance shall
53 file a report on the progress of data collection with the clerks of the house of representatives and
54 senate and the joint committee on state administration and regulatory oversight.

55 (f) All data collected by government agencies shall be subject to both state and federal
56 privacy laws, including, but not limited to, Title 13 of the United States Code and section 2 of
57 chapter 93H.

58 SECTION 2. Not later than January 1, 2023, the secretary of administration and finance
59 shall promulgate regulations for the implementation of section 6.

60 SECTION 3. Section 6 shall take effect on January 1, 2024.