



## The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness

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September 15, 2023

The Honorable Cris Dush  
Chair, Senate State Government Committee  
Senate Box 203025  
Harrisburg, PA 17120-3025  
Room: 9 East Wing

RE: Support for Senate Bill (“SB”) 326, Data for LGBTQ Lives Act

Dear Chair Dush,

On behalf of the Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness (the “Commission”), we write to convey our strong support for SB 326. If passed, this bill would require the inclusion of a voluntary LGBTQ+ identifier on all state-sponsored forms, documents, and applications that collect demographic information. Since February 14, 2023, SB 326 has been in the State Government Committee for consideration. To date, the Committee has neither convened a hearing nor reported on this bill. For the following reasons, we respectfully urge the State Government Committee to consider SB 326 and take the appropriate measures to move it through Committee, facilitating its passage.

The Commission was established in 2005 by the three branches of Pennsylvania’s government to implement the recommendations from a 2003 Pennsylvania Supreme Court study on racial and gender bias in the justice system.<sup>1</sup> The Commission has since expanded its areas of focus to including ending discrimination against LGBTQ+ Pennsylvanians in our courts and throughout the Commonwealth. Through its LGBTQ+ Rights Committee, the Commission is working with the Pennsylvania Department of Human Services to update its regulations to include non-discrimination protections for LGBTQ+ youth in out-of-home placements. In addition, at the peak of the pandemic in 2020, the Committee learned that former Governor Wolf had directed the PA Department of Health to begin collecting data regarding the sexual orientation and gender identity (“SOGI”) of Pennsylvanians who contracted COVID-19. When the Committee contacted Department officials several months later to request an update on their data collection efforts, the

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<sup>1</sup> See Final Report of the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System, available at <https://pa-interbranchcommission.com/wp-content/uploads/2022/01/FinalReport.pdf>.

Committee was informed that such data had not been collected. This revelation informs the need for legislation like SB 326 and underscores the reasons we now advocate for passage of SB 326.

The Pennsylvania Department of Health’s difficulties with collecting SOGI data are indicative of a larger problem occurring in both our Commonwealth and across the country. A recent study by the Center for American Progress found that “most surveys, including those fielded by the U.S. federal government and many state governments, do not collect [SOGI] information.”<sup>2</sup> These surveys, along with other data collection instruments, serve as the basis on which significant legislative, regulatory, and public funding decisions are made.<sup>3</sup> Failing to collect this information has harmful consequences. When surveys fail to include SOGI metrics alongside other demographic questions, LGBTQ+ individuals are excluded from policy and funding decisions that carry lifesaving potential. It is therefore imperative that LGBTQ+ Pennsylvanians be included in the statewide, taxpayer-funded data collection efforts undertaken to better understand the needs of all of our Commonwealth’s citizens.

LGBTQ+-inclusive data collection also equips LGBTQ+-centered care providers and advocacy organizations with sound information to more effectively combat “the unfortunate reality that anti-[LGBTQ+] discrimination is still all too common.”<sup>4</sup> A recent snapshot of LGBTQ+ individuals’ health needs in our Commonwealth illustrates this ongoing reality. Among the approximately 4,200 respondents who self-identified as LGBTQ+ in that survey, almost a third have experienced a negative reaction from a healthcare provider when that provider learned they were LGBTQ+.<sup>5</sup> The survey also found that more than six out of ten respondents have experienced discrimination based on their LGBTQ+ identity.<sup>6</sup> While these figures are troubling in themselves, the survey almost certainly does not illustrate the full extent to which LGBTQ+ Pennsylvanians face barriers in their lives. And without access to this data, it becomes all the more challenging to address such discrimination and other disparities that LGBTQ+ individuals face.

SB 326 provides policymakers and relevant stakeholders with the opportunity to have significantly improved access to SOGI data, thus enabling them to identify and address the most pressing issues facing LGBTQ+ Pennsylvanians. Critically, SB 326 provides that opportunity while also setting forth sensible limitations on the proper use and availability of the SOGI information that the individuals submitting Commonwealth forms or applications provide. Specifically, Section 3 of the bill clarifies that SOGI information may only be collected if it is “necessary for the health and

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<sup>2</sup> Caroline Medina & Lindsay Mahowald, Ctr. for Am. Progress, *Collecting Data About LGBTQI+ and Other Sexual and Gender-Diverse Communities: Best Practices and Key Considerations* (May 24, 2022), available at <https://www.americanprogress.org/article/collecting-data-about-lgbtqi-and-other-sexual-and-gender-diverse-communities/>.

<sup>3</sup> Xavier Persad, Hum. Rts. Campaign Found., *LGBTQ-Inclusive Data Collection: A Lifesaving Imperative* 1, 13 (Sept. 2019), available at <https://assets2.hrc.org/files/assets/resources/HRC-LGBTQ-DataCollection-Report.pdf>.

<sup>4</sup> *Id.* at 5.


<sup>5</sup> Res. & Evaluation Group at Pub. Health Mgmt. Corp. and Bradbury-Sullivan LGBT Community Ctr., *2022 Pennsylvania LGBTQ Health Needs Assessment* 1, 2 (Jan. 2023), available at [https://assets.nationbuilder.com/bradburysullivancenter/pages/2872/attachments/original/1673023325/2022\\_PA\\_LGBTQ\\_HNA\\_Report\\_Final\\_approved.pdf?1673023325](https://assets.nationbuilder.com/bradburysullivancenter/pages/2872/attachments/original/1673023325/2022_PA_LGBTQ_HNA_Report_Final_approved.pdf?1673023325)

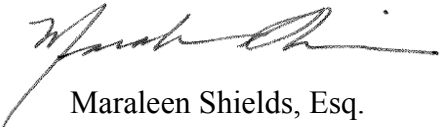
<sup>6</sup> *Id.* at 3.

well-being of the individual.”<sup>7</sup> The legislative language also makes clear that LGBTQ+ identifier questions are non-mandatory and protects the confidentiality of individuals who elect to participate by prohibiting the disclosure of individuals’ answers to the public in a personally-identifiable way. These restrictions evince careful consideration of the privacy of LGBTQ+ individuals, many of whom are not yet “out” to the public, while still promoting the publication of SOGI data critical to informing government decision-making and resource allocation.

For these reasons, we strongly urge you to take the appropriate measures to facilitate the passage of SB 326. We would welcome the opportunity to provide testimony on SB 326 should the State Government Committee convene a hearing thereon. If you have any questions concerning this matter, we would be happy to discuss them with you at your convenience.

Respectfully,

  
Kaitlyn Burns, Esq.  
Chair, LGBTQ+ Rights Committee

  
Maraleen Shields, Esq.  
Executive Director

  
Brendan Bertig, Esq.  
Staff Attorney

cc: The Hon. Amanda M. Cappelletti, Minority Chair, Senate State Government Committee  
The Hon. Sharif Street, Prime Sponsor, SB 326  
Members of the Senate State Government Committee  
Pennsylvania Interbranch Commission Members  
Interbranch Commission’s LGBTQ+ Rights Committee Members

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<sup>7</sup> Pa. SB 326 § 3 (2023-24 Regular Session).