An act to amend Sections 51 and 54 of, and to add Part 2.2 (commencing with Section 53.1) to Division 1 of, the Civil Code, to amend Section 32228 of the Education Code, to amend Section 354.5 of the Elections Code, to amend Sections 11135, 12920, 12921, 12926, 12926.1, 12930, 12931, 12940, 12944, 12955, 12955.8, 12956.1, 12956.2, and 12993 of the Government Code, to amend Section 868.8 of the Penal Code, and to amend Section 4900 of the Welfare and Institutions Code of the Civil Code, and to amend Section 11135 of the Government Code, relating to homelessness.

LEGISLATIVE COUNSEL’S DIGEST

AB 5, as amended, Ammiano. Homelessness.
Existing law, the Unruh Civil Rights Act, provides that all persons within the state are free and equal, regardless of their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation, and are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever. Existing law provides that no person in the state shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded
directly by the state, or receives any financial assistance from the state. Existing law, the California Fair Employment and Housing Act (FEHA), provides that the opportunity to seek, obtain, and hold employment without discrimination because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation is recognized to be a civil right, and makes it unlawful for an employer to discriminate against those persons with regard to certain employment practices. Under FEHA, existing law makes it unlawful for the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information of that person. Under FEHA, existing law imposes duties upon county counsels and county recorders with regard to unlawfully restrictive covenants and Restrictive Covenant Modifications, as specified.

This bill would enact the Homeless Person’s Bill of Rights and Fairness Act, which would provide that no person’s rights, privileges, or access to public services may be denied or abridged because he or she is homeless, has a low income, or suffers from a mental illness or physical disability. The bill would provide that every person in the state, regardless of actual or perceived housing status, income level, mental illness, or physical disability, sex, sexual orientation, gender identity, citizenship, or immigration status, shall be free from specified forms of discrimination and shall be entitled to certain basic human rights, including the right to be free from discrimination by law enforcement, in the workplace, while seeking or maintaining housing or shelter, and while seeking services. The bill would provide that every person has the right to access public property, possess personal property, access public restrooms, clean water, affordable housing, educational supplies, as specified, emergency and nonemergency health care, confidentiality of medical records, assistance of legal counsel in specified proceedings, and restitution, under specified circumstances. The bill would provide civil and criminal immunity, and immunity from employer retaliation, to a public employee who provides assistance to a homeless person. The bill would require local law enforcement agencies to make specified information available to the public and report to the Attorney General on an annual basis with regard to enforcement of local ordinances against homeless persons and compliance with the
act, as specified, thereby imposing a state-mandated local program. The bill would provide for judicial relief and impose civil penalties for a violation of the act.

The bill would further prohibit discrimination under the above-described existing law provisions on the basis of “housing status,” would define that term to include homelessness, and would make conforming changes to related provisions, including changes related to the filing of Restrictive Covenant Modifications, as specified. Because those conforming changes would add to the duties of county counselors and county recorders, the bill would impose a state-mandated local program. Further, by expanding the bases upon which discrimination is prohibited under those provisions, the bill would also extend the application of those provisions to other antidiscrimination provisions that incorporate the enumerated provisions by reference. For instance, existing law prohibits the provision of emergency services and care in a health facility from being based upon, or affected by, among other things, characteristics enumerated under the Unruh Civil Rights Act. A violation of that provision is a crime. By expanding the bases upon which a health facility may not discriminate in the provision of emergency services, the bill would expand the definition of a crime, thereby imposing a state-mandated local program.

This bill would require the State Department of Public Health to fund the provision of health and hygiene centers, as specified, for use by homeless persons in designated areas.

This bill would provide that its provisions address a matter of statewide concern. The bill would provide that its provisions are severable.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.
This bill would provide that, if the Commission on State Mandates
determines that the bill contains costs mandated by the state,
reimbursement for those costs shall be made pursuant to these statutory
provisions.

State-mandated local program: yes.

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

SECTION 1. This act shall be known and may be cited as the

SEC. 2. The Legislature finds and declares all of the following:
(a) In the State of California, there has been a long history of
discriminatory laws and ordinances that have disproportionately
affected people with low incomes and who are without homes,
including, but not limited to, all of the following:
(1) Jim Crow laws: After the Civil War, many states, especially
in the south, passed laws denying African Americans basic human
rights. In California, these laws also targeted Chinese immigrants.
In San Francisco, Chinese residents were forced to live in one area
of the city. The same segregation laws also prohibited interracial
marriage between Chinese and non-Chinese persons.
(2) Ugly laws: In 1867, San Francisco was the first city in the
country to pass a law making it illegal for people with “unsightly
or disgusting” disabilities to appear in public. In many cities, these
laws persisted until the 1970s.
(3) Anti-Okie laws: In 1937, California passed an Anti-Okie
law that criminalized “bringing or assisting in bringing” extremely
poor people into the state. The United States Supreme Court struck
down the law in 1941, when it declared that these laws are in
violation of the Commerce Clause commerce clause, and therefore
unconstitutional.
(4) Sundown towns town ordinances: Town policies and real
estate covenants were aimed at preventing minorities, homeless
persons, and other persons considered to be socially undesirable
from remaining within city limits after sunset. Thousands of these
towns existed prior to the federal Civil Rights Act of 1968, which
made these ordinances and covenants illegal.
(5) Vagrancy laws: Vagrancy laws have been held to be discriminatory on their face because they criminalize a person’s status rather than a behavior. Nevertheless, these laws existed in California until the Legislature revised them in 1961.

(b) “Quality of life” ordinances, “civil sidewalk” ordinances, and similar initiatives. Act of living ordinances, often known as “quality of life ordinances” and other similar ordinances, are the modern reincarnations of laws of this kind. They are designed to force homeless people to flee local jurisdictions. These local ordinances result in de facto segregation as homeless people are forced out of specific jurisdictions or out of specific neighborhoods within jurisdictions. These discriminatory policies subject municipalities to an increased financial burden of caring for the homeless who have migrated there from their chosen home municipality in relief of the discriminatory legislation. These practices tend to condemn large groups of inhabitants to dwell in segregated districts or under depressed living conditions that result in crowded, unsanitary, substandard, and unhealthful accommodations. Furthermore, these policies result in criminalization of homeless persons who choose not to do not choose, or are unable, to migrate.

(c) Today, in the state, many people are denied the following:

(1) Housing due to their status of being homeless, living in a shelter, a vehicle, the street, or the public domain.

(2) Housing or shelter due to their status of being homeless and also a person with a disability.

(3) Employment due to their current status of being homeless or living in a shelter or a vehicle on the street.

(4) Housing and employment as a result of not having a fixed or residential mailing address or having a post office box as a mailing address.

(5) Equal protection of the laws and due process by law enforcement and prosecuting agencies.

(6) The ability to make certain purchases or enter certain contests as a result of not having a fixed or residential mailing address or having a post office box as a mailing address.
(7) Access to safe, clean restrooms, water, and hygienic supplies necessary to maintain health, safety, and dignity, especially with the proliferation of closures of public restrooms.

(d) Homeless persons are unfairly targeted by law enforcement, often resulting in the violation of the homeless persons’ constitutional rights. Lacking the resources necessary to obtain adequate legal representation, homeless persons are often denied relief or damages through the courts.

(e) Homeless persons are often provided accommodations and shelter by private or public service providers that rarely have access to shelters, and when shelter is available, its conditions can be so poor as to jeopardize their health and physical and mental safety.

(f) Homeless persons are often forced to separate from loved ones, give up their personal property, abandon pets, and make other inhumane choices in order to access even minimal shelter.

(g) Lesbian, gay, bisexual, transgender, gender nonconforming, and queer individuals often are forced to accept inappropriate or unsafe accommodations to access publicly funded emergency shelters.

(h) Children in homeless families are denied the ability to continue receiving education in their preferred school if their family’s shelter lies outside the boundaries of their former district.

(i) At the present time, many persons have been rendered homeless as a result of a deep and prolonged economic recession, a severe shortage of safe and affordable housing, a failed mental health system, and a shrinking social safety net.

(j) Section 1 of Article I of the California Constitution provides that “[a]ll people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.”

(k) Subdivision (a) of Section 7 of Article I of the California Constitution provides, in part, that “[a] person may not be deprived
of life, liberty, or property without due process of law or denied equal protection of the laws...”

(1) Concordant with this fundamental belief, a person should not be subject to discrimination based on his or her housing status, income level, or mental or physical disability, sexual orientation, gender identity, citizenship, or immigration status. Therefore, it is the intent of the Legislature in enacting this act to protect the rights of all Californians, regardless of their housing status, and to ameliorate the adverse effects visited upon individuals and our communities when the residents of this state are homeless.

SEC. 3. (a) It is the intent of the Legislature to enact legislation that would, except when otherwise not permitted by federal law, ensure that everyone in the state has the right to all of the following:

(1) Access to income sufficient for survival, regardless of employment status or criminal justice background, including, but not limited to, the right to receive funds through public welfare programs, private donations, collecting recyclable goods, or soliciting donations in public spaces.

(2) Safe, decent, permanent, and affordable housing, as soon as possible, and the right to be free from further dislocation, unless and until safe, decent, permanent, and affordable housing is available.

(3) Access to clean and safe facilities 24 hours a day, seven days a week, with clearly identifiable staff able to react to safety concerns, including, but not limited to, shelters and drop-in centers that meet basic health, hygiene, and dignity needs, including any special needs of lesbian, gay, bisexual, or transgender individuals, youths, families, or those with mental illness or physical disabilities. This includes the right of all individuals to secure shelter without being required to state their gender or to share confidential health information protected by the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

(4) As a child enrolled in a publicly funded school, be provided by his or her school with the supplies necessary to promote academic success, including, but not limited to, backpacks, textbooks, notebooks, pencils, pens, and appropriate academic technology.
(5) Nonemergency health care and access to medical facilities that provide quality care for both physical and mental needs.

(6) Access to emergency services, including, but not limited to, emergency rooms at hospitals, shelters, drop-in centers, rehabilitation centers, education, and special training, without the possibility of being denied based on race, color, sex, language, religion, political or other opinion, national or social origin, sexual orientation, gender identity, mental or physical disability, income level, housing status, citizenship, or immigration status.

(b) It is the intent of the Legislature to enact legislation that would require all state agencies to use the same definition for “homeless persons or people” as follows: “Homeless” means those individuals or families who lack a fixed, regular, and adequate nighttime residence or who have primary nighttime residence in a shelter, on the street, in a vehicle, in an enclosure or structure that is not authorized or fit for human habitation, substandard apartments, dwellings, doubled up temporarily with friends or families, or staying in transitional housing programs. “Homeless” also means any person residing anywhere without tenancy rights, and families with children staying in a residential hotel whether or not they have tenancy rights.

(c) It is the intent of the Legislature that publicly funded social and health care services be offered in a sufficient quantity to meet the population’s needs, without barriers, including geographical barriers, such as making locations inconvenient or creating screen-out barriers, or prohibiting access due to a person’s inability to provide identification or criminal justice history, or disability, in order that persons are reasonably able to reach and use that service.

SEC. 3. Section 51 of the Civil Code is amended to read:

51. (a) This section shall be known, and may be cited, as the Unruh Civil Rights Act.

(b) All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, or housing status, are entitled to the full and equal accommodations, advantages, privileges, or services in all business establishments of every kind whatsoever.
(e) This section shall not be construed to confer any right or privilege on a person that is conditioned or limited by law or that is applicable alike to persons of every sex, color, race, religion, ancestry, national origin, disability, medical condition, marital status, sexual orientation, or housing status, or to persons regardless of their genetic information.

(d) Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever, beyond that construction, alteration, repair, or modification that is otherwise required by other provisions of law, to any new or existing establishment, facility, building, improvement, or any other structure, nor shall anything in this section be construed to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other laws.

(e) For purposes of this section:

1. “Disability” means any mental or physical disability as defined in Sections 12926 and 12926.1 of the Government Code.

2. (A) “Genetic information” means, with respect to any individual, information about any of the following:

   (i) The individual’s genetic tests.

   (ii) The genetic tests of family members of the individual.

   (iii) The manifestation of a disease or disorder in family members of the individual.

   (B) “Genetic information” includes any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by an individual or any family member of the individual.

   (C) “Genetic information” does not include information about the sex or age of any individual.

3. “Housing status” means the status of having or not having a fixed or regular residence, including the status of living on the streets, in a vehicle, or in a homeless shelter, or similar temporary residence or elsewhere in the public domain.

4. “Medical condition” has the same meaning as defined in subdivision (j) of Section 12926 of the Government Code.

5. “Religion” includes all aspects of religious belief, observance, and practice.
(6) "Sex" includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. "Sex" also includes, but is not limited to, a person’s gender. "Gender" means sex, and includes a person’s gender identity and gender expression. "Gender expression" means a person’s gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth.

(7) "Sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, or housing status" includes a perception that the person has any particular characteristic or characteristics within the listed categories or that the person is associated with a person who has, or is perceived to have, any particular characteristic or characteristics within the listed categories.

(8) "Sexual orientation" has the same meaning as defined in subdivision (s) of Section 12926 of the Government Code.

(f) A violation of the right of any individual under the federal Americans with Disabilities Act of 1990 (P.L. 101-336) shall also constitute a violation of this section.

SEC. 4. Part 2.2 (commencing with Section 53.1) is added to Division 1 of the Civil Code, to read:

PART 2.2. HOMELESS PERSONS

53.1. For purposes of this part, the following definitions shall apply:

(a) "Access" means a service that is offered in a sufficient quantity to meet the population’s needs, without barriers, including geographical barriers, such as making locations inconvenient or creating screen-out barriers, or prohibiting access due to a person’s inability to provide identification or criminal justice history or disability, such that persons are reasonably able to reach and use that service.

(a) “Access,” as applied to an existing facility, service, or public space means the ability and permission to enter and make use of the facility, service, or public space. Otherwise, “access” means the offering or availability of a facility or service.

(b) “BID” means a business improvement district, as established under Chapter 2 (commencing with Section 36520) of Part 6 of Division 18 of, or Chapter 2 (commencing with Section 36620) of
Part 7 of Division 18 of, the Streets and Highways Code, or any public-private partnership established under any municipal or county law authorized under Chapter 1 (commencing with Section 36500) of Part 6 of Division 18 of, or Chapter 1 (commencing with Section 36600) of Part 7 of Division 18 of, the Streets and Highways Code, whether or not the phrase “business improvement district” is part of the public-private partnership’s name.

(c) “BID agent” means any person hired by a business improvement district BID or any other public-private partnership similar to a business improvement district.

(d) “Damages” means, but is not limited to, losses.

(e) “Harassment” means any behavior committed by law enforcement, public or private security personnel, a BID agent, property manager, or business owner, which that is meant to intimidate or otherwise persuade an individual to alter his or her behavior, whether or not otherwise lawful.

(f) “Homeless” “Homeless persons” or “homeless people” means those individuals or families who lack lacking a fixed, regular, and adequate nighttime residence and who have residence, or having a primary nighttime residence in a shelter, on the street, in a vehicle, in an enclosure or structure that is not authorized or fit for human habitation, in a substandard apartments, dwellings, doubled up apartment, dwelling, staying temporarily with friends or families, or staying in transitional housing programs: “Homeless” means any person staying in a residential hotel or residing anywhere without tenancy rights, and families with children staying in a residential hotel whether or not they have tenancy rights.

(g) “Housing status” means the status of having or not having a fixed or regular residence, including the status of living on the streets outdoors, in a vehicle, or in a homeless shelter, or similar temporary residence or elsewhere in the public domain.

(h) “Lack of permanent mailing address” means the absence of an address fixed to a permanent home, and may include, but is not limited to, post office boxes, addresses of friends or family members, and shelter addresses.

(i) “Lawful representative” means any person who has been asked to advocate on behalf of a victim person or any class that a victim person identifies with, including, but not limited to, a homeless victim’s person’s retained attorney, a nonprofit
organization that advocates on behalf of homeless victims persons, or a prosecuting attorney upon the request of a homeless victim person.

(j) “Losses” means, but is not limited to, any deprivation of constitutionally held rights as well as the loss of property or physical and mental wellbeing.

(k) “Low income” is defined as income at or lower than twice the federal poverty level as established by the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of Section 9902(2) of Title 42 of the United States Code.

(l) “Public service” means any program or activity that is conducted, operated, or administered by the state, any state agency, or local government agency, is funded directly by the state or any local government, or received any financial assistance from the state or any local government.

(m) “Public space” means any space that is predominantly within the public domain or that is held open to the public, including, but not limited to, plazas, courtyards, parking lots, sidewalks, public transportation, public buildings and parks. “Public space” may also refer to those places that receive additional services through business improvement districts BIDs or other, similar public-private partnerships.

(n) “Rest” means the state of not moving, holding certain postures that include, but are not limited to, sitting, standing, leaning, kneeling, squatting, sleeping, or lying.

(o) “Soliciting donations” means asking for money, which includes panhandling.

§3.2. No person’s rights, privileges, or access to public services may be denied or abridged because he or she is homeless, has a low income, or suffers from a mental illness or physical disability. Such a person shall be granted the same rights and privileges as any other resident of this state. Every person in the state, regardless of actual or perceived housing status, income level, mental illness, or physical disability, shall be free from all of the following:

(a) Any type of discriminatory treatment by law enforcement, public or private security personnel, business owners, property
managers, or BID agents, including, but not limited to, harassment, intimidation, or selective enforcement.

(b) Discrimination while seeking or maintaining employment due to his or her condition of being homeless, lack of permanent mailing address, or his or her current income level.

c) Abuse, both—verbal—and—physical—discrimination,—or harassment in the workplace.

(d) Discrimination while seeking or maintaining housing or shelter.

(e) Unreasonable searches or seizures of his or her personal property, including property stored in vehicles, tents, grocery carts, bags, or any other carrying or storage device, if the intervention of law enforcement is based upon the actual or perceived housing status, income level, mental illness, or physical disability of the person in possession of the property:

(f) Discrimination while seeking services, including, but not limited to, public benefits, medical care, or help from the police.

(g) Discrimination in completing all steps necessary to vote, including obtaining documentation necessary for obtaining identification or otherwise needed for registering or voting.

(h) Discrimination when purchasing goods or services or entering contests from any business operating in the state, including, but not limited to, banks, schools, government offices, and medical facilities.

53.2. (a) Every person in the state, regardless of actual or perceived housing status, income level, mental illness, or physical disability, low income, sexual orientation, gender identity, citizenship, or immigration status, shall have the right to all of the following basic human rights and legal and civil protections, except when prohibited by federal law:

(a)

(1) The right to use and move freely in the same manner as any other person in public spaces, including, but not limited to, plazas, parking lots, public sidewalks, public parks, public transportation, public streets, and public buildings, in the same manner as any other person, and without discrimination by law enforcement, public or private security personnel, or BID agents.

(b)
(2) The right to rest and sleep in public spaces without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents, as long as such rest does not maliciously or substantially obstruct a passageway.

(e) The right to own and possess set down or leave at rest personal property in public spaces without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents, as long as that personal property does not maliciously or substantially obstruct a passageway, or the possession or placement of that personal property does not deny another of the right to property. This includes the right to restitution for loss of property or personal effects and belongings if the property or personal effects are confiscated, removed, damaged, or destroyed by law enforcement, public or private security personnel, or BID agents in violation of this paragraph or any other protections of property provided under state or federal law.

(f) The right to share, accept, or give food in public spaces without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents.

(5) The right to the same protections that law enforcement agencies afford to all other citizens the general public, including, but not limited to, the right to reasonable protection from assault, domestic violence, sexual assault, hate crimes, or robberies.

(f) The right to engage in life sustaining activities that must be carried out in public spaces because of homelessness, including, but not limited to, eating, congregating, possessing and storing personal property, urinating, or collecting and possessing goods for recycling, even if those goods contain alcoholic residue, without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents.

(6) The right to sleep, sit, lie down, stand, eat, solicit donations, or share food in a public place or in a vehicle in a public place, without being subject to criminal or civil sanctions or arrest by
law enforcement, public or private security personnel, or BID agents, except that law enforcement may enforce existing local laws if all of the following are true: (1) the person’s county of residence maintains 12 months per year of nonmedical assistance provided for in Section 17000 of the Welfare and Institutions Code for employable, able-bodied adults without dependents who are compliant with program rules established by the county, including work requirements; (2) the locality is not a geographical area identified by the United States Department of Labor in accordance with Subpart A of Part 654 of Section 20 of the Code of Federal Regulations as an area of concentrated unemployment or underemployment or an area of labor surplus; and (3) the public housing waiting list maintained by the county contains fewer than 50 persons.

(7) The right to be self-employed, including, but not limited to, the right to seek self-employment in junk removal and recycling that requires the collection, possession, redemption, and storage of goods for reuse and recycling, without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents.

(8) The right to pray, meditate, or practice religion in public spaces, without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents.

(h) The right to 24 hours a day, seven days a week access to clean and safe public restrooms.

(i) The right to 24 hours a day, seven days a week access to hygienic provisions, either through government-funded distribution of hygiene-kits or the availability of clean and safe public shower facilities.

(j) The right to access clean, fresh water normally available to the general public for washing hands or bathing.

(k) The right to access income sufficient for survival, regardless of employment status or criminal justice background, including, but not limited to, the right to receive funds through public welfare programs, private donations, collecting recyclable goods, or soliciting donations in public spaces.

(l) The right to safe, decent, permanent, affordable housing, as soon as possible, and the right to be free from further dislocation.
unless and until such time as safe, decent, permanent, affordable housing is available.

(m) The right to 24 hours a day, seven days a week access to clean and safe facilities with clearly identifiable staff able to react to safety concerns, including, but not limited to, shelters and drop-in centers that meet basic health, hygiene, and dignity needs, including any special needs of lesbian, gay, bisexual, or transgender individuals, youths, families, or those with mental illness or physical disabilities.

(9) The right to make his or her own decisions regarding whether or not to enter into decline admittance to a public or private shelter or any other accommodation, including social services programs, for any reason he or she sees fit, without facing criminal or civil sanctions, harassment, or arrest, or threats of these actions, from law enforcement, public or private security personnel, or BID agents.

(10) The right to occupy vehicles a motor vehicle, as defined in Section 415 of the Vehicle Code, or recreational vehicle, as defined in Section 18010 of the Health and Safety Code, either to rest, sleep, or use for the purposes of shelter, for 24 hours a day, seven days a week while provided that the vehicle is legally parked on public property, without facing criminal or civil sanctions, harassment, or arrest, or threats of these actions, from law enforcement, public or private security personnel, or BID agents.

(11) If the person is a child or youth, the right to state and federal enforcement of the educational protections under the federal McKinney-Vento Act (42 U.S.C. Sec. 11432), particularly with regard to Sections 11432(e)(3)(C)(ii)(I) and 11432(e)(3)(C)(ii)(II) of Title 42 of the United States Code, which provide that a school shall provide assistance to the parent or guardian of each homeless child or youth (or, in the case of an unaccompanied youth, the youth) to exercise the right to attend the parent’s or guardian’s (or youth’s) choice of school, and a school shall coordinate with the local educational agency with jurisdiction for the school selected by the parent or guardian (or youth), to provide transportation and other necessary services.
(q) If a child or youth, the right to be provided, by his or her school, with the supplies necessary to promote academic success, including, but not limited to, backpacks, textbooks, notebooks, pencils, pens, and appropriate academic technology.

(r) The right to access medical facilities and health care, both emergency and nonemergency health care, that provide quality care for both physical and mental needs.

(s) The right to be protected from disclosure of his or her records and information from homeless shelters, medical centers, schools, or any other service provider to law enforcement agencies without appropriate legal authority, and the right to confidentiality of personal records and information in accordance with all limitations on disclosure established by the federal Homeless Management Information Systems, the federal Health Insurance Portability and Accountability Act of 1996 (P.L. (Public Law 104-191)), and the federal Violence Against Women Act (P.L. (Public Law 103-322)).

(t) The right to confidentiality of personal records regarding housing status, income level, mental illness, or physical disability, sexual orientation, gender identity, citizenship, or immigration status, and to protection from disclosure of such the information and records to landlords and employers.

(u) The right to assistance of counsel in any judicial proceeding subject to Section 40508 of the Vehicle Code, Section 853.6, 853.7, or 853.8 of the Penal Code, or any similar provision of law authorizing arrest for failure to appear or pay bail of the amount listed on the notice to appear.

(14) (A) If a county chooses to initiate judicial proceedings subject to Section 40508 of the Vehicle Code, Section 853.6, 853.7, or 853.8 of the Penal Code, or any similar law authorizing arrest for failure to appear or pay bail of the amount listed on the notice to appear, the defendant shall be guaranteed the right to assistance of counsel. The accused shall be advised of this right to counsel before entering a plea, and any waiver of this right shall be explicit. If the district attorney's office or its agent is representing the state in any part of an infraction proceeding, the accused shall have the right to assistance of counsel with regard to that infraction.
(B) The county where the citation was issued shall pay the cost of providing counsel under this section.

(C) A county shall not use penalties under Section 1214.1 of the Penal Code or any other civil assessment scheme in the prosecution of municipal infractions unless the defendant was the driver of a vehicle.

(15) The right to assistance of counsel in any civil or criminal proceeding that may result in commitment to a public health institution.

(w) The right to restitution for loss of property or personal effects and belongings if the property or personal effects are unlawfully confiscated, removed, damaged, or destroyed by law enforcement, public or private security personnel, or BID agents.

(16) The right to be free from arbitrary arrest, detention, or deportation, handed over to another law enforcement agency, or deported, without guarantees necessary for his or her timely defense.

(b) This section shall not be construed to eliminate any protection or right to representation available under Sections 5365 and 6500 of the Welfare and Institutions Code.

53.4.

53.3. (a) A public employee shall be immune from civil or criminal liability, and shall not be retaliated against by his or her employer, for offering public resources to a homeless person in order to protect that person from harm, including, but not limited to, for offering or providing food, blankets, first-aid supplies, or water.

(b) Any person or organization offering food in public spaces to any person pursuant to this part shall not be subject to criminal or civil sanctions, arrest, or harassment by law enforcement, public or private security personnel, or BID agents.

(c) Any person or organization offering religious teachings or services in public spaces to any person pursuant to this part shall not be subject to criminal or civil sanctions, arrest, or harassment by law enforcement, public or private security personnel, or BID agents.

53.5. To monitor the enforcement of local ordinances or the imposition of infractions against persons that are homeless, have low income, or suffer from mental illness or physical disability,
and to ensure that the provisions of this part are adequately adhered to by law enforcement, every local law enforcement agency shall compile and make publicly available information regarding the number of citations, arrests, and other enforcement activities made by the local law enforcement agency by ordinance or infraction, as well as the housing status of those being cited, arrested, or otherwise subject to enforcement. The local law enforcement agency shall report this information to the Attorney General on an annual basis.

53.4. (a) Every local government and disadvantaged unincorporated community within the state shall have sufficient health and hygiene centers available 24 hours a day, seven days a week, for use by homeless people. These facilities may be part of the Neighborhood Health Center Program.

(b) For purposes of subdivision (a), the health and hygiene centers shall be funded by the State Department of Public Health through those county agencies that oversee public health programs, and, at a minimum, shall contain public bathroom and shower facilities.

(c) The State Department of Public Health shall distribute public bulletins and notices identifying the facilities to be used as health and hygiene centers.

(d) For purposes of this section, “disadvantaged unincorporated community” means a fringe, island, or legacy community in which the median household income is 80 percent less than the statewide median household income.

53.5. (a) To ensure equitable and cost-effective enforcement of the Homeless Person’s Bill of Rights and Fairness Act (Ch.____, Stats. 2013), every local law enforcement agency shall annually compile and review the number of citations, arrests, and other enforcement activities made pursuant to laws prohibiting the following:

(1) Obstructing a sidewalk, whether by a person or personal property.

(2) Loitering.

(3) Sitting.

(4) Lying down.

(5) Camping.

(6) Public lodging, including the prohibition specified in subdivision (e) of Section 647 of the Penal Code.
(7) Sleeping in a public place.
(8) Soliciting donations.
(9) Soliciting donations at certain restricted locations, including citing people for panhandling under Section 22520.5 of the Vehicle Code.
(10) Bathing in public places.
(11) Sharing or receiving food.
(12) Inhabiting or sleeping in a vehicle.
(13) Violating public park closure laws.
(14) Crossing streets or highways at particular locations, including subdivisions (c) and (d) of Section 21451 of, subdivision (d) of Section 21453 of, subdivision (b) of Section 21456 of, Section 21461.5 of, subdivision (b) of Section 21950 of, Section 21954 of, Section 21955 of, and subdivision (a) of Section 21956 of, the Vehicle Code.
(15) Trespassing, unless the trespassing charge is coupled with any misdemeanor or felony, except those misdemeanors that are included in Section 372 of, and subdivisions (h) to (j), inclusive, and subdivisions (l) and (m), of Section 602 of, the Penal Code.
(16) Any other local or state law enforced against homeless persons and identified by the Attorney General’s office, a city attorney’s office, or any nonprofit organization whose work or mission includes assistance to research about, or advocate for, poor and homeless people.
(b) A local law enforcement agency shall make this information publicly available under the terms set forth in the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).
(c) A local law enforcement agency shall report the information specified in this section to the Attorney General’s office on an annual basis.
53.6. (a) Any person whose rights have been violated under this part may enforce those rights and he or she, or his or her lawful representative, may file a motion for relief in any trial or appellate court with jurisdiction over the case as a matter of right. The court shall act promptly on any motion for relief under this part.
(b) Any civil action alleging a violation of this part may be brought against any person, entity, public entity, or public employee. The court may award punitive damages, if applicable, appropriate injunctive and declaratory relief, actual damages,
compensatory damages, general damages, special damages, exemplary damages, statutory damages of one thousand dollars ($1,000) per violation, if applicable, and reasonable attorneys’ fees and costs to a prevailing plaintiff.

SEC. 5. Section 54 of the Civil Code is amended to read:
54. (a) Individuals with disabilities or medical conditions have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways, public buildings, medical facilities, including hospitals, clinics, and physicians’ offices, public facilities, and other public places.
(b) For purposes of this section:
(1) “Disability” means any mental or physical disability as defined in Section 12926 of the Government Code.
(2) “Medical condition” has the same meaning as defined in subdivision (j) of Section 12926 of the Government Code.
(c) A violation of the right of an individual under the Americans with Disabilities Act of 1990 (Public Law 101–336) also constitutes a violation of this section.

SEC. 6. Section 32228 of the Education Code is amended to read:
32228. (a) It is the intent of the Legislature that public schools serving pupils in any of grades 8 to 12, inclusive, have access to supplemental resources to establish programs and strategies that promote school safety and emphasize violence prevention among children and youth in public schools.
(b) It is also the intent of the Legislature that public schools have access to supplemental resources to combat bias on the basis of race, color, religion, ancestry, national origin, disability, gender, gender identity, gender expression, or sexual orientation, as defined in subdivision (s) of Section 12926 of the Government Code, and to prevent and respond to acts of hate violence and bias-related incidents.
(c) It is further the intent of the Legislature that schoolsites receiving funds pursuant to this article accomplish all of the following goals:
(1) Teach pupils techniques for resolving conflicts without violence.
(2) Train school staff and administrators to support and promote conflict resolution and mediation techniques for resolving conflicts between and among pupils.
(3) Reduce incidents of violence at the schoolsite with an emphasis on prevention and early detection.

(4) Provide age-appropriate instruction in domestic violence prevention, dating violence prevention, and interpersonal violence prevention.

SEC. 7. Section 354.5 of the Elections Code is amended to read:

354.5. (a) "Signature" includes either of the following:

(1) A person's mark if the name of the person affixing the mark is written near the mark by a witness over 18 years of age designated by the person and the designee subscribes his or her own name as a witness thereto. For purposes of this paragraph, a signature stamp may be used as a mark, provided that the authorized user complies with the provisions of this paragraph.

(2) An impression made by the use of a signature stamp pursuant to the requirements specified in subdivision (c).

(b) A mark attested as provided in paragraph (1) of subdivision (a), or an impression made by a signature stamp as provided in paragraph (2) of subdivision (a), may serve as a signature for any purpose specified in this code, including a sworn statement.

(c) An authorized user of a signature stamp may use it to affix a signature to a document or writing any time that a signature is required by this code, provided that all of the following conditions, as applicable, are met:

(1) A signature stamp used to obtain a ballot or vote by mail ballot in any local, state, or federal election shall be used only by the authorized user of that signature stamp.

(2) A signature stamp shall be affixed by the authorized user in the presence of the Secretary of State, his or her designee, the local elections official, or his or her designee, to obtain a ballot, in any local, state, or federal election unless the authorized user of the signature stamp votes by vote by mail ballot. If the owner of a signature stamp votes by vote by mail ballot, he or she shall affix the signature stamp on the identification envelope in accordance with Section 3019.

(d) A signature affixed with a signature stamp by an authorized user in accordance with this section shall be treated in the same manner as a signature made in writing.

(e) A registered voter or any person who is eligible to vote, who qualifies as an authorized user pursuant to paragraph (1) of
subdivision (g), may use a signature stamp only after he or she
first submits his or her affidavit of registration or a new affidavit
of registration, whichever is applicable, in the presence of a county
elections official, using the signature stamp to sign the affidavit.

(f) The Secretary of State shall report to the Legislature not later
than January 1, 2009, regarding the use of signature stamps during
the 2008 elections.

(g) The following definitions apply for purposes of this section:
(1) “Authorized user” means either of the following:
(A) A person with a disability who, by reason of that disability,
is unable to write and who owns a signature stamp;
(B) A person using the signature stamp on behalf of the owner
of the stamp with the owner’s express consent and in the presence
of the owner.
(2) “Disability” means a medical condition, mental disability,
or physical disability, as those terms are defined in subdivisions
(j), (k), and (m) of Section 12926 of the Government Code.
(3) “Signature stamp” means a stamp that contains the
impression of any of the following:
(A) The actual signature of a person with a disability;
(B) A mark or symbol that is adopted by the person with the
disability.
(C) A signature of the name of a person with a disability that is
made by another person and is adopted by the person with the
disability.

SEC. 8. Section 11135 of the Government Code is amended
to read:
11135. (a) No person in the State of California shall, on the
basis of race, national origin, ethnic group identification, religion,
age, sex, sexual orientation, color, genetic information, disability,
or housing status, be unlawfully denied full and equal access to
the benefits of, or be unlawfully subjected to discrimination under,
y any program or activity that is conducted, operated, or administered
by the state or by any state agency, is funded directly by the state,
or receives any financial assistance from the state. Notwithstanding
Section 11000, this section applies to the California State
University.
(b) With respect to discrimination on the basis of disability,
programs and activities subject to subdivision (a) shall meet the
protections and prohibitions contained in Section 202 of the federal
Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions:

(c) (1) As used in this section, “disability” means any mental or physical disability, as defined in Section 12926.

(2) The Legislature finds and declares that the amendments made to this act are declarative of existing law. The Legislature further finds and declares that in enacting Senate Bill 105 of the 2001–02 Regular Session (Chapter 1102 of the Statutes of 2002), it was the intention of the Legislature to apply subdivision (d) to the California State University in the same manner that subdivisions (a), (b), and (c) already applied to the California State University, notwithstanding Section 11000. In clarifying that the California State University is subject to paragraph (2) of subdivision (d), it is not the intention of the Legislature to increase the cost of developing or procuring electronic and information technology. The California State University shall, however, in determining the cost of developing or procuring electronic or information technology, consider whether technology that meets the standards applicable pursuant to paragraph (2) of subdivision (d) will reduce the long-term cost incurred by the California State University in providing access or accommodations to future users of this technology who are persons with disabilities, as required by existing law, including this section, Title II of the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 and following), and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794):

(d) (1) The Legislature finds and declares that the ability to utilize electronic or information technology is often an essential function for successful employment in the current work world.

(2) In order to improve accessibility of existing technology, and therefore increase the successful employment of individuals with disabilities, particularly blind and visually impaired and deaf and hard-of-hearing persons, state governmental entities, in developing, procuring, maintaining, or using electronic or information technology, either indirectly or through the use of state funds by other entities, shall comply with the accessibility requirements of
Section 508 of the federal Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 794d), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations.

(3) Any entity that contracts with a state or local entity subject to this section for the provision of electronic or information technology or for the provision of related services shall agree to respond to, and resolve any complaint regarding accessibility of its products or services that is brought to the attention of the entity.

(e) As used in this section, “sex” and “sexual orientation” have the same meanings as those terms are defined in subdivisions (r) and (s) of Section 12926.

(f) As used in this section, “race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability” includes a perception that a person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(g) As used in this section, “genetic information” has the same definition as in paragraph (2) of subdivision (e) of Section 51 of the Civil Code.

(h) As used in this section, “housing status” means the status of having or not having a fixed or regular residence, including the status of living on the streets, in a vehicle, or in a homeless shelter, or similar temporary residence or elsewhere in the public domain.

SEC. 9. Section 12920 of the Government Code is amended to read:

12920. It is hereby declared as the public policy of this state that it is necessary to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or housing status.

It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment for these reasons foments domestic strife and unrest, deprives the state of the fullest utilization of its capacities for development and advancement, and substantially and adversely affects the interests of employees, employers, and the public in general.
Further, the practice of discrimination because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, genetic information, or housing status in housing accommodations is declared to be against public policy. It is the purpose of this part to provide effective remedies that will eliminate these discriminatory practices.

This part shall be deemed an exercise of the police power of the state for the protection of the welfare, health, and peace of the people of this state.

SEC. 10. Section 12921 of the Government Code is amended to read:

12921. (a) The opportunity to seek, obtain, and hold employment without discrimination because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or housing status is hereby recognized as and declared to be a civil right.

(b) The opportunity to seek, obtain, and hold housing without discrimination because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, genetic information, housing status, or any other basis prohibited by Section 51 of the Civil Code is hereby recognized as and declared to be a civil right.

SEC. 11. Section 12926 of the Government Code is amended to read:

12926. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) “Affirmative relief” or “prospective relief” includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out of pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) “Age” refers to the chronological age of any individual who has reached his or her 40th birthday.
(c) “Employee” does not include any individual employed by his or her parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) “Employer” includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:

“Employer” does not include a religious association or corporation not organized for private profit.

(e) “Employment agency” includes any person undertaking for compensation to procure employees or opportunities to work.

(f) “Essential functions” means the fundamental job duties of the employment position the individual with a disability holds or desires. “Essential functions” does not include the marginal functions of the position.

(1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

(A) The function may be essential because the reason the position exists is to perform that function.

(B) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

(C) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(2) Evidence of whether a particular function is essential includes, but is not limited to, the following:

(A) The employer’s judgment as to which functions are essential.

(B) Written job descriptions prepared before advertising or interviewing applicants for the job.

(C) The amount of time spent on the job performing the function.

(D) The consequences of not requiring the incumbent to perform the function.

(E) The terms of a collective bargaining agreement.

(F) The work experiences of past incumbents in the job.

(G) The current work experience of incumbents in similar jobs.

(g) (1) “Genetic information” means, with respect to any individual, information about any of the following:
(A) The individual’s genetic tests.

(B) The genetic tests of family members of the individual.

(C) The manifestation of a disease or disorder in family members of the individual.

(2) “Genetic information” includes any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by an individual or any family member of the individual.

(3) “Genetic information” does not include information about the sex or age of any individual.

(h) “Housing status” means the status of having or not having a fixed or regular residence, including the status of living on the streets, in a vehicle, or in a homeless shelter, or similar temporary residence or elsewhere in the public domain.

(i) “Labor or organization” includes any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(j) “Medical condition” means either of the following:

(1) Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer.

(2) Genetic characteristics. For purposes of this section, “genetic characteristics” means either of the following:

(A) Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.

(B) Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or his or her offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

(k) “Mental disability” includes, but is not limited to, all of the following:
(1) Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

(A) “Limits” shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(B) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

(C) “Major life activities” shall be broadly construed and shall include physical, mental, and social activities and working.

(2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

“Mental disability” does not include sexual behavior disorders; compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(6) “On the bases enumerated in this part” means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, or sexual orientation.

(m) “Physical disability” includes, but is not limited to, all of the following:
(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine.

(B) Limits a major life activity. For purposes of this section:

(i) “Limits” shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(iii) “Major life activities” shall be broadly construed and includes physical, mental, and social activities and working.

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

(6) “Physical disability” does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(n) Notwithstanding subdivisions (k) and (m), if the definition of “disability” used in the federal Americans with Disabilities Act of 1990 (P.L. 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical
disability, as defined in subdivision (k) or (m), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of; the definitions in subdivisions (k) and (m).

(o) “Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, or housing status” includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(p) “Reasonable accommodation” may include either of the following:

1. Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.

2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(q) “Religious creed,” “religion,” “religious observance,” “religious belief,” and “creed” include all aspects of religious belief, observance, and practice, including religious dress and grooming practices. “Religious dress practice” shall be construed broadly to include the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of the observance by an individual of his or her religious creed. “Religious grooming practice” shall be construed broadly to include all forms of head, facial, and body hair that are part of the observance by an individual of his or her religious creed.

(r) (1) “Sex” includes, but is not limited to, the following:

(A) Pregnancy or medical conditions related to pregnancy.

(B) Childbirth or medical conditions related to childbirth.

(C) Breastfeeding or medical conditions related to breastfeeding.

(2) “Sex” also includes, but is not limited to, a person’s gender. “Gender” means sex, and includes a person’s gender identity and gender expression. “Gender expression” means a person’s gender related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth.
(s) “Sexual orientation” means heterosexuality, homosexuality, and bisexuality.

(t) “Supervisor” means any individual having the authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees; or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(u) “Undue hardship” means an action requiring significant difficulty or expense, when considered in light of the following factors:

(1) The nature and cost of the accommodation needed.

(2) The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility.

(3) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities.

(4) The type of operations, including the composition, structure, and functions of the workforce of the entity.

(5) The geographic separateness, administrative, or fiscal relationship of the facility or facilities.

SEC. 12. Section 12926.1 of the Government Code is amended to read:

12926.1. The Legislature finds and declares as follows:

(a) The law of this state in the area of disabilities provides protections independent from those in the federal Americans with Disabilities Act of 1990 (P.L. 101-336). Although the federal act provides a floor of protection, this state’s law has always, even prior to passage of the federal act, afforded additional protections.

(b) The law of this state contains broad definitions of physical disability, mental disability, and medical condition. It is the intent of the Legislature that the definitions of physical disability and mental disability be construed so that applicants and employees are protected from discrimination due to an actual or perceived
physical or mental impairment that is disabling, potentially disabling, or perceived as disabling or potentially disabling.

(e) Physical and mental disabilities include, but are not limited to, chronic or episodic conditions such as HIV/AIDS, hepatitis, epilepsy, seizure disorder, diabetes, clinical depression, bipolar disorder, multiple sclerosis, and heart disease. In addition, the Legislature has determined that the definitions of “physical disability” and “mental disability” under the law of this state require a “limitation” upon a major life activity, but do not require, as does the federal Americans with Disabilities Act of 1990, a “substantial limitation.” This distinction is intended to result in broader coverage under the law of this state than under that federal act. Under the law of this state, whether a condition limits a major life activity shall be determined without respect to any mitigating measures, unless the mitigating measure itself limits a major life activity, regardless of federal law under the Americans with Disabilities Act of 1990. Further, under the law of this state, “working” is a major life activity, regardless of whether the actual or perceived working limitation implicates a particular employment or a class or broad range of employments.

(d) Notwithstanding any interpretation of law in Cassista v. Community Foods (1993) 5 Cal.4th 1050, the Legislature intends (1) for state law to be independent of the federal Americans with Disabilities Act of 1990, (2) to require a “limitation” rather than a “substantial limitation” of a major life activity, and (3) by enacting paragraph (4) of subdivision (k) and paragraph (4) of subdivision (m) of Section 12926, to provide protection when an individual is erroneously or mistakenly believed to have any physical or mental condition that limits a major life activity.

(e) The Legislature affirms the importance of the interactive process between the applicant or employee and the employer in determining a reasonable accommodation, as this requirement has been articulated by the Equal Employment Opportunity Commission in its interpretive guidance of the federal Americans with Disabilities Act of 1990.

SEC. 13. Section 12930 of the Government Code is amended to read:

12930. The department shall have the following functions, powers, and duties:
(a) To establish and maintain a principal office and any other offices within the state as are necessary to carry out the purposes of this part.

(b) To meet and function at any place within the state.

(c) To appoint attorneys, investigators, conciliators, mediators, and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(d) To obtain upon request and utilize the services of all governmental departments and agencies and, in addition, with respect to housing discrimination, of conciliation councils.

(e) To adopt, promulgate, amend, and rescind suitable procedural rules and regulations to carry out the investigation, prosecution, and dispute-resolution functions and duties of the department pursuant to this part.

(f) (1) To receive, investigate, conciliate, mediate, and prosecute complaints alleging practices made unlawful pursuant to Chapter 6 (commencing with Section 12940).

(2) To receive, investigate, conciliate, mediate, and prosecute complaints alleging a violation of Section 51, 51.5, 51.7, 54, 54.1, or 54.2 of the Civil Code. The remedies and procedures of this part shall be independent of any other remedy or procedure that might apply.

(g) In connection with any matter under investigation or in question before the department pursuant to a complaint filed under Section 12960, 12961, or 12980:

(1) To issue subpoenas to require the attendance and testimony of witnesses and the production of books, records, documents, and physical materials.

(2) To administer oaths, examine witnesses under oath and take evidence, and take depositions and affidavits.

(3) To issue written interrogatories.

(4) To request the production for inspection and copying of books, records, documents, and physical materials.

(5) To petition the superior courts to compel the appearance and testimony of witnesses, the production of books, records, documents, and physical materials, and the answering of interrogatories.
(h) To bring civil actions pursuant to Section 12965 or 12981 and to prosecute those civil actions before state and federal trial courts.

(i) To issue those publications and those results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination in employment on the bases enumerated in this part and discrimination in housing because of race, religious creed, color, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, familial status, disability, genetic information, sexual orientation, or housing status.

(j) To investigate, approve, certify, decertify, monitor, and enforce nondiscrimination programs proposed by a contractor to be engaged in pursuant to Section 12990.

(k) To render annually to the Governor and to the Legislature a written report of its activities and of its recommendations.

(l) To conduct mediations at any time after a complaint is filed pursuant to Section 12960, 12961, or 12980. The department may end mediation at any time.

(m) The following shall apply with respect to any accusation pending before the former Fair Employment and Housing Commission on or after January 1, 2013:

(1) If an accusation issued under former Section 12965 includes a prayer either for damages for emotional injuries as a component of actual damages, or for administrative fines, or both, or if an accusation is amended for the purpose of adding a prayer either for damages for emotional injuries as a component of actual damages, or for administrative fines, or both, with the consent of the party accused of engaging in unlawful practices, the department may withdraw an accusation and bring a civil action in superior court.

(2) If an accusation was issued under former Section 12981, with the consent of the aggrieved party filing the complaint or aggrieved person on whose behalf a complaint is filed, or the party accused of engaging in unlawful practices, the department may withdraw the accusation and bring a civil action in superior court.

(3) Where removal to court is not feasible, the department shall retain the services of the Office of Administrative Hearings to adjudicate the administrative action pursuant to Sections 11370.3 and 11502.
(n) On any Section 1094.5 Code of Civil Procedure challenge to a decision of the former Fair Employment and Housing Commission pending on or after January 1, 2013, the director or his or her designee shall consult with the Attorney General regarding the defense of that writ petition.

SEC. 14. Section 12931 of the Government Code is amended to read:

12931. The department may also provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, familial status, age, sexual orientation, or housing status that impair the rights of persons in those communities under the Constitution or laws of the United States or of this state. The services of the department may be made available in cases of these disputes, disagreements, or difficulties only when, in its judgment, peaceful relations among the citizens of the community involved are threatened thereby. The department's services are to be made available only upon the request of an appropriate state or local public body, or upon the request of any person directly affected by any such dispute, disagreement, or difficulty.

The assistance of the department pursuant to this section shall be limited to endeavors at investigation, conference, conciliation, and persuasion.

SEC. 15. Section 12940 of the Government Code is amended to read:

12940. It is an unlawful employment practice, unless based upon a bona fide occupational qualification, or except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or housing status of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to
discriminate against the person in compensation or in terms,
conditions, or privileges of employment.
(1) This part does not prohibit an employer from refusing to
hire or discharging an employee with a physical or mental
disability, or subject an employer to any legal liability resulting
from the refusal to employ or the discharge of an employee with
a physical or mental disability, where the employee, because of
his or her physical or mental disability, is unable to perform his
or her essential duties even with reasonable accommodations, or
cannot perform those duties in a manner that would not endanger
his or her health or safety or the health or safety of others even
with reasonable accommodations.
(2) This part does not prohibit an employer from refusing to
hire or discharging an employee who, because of the employee’s
medical condition, is unable to perform his or her essential duties
even with reasonable accommodations, or cannot perform those
duties in a manner that would not endanger the employee’s health
or safety or the health or safety of others even with reasonable
accommodations. Nothing in this part shall subject an employer
to any legal liability resulting from the refusal to employ or the
discharge of an employee who, because of the employee’s medical
condition, is unable to perform his or her essential duties, or cannot
perform those duties in a manner that would not endanger the
employee’s health or safety or the health or safety of others even
with reasonable accommodations.
(3) Nothing in this part relating to discrimination on account of
marital status shall do either of the following:
(A) Affect the right of an employer to reasonably regulate, for
reasons of supervision, safety, security, or morale, the working of
spouses in the same department, division, or facility, consistent
with the rules and regulations adopted by the commission.
(B) Prohibit bona fide health plans from providing additional
or greater benefits to employees with dependents than to those
employees without or with fewer dependents.
(4) Nothing in this part relating to discrimination on account of
sex shall affect the right of an employer to use veteran status as a
factor in employee selection or to give special consideration to
Vietnam-era veterans.
(5) (A) This part does not prohibit an employer from refusing
to employ an individual because of his or her age if the law
compels or provides for that refusal. Promotions within the existing staff, hiring or promotion on the basis of experience and training, rehiring on the basis of seniority and prior service with the employer, or hiring under an established recruiting program from high schools, colleges, universities, or trade schools do not, in and of themselves, constitute unlawful employment practices.

(B) The provisions of this part relating to discrimination on the basis of age do not prohibit an employer from providing health benefits or health care reimbursement plans to retired persons that are altered, reduced, or eliminated when the person becomes eligible for Medicare health benefits. This subparagraph applies to all retiree health benefit plans and contractual provisions or practices concerning retiree health benefits and health care reimbursement plans in effect on or after January 1, 2011.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or housing status of any person, to exclude, expel, or restrict from its membership the person, or to provide only second-class or segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or housing status of the person in the election of officers of the labor organization or in the selection of the labor organization’s staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection or training of that person in any apprenticeship training program or any other training program leading to employment because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or housing status of the person discriminated against.

(d) For any employer or employment agency to print or circulate or cause to be printed or circulated any publication, or to make any nonjob-related inquiry of an employee or applicant, either
verbal or through use of an application form, that expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or housing status, or any intent to make any such limitation, specification, or discrimination. This part does not prohibit an employer or employment agency from inquiring into the age of an applicant, or from specifying age limitations, where the law compels or provides for that action.

(e) (1) Except as provided in paragraph (2) or (3), for any employer or employment agency to require any medical or psychological examination of an applicant, to make any medical or psychological inquiry of an applicant, to make any inquiry whether an applicant has a mental disability or physical disability or medical condition, or to make any inquiry regarding the nature or severity of a physical disability, mental disability, or medical condition.

(2) Notwithstanding paragraph (1), an employer or employment agency may inquire into the ability of an applicant to perform job-related functions and may respond to an applicant’s request for reasonable accommodation.

(3) Notwithstanding paragraph (1), an employer or employment agency may require a medical or psychological examination or make a medical or psychological inquiry of a job applicant after an employment offer has been made but prior to the commencement of employment duties, provided that the examination or inquiry is job related and consistent with business necessity and that all entering employees in the same job classification are subject to the same examination or inquiry.

(f) (1) Except as provided in paragraph (2), for any employer or employment agency to require any medical or psychological examination of an employee, to make any medical or psychological inquiry of an employee, to make any inquiry whether an employee has a mental disability, physical disability, or medical condition, or to make any inquiry regarding the nature or severity of a physical disability, mental disability, or medical condition.

(2) Notwithstanding paragraph (1), an employer or employment agency may require any examinations or inquiries that it can show to be job related and consistent with business necessity. An
employer or employment agency may conduct voluntary medical
examinations, including voluntary medical histories, which are
part of an employee health program available to employees at that
worksite.

(g) For any employer, labor organization, or employment agency
to harass, discharge, expel, or otherwise discriminate against any
person because the person has made a report pursuant to Section
11161.8 of the Penal Code that prohibits retaliation against hospital
employees who report suspected patient abuse by health facilities
or community care facilities:

(h) For any employer, labor organization, employment agency;
or person to discharge, expel, or otherwise discriminate against
any person because the person has opposed any practices forbidden
under this part or because the person has filed a complaint, testified;
or assisted in any proceeding under this part;

(i) For any person to aid, abet, incite, compel, or coerce the
doing of any of the acts forbidden under this part, or to attempt to
do so:

(j) (1) For an employer, labor organization, employment agency;
apprenticeship training program or any training program leading
to employment, or any other person, because of race, religious
creed, color, national origin, ancestry, physical disability, mental
disability, medical condition, genetic information, marital status,
sex, gender, gender identity, gender expression, age, sexual
orientation, or housing status, to harass an employee, an applicant;
or a person providing services pursuant to a contract. Harassment
of an employee, an applicant, or a person providing services
pursuant to a contract by an employee, other than an agent or
supervisor, shall be unlawful if the entity, or its agents or
supervisors, knows or should have known of this conduct and fails
to take immediate and appropriate corrective action. An employer
may also be responsible for the acts of nonemployees, with respect
to sexual harassment of employees, applicants, or persons providing
services pursuant to a contract in the workplace, where the
employer, or its agents or supervisors, knows or should have known
of the conduct and fails to take immediate and appropriate
corrective action. In reviewing cases involving the acts of
nonemployees, the extent of the employer's control and any other
legal responsibility that the employer may have with respect to the
conduct of those nonemployees shall be considered. An entity shall
take all reasonable steps to prevent harassment from occurring.

Loss of tangible job benefits shall not be necessary in order to establish harassment.

(2) The provisions of this subdivision are declaratory of existing law, except for the new duties imposed on employers with regard to harassment.

(3) An employee of an entity subject to this subdivision is personally liable for any harassment prohibited by this section that is perpetrated by the employee, regardless of whether the employer or covered entity knew or should have known of the conduct and fails to take immediate and appropriate corrective action.

(4) (A) For purposes of this subdivision only, “employer” means any person regularly employing one or more persons or regularly receiving the services of one or more persons providing services pursuant to a contract, or any person acting as an agent of an employer, directly or indirectly, the state, or any political or civil subdivision of the state, and cities. The definition of “employer” in subdivision (d) of Section 12926 applies to all provisions of this section other than this subdivision.

(B) Notwithstanding subparagraph (A), for purposes of this subdivision, “employer” does not include a religious association or corporation not organized for private profit, except as provided in Section 12926.2.

(C) For purposes of this subdivision, “harassment” because of sex includes sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions.

(5) For purposes of this subdivision, “a person providing services pursuant to a contract” means a person who meets all of the following criteria:

(A) The person has the right to control the performance of the contract for services and discretion as to the manner of performance.

(B) The person is customarily engaged in an independently established business.

(C) The person has control over the time and place the work is performed, supplies the tools and instruments used in the work, and performs work that requires a particular skill not ordinarily used in the course of the employer’s work.

(k) For an employer, labor organization, employment agency, apprenticeship training program, or any training program leading
to employment, to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.

(f) (1) For an employer or other entity covered by this part to refuse to hire or employ a person or to refuse to select a person for a training program leading to employment or to bar or to discharge a person from employment or from a training program leading to employment, or to discriminate against a person in compensation or in terms, conditions, or privileges of employment because of a conflict between the person’s religious belief or observance and any employment requirement, unless the employer or other entity covered by this part demonstrates that it has explored any available reasonable alternative means of accommodating the religious belief or observance, including the possibilities of excusing the person from those duties that conflict with his or her religious belief or observance or permitting those duties to be performed at another time or by another person, but is unable to reasonably accommodate the religious belief or observance without undue hardship, as defined in subdivision (t) of Section 12926, on the conduct of the business of the employer or other entity covered by this part. Religious belief or observance, as used in this section, includes, but is not limited to, observance of a Sabbath or other religious holy day or days, reasonable time necessary for travel prior and subsequent to a religious observance, and religious dress practice and religious grooming practice as described in subdivision (p) of Section 12926.

(2) An accommodation of an individual’s religious dress practice or religious grooming practice is not reasonable if the accommodation requires segregation of the individual from other employees or the public.

(3) An accommodation is not required under this subdivision if it would result in a violation of this part or any other law prohibiting discrimination or protecting civil rights, including subdivision (b) of Section 51 of the Civil Code and Section 11135 of this code.

(m) For an employer or other entity covered by this part to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee. Nothing in this subdivision or in paragraph (1) or (2) of subdivision (a) shall be construed to require an accommodation that is demonstrated by
the employer or other covered entity to produce undue hardship, as defined in subdivision (t) of Section 12926, to its operation.

(a) For an employer or other entity covered by this part to fail to engage in a timely, good faith, interactive process with the employee or applicant to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition.

(o) For an employer or other entity covered by this part, to subject, directly or indirectly, any employee, applicant, or other person to a test for the presence of a genetic characteristic.

SEC. 16. Section 12944 of the Government Code, as amended by Section 37 of Chapter 46 of the Statutes of 2012, is amended to read:

12944. (a) It shall be unlawful for a licensing board to require any examination or establish any other qualification for licensing that has an adverse impact on any class by virtue of its race, creed, color, national origin or ancestry, sex, gender, gender identity, gender expression, age, medical condition, genetic information, physical disability, mental disability, sexual orientation, or housing status, unless the practice can be demonstrated to be job related. If an examination or other qualification for licensing is determined to be unlawful under this section, that determination shall not void, limit, repeal, or otherwise affect any right, privilege, status, or responsibility previously conferred upon any person by the examination or by a license issued in reliance on the examination or qualification.

(b) It shall be unlawful for a licensing board to fail or refuse to make reasonable accommodation to an individual’s mental or physical disability or medical condition.

(c) It shall be unlawful for any licensing board, unless specifically acting in accordance with federal equal employment opportunity guidelines or regulations approved by the council, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, sex, gender, gender identity, gender expression, age, sexual
orientation, or housing status or any intent to make any such limitation, specification, or discrimination. Nothing in this subdivision shall prohibit any licensing board from making, in connection with prospective licensure or certification, an inquiry as to, or a request for information regarding, the physical fitness of applicants if that inquiry or request for information is directly related and pertinent to the license or the licensed position the applicant is applying for. Nothing in this subdivision shall prohibit any licensing board, in connection with prospective examinations, licensure, or certification, from inviting individuals with physical or mental disabilities to request reasonable accommodations or from making inquiries related to reasonable accommodations.

(d) It is unlawful for a licensing board to discriminate against any person because the person has filed a complaint, testified, or assisted in any proceeding under this part.

(e) It is unlawful for any licensing board to fail to keep records of applications for licensing or certification for a period of two years following the date of receipt of the applications.

(f) As used in this section, “licensing board” means any state board, agency, or authority in the State and Consumer Services Agency that has the authority to grant licenses or certificates which are prerequisites to employment eligibility or professional status.

SEC. 17. Section 12944 of the Government Code, as amended by Section 17 of Chapter 147 of the Statutes of 2012, is amended to read:

12944. (a) It shall be unlawful for a licensing board to require any examination or establish any other qualification for licensing that has an adverse impact on any class by virtue of its race, creed, color, national origin or ancestry, sex, gender, gender identity, gender expression, age, medical condition, genetic information, physical disability, mental disability, sexual orientation, or housing status unless the practice can be demonstrated to be job related.

Where the commission, after hearing, determines that an examination is unlawful under this subdivision, the licensing board may continue to use and rely on the examination until such time as judicial review by the superior court of the determination is exhausted.

If an examination or other qualification for licensing is determined to be unlawful under this section, that determination shall not void, limit, repeal, or otherwise affect any right, privilege,
status, or responsibility previously conferred upon any person by
the examination or by a license issued in reliance on the
examination or qualification.

(b) It shall be unlawful for a licensing board to fail or refuse to
make reasonable accommodation to an individual’s mental or
physical disability or medical condition.

c) It shall be unlawful for any licensing board, unless
specifically acting in accordance with federal equal employment
opportunity guidelines or regulations approved by the commission,
to print or circulate or cause to be printed or circulated any
publication, or to make any non-job-related inquiry, either verbal
or through use of an application form, which expresses, directly
or indirectly, any limitation, specification, or discrimination as to
race, religious creed, color, national origin, ancestry, physical
disability, mental disability, medical condition, genetic information;
sex, gender, gender identity, gender expression, age, sexual
orientation, or housing status or any intent to make any such
limitation, specification, or discrimination. Nothing in this
subdivision shall prohibit any licensing board from making, in
connection with prospective licensure or certification, an inquiry
as to, or a request for information regarding, the physical fitness
of applicants if that inquiry or request for information is directly
related and pertinent to the license or the licensed position the
applicant is applying for. Nothing in this subdivision shall prohibit
any licensing board, in connection with prospective examinations;
licensure, or certification, from inviting individuals with physical
or mental disabilities to request reasonable accommodations or
from making inquiries related to reasonable accommodations.

d) It is unlawful for a licensing board to discriminate against
any person because the person has filed a complaint, testified, or
assisted in any proceeding under this part.

e) It is unlawful for any licensing board to fail to keep records
of applications for licensing or certification for a period of two
years following the date of receipt of the applications.

(f) As used in this section, “licensing board” means any state
board, agency, or authority in the Business, Consumer Services,
and Housing Agency that has the authority to grant licenses or
certificates which are prerequisites to employment eligibility or
professional status.
SEC. 18. Section 12955 of the Government Code is amended to read:

12955. It shall be unlawful:

(a) For the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, disability, genetic information, or housing status of that person:

(b) For the owner of any housing accommodation to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, disability, genetic information, or housing status of any person seeking to purchase, rent, or lease any housing accommodation:

(c) For any person to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, disability, genetic information, or housing status or an intention to make that preference, limitation, or discrimination:

(d) For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, to discriminate against any person on the basis of sex, gender, gender identity, gender expression, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, disability, genetic information, source of income, housing status, or on any other basis prohibited by that section. Selection preferences based on age, imposed in connection with a federally approved housing program, do not constitute age discrimination in housing:

(e) For any person, bank, mortgage company or other financial institution that provides financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, gender, gender identity, gender
expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, genetic information, or housing status in the terms, conditions, or privileges relating to the obtaining or use of that financial assistance.

(f) For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when the owner’s dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, has testified or assisted in any proceeding under this part, or has aided or encouraged a person to exercise or enjoy the rights secured by this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

(g) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

(h) For any person, for profit, to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, ancestry, disability, genetic information, source of income, familial status, national origin, or housing status.

(i) For any person or other organization or entity whose business involves real estate-related transactions to discriminate against any person in making available a transaction, or in the terms and conditions of a transaction, because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, source of income, familial status, disability, genetic information, or housing status.

(j) To deny a person access to, or membership or participation in, a multiple listing service, real estate brokerage organization, or other service because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, ancestry, disability, genetic information, familial status, source of income, national origin, or housing status.

(k) To otherwise make unavailable or deny a dwelling based on discrimination because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial
status, source of income, disability, genetic information, national
origin, or housing status.

(f) To discriminate through public or private land use practices,
decisions, and authorizations because of race, color, religion, sex;
gender, gender identity, gender expression, sexual orientation;
familial status, marital status, disability, genetic information;
national origin, source of income, ancestry, or housing status.

Discrimination includes, but is not limited to, restrictive covenants;
zoning laws, denials of use permits, and other actions authorized
under the Planning and Zoning Law (Title 7 (commencing with
Section 65000)), that make housing opportunities unavailable.

Discrimination under this subdivision also includes the existence
of a restrictive covenant, regardless of whether accompanied by a
statement that the restrictive covenant is repealed or void:

(m) As used in this section, “race, color, religion, sex, gender;
gender identity, gender expression, sexual orientation, marital
status, national origin, ancestry, familial status, source of income;
disability, genetic information, or housing status,” includes a
perception that the person has any of those characteristics or that
the person is associated with a person who has, or is perceived to
have, any of those characteristics:

(n) To use a financial or income standard in the rental of housing
that fails to account for the aggregate income of persons residing
together or proposing to reside together on the same basis as the
aggregate income of married persons residing together or proposing
to reside together:

(o) In instances where there is a government rent subsidy, to
use a financial or income standard in assessing eligibility for the
rental of housing that is not based on the portion of the rent to be
paid by the tenant.

(p) (1) For the purposes of this section, “source of income”
means lawful, verifiable income paid directly to a tenant or paid
to a representative of a tenant. For the purposes of this section, a
landlord is not considered a representative of a tenant.

(2) For the purposes of this section, it shall not constitute
discrimination based on source of income to make a written or
oral inquiry concerning the level or source of income.

SEC. 19. Section 12955.8 of the Government Code is amended
to read:
12955.8. For purposes of this article, in connection with unlawful practices:

(a) Proof of an intentional violation of this article includes, but is not limited to, an act or failure to act that is otherwise covered by this part, that demonstrates an intent to discriminate in any manner in violation of this part. A person intends to discriminate if race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, genetic information, or housing status is a motivating factor in committing a discriminatory housing practice even though other factors may have also motivated the practice. An intent to discriminate may be established by direct or circumstantial evidence.

(b) Proof of a violation causing a discriminatory effect is shown if an act or failure to act that is otherwise covered by this part, and that has the effect, regardless of intent, of unlawfully discriminating on the basis of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, genetic information, or housing status. A business establishment whose action or inaction has an unintended discriminatory effect shall not be considered to have committed an unlawful housing practice in violation of this part if the business establishment can establish that the action or inaction is necessary to the operation of the business and effectively carries out the significant business need it is alleged to serve. In cases that do not involve a business establishment, the person whose action or inaction has an unintended discriminatory effect shall not be considered to have committed an unlawful housing practice in violation of this part if the person can establish that the action or inaction is necessary to achieve an important purpose sufficiently compelling to override the discriminatory effect and effectively carries out the purpose it is alleged to serve.

(1) Any determination of a violation pursuant to this subdivision shall consider whether or not there are feasible alternatives that would equally well or better accomplish the purpose advanced with a less discriminatory effect.

(2) For purposes of this subdivision, the term “business establishment” shall have the same meaning as in Section 51 of the Civil Code:
SEC. 20. Section 12956.1 of the Government Code is amended to read:

12956.1. (a) As used in this section, "association," "governing documents," and "declaration" have the same meanings as set forth in Sections 4080, 4135, and 4150 of the Civil Code.

(b) (1) A county recorder, title insurance company, escrow company, real estate broker, real estate agent, or association that provides a copy of a declaration, governing document, or deed to any person shall place a cover page or stamp on the first page of the previously recorded document or documents stating, in at least 14-point boldface type, the following:

"If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, ancestry, or housing status, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status."

(2) The requirements set forth in paragraph (1) shall not apply to documents being submitted for recordation to a county recorder.

(c) Any person who records a document for the express purpose of adding a racially restrictive covenant is guilty of a misdemeanor. The county recorder shall not incur any liability for recording the document. Notwithstanding any other provision of law, a prosecution for a violation of this subdivision shall commence within three years after the discovery of the recording of the document.

SEC. 21. Section 12956.2 of the Government Code is amended to read:

12956.2. (a) A person who holds an ownership interest of record in property that he or she believes is the subject of an unlawfully restrictive covenant in violation of subdivision (f) of Section 12955 may record a document titled Restrictive Covenant Modification. The county recorder may choose to waive the fee prescribed for recording and indexing instruments pursuant to Section 27361 in the case of the modification document provided
for in this section. The modification document shall include a complete copy of the original document containing the unlawfully restrictive language with the unlawfully restrictive language strucken.

(b) Before recording the modification document, the county recorder shall submit the modification document and the original document to the county counsel who shall determine whether the original document contains an unlawful restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, national origin, source of income as defined in subdivision (p) of Section 12955, ancestry, or housing status. The county counsel shall return the documents and inform the county recorder of its determination. The county recorder shall refuse to record the modification document if the county counsel finds that the original document does not contain an unlawful restriction as specified in this paragraph.

(c) The modification document shall be indexed in the same manner as the original document being modified. It shall contain a recording reference to the original document in the form of a book and page or instrument number, and date of the recording.

(d) Subject to covenants, conditions, and restrictions that were recorded after the recording of the original document that contains the unlawfully restrictive language and subject to covenants, conditions, and restrictions that will be recorded after the Restrictive Covenant Modification, the restrictions in the Restrictive Covenant Modification, once recorded, are the only restrictions having effect on the property. The effective date of the terms and conditions of the modification document shall be the same as the effective date of the original document.

(e) The county recorder shall make available to the public Restrictive Covenant Modification forms.

(f) If the holder of an ownership interest of record in property causes to be recorded a modified document pursuant to this section that contains modifications not authorized by this section, the county recorder shall not incur liability for recording the document. The liability that may result from the unauthorized recordation is the sole responsibility of the holder of the ownership interest of record who caused the modified recordation.
(g) This section does not apply to persons holding an ownership interest in property that is part of a common interest development as defined in Section 4100 of the Civil Code if the board of directors of that common interest development is subject to the requirements of subdivision (b) of Section 4225 of the Civil Code.

SEC. 22. Section 12993 of the Government Code is amended to read:

12993. (a) The provisions of this part shall be construed liberally for the accomplishment of the purposes of this part. Nothing contained in this part shall be deemed to repeal any of the provisions of the Civil Rights Law or of any other law of this state relating to discrimination because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, or housing status, unless those provisions provide less protection to the enumerated classes of persons covered under this part.

(b) Nothing contained in this part relating to discrimination in employment on account of sex or medical condition shall be deemed to affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan, provided the terms or conditions are in accordance with customary and reasonable or actuarially sound underwriting practices.

(c) While it is the intention of the Legislature to occupy the field of regulation of discrimination in employment and housing encompassed by the provisions of this part, exclusive of all other laws banning discrimination in employment and housing by any city, city and county, county, or other political subdivision of the state, nothing contained in this part shall be construed, in any manner or way, to limit or restrict the application of Section 51 of the Civil Code.

SEC. 23. Section 868.8 of the Penal Code is amended to read:

868.8. Notwithstanding any other provision of law, in any criminal proceeding in which the defendant is charged with a violation of Section 243.4, 261, 273a, 273d, 285, 286, 288, 288a, 288.5, or 289, subdivision (1) of Section 314, Section 647.6, or former Section 647a, or any crime that constitutes domestic violence defined in Section 13700, committed with or upon a person with a disability or a minor under 11 years of age, the court shall take special precautions to provide for the comfort and support
of the person with a disability or minor and to protect him or her from coercion, intimidation, or undue influence as a witness, including, but not limited to, any of the following:

(a) In the court’s discretion, the witness may be allowed reasonable periods of relief from examination and cross-examination during which he or she may retire from the courtroom. The judge may also allow other witnesses in the proceeding to be examined when the person with a disability or child witness retires from the courtroom.

(b) Notwithstanding Section 68110 of the Government Code, in his or her discretion, the judge may remove his or her robe if the judge believes that this formal attire intimidates the person with a disability or the minor.

(c) In the court’s discretion the judge, parties, witnesses, support persons, and court personnel may be relocated within the courtroom to facilitate a more comfortable and personal environment for the person with a disability or child witness.

(d) In the court’s discretion, the taking of the testimony of the person with a disability or the minor may be limited to normal school hours if there is no good cause to take the testimony of the person with a disability or the minor during other hours.

(e) For the purposes of this section, the term “disability” is defined in subdivision (k) of Section 12926 of the Government Code.

SEC. 24. Section 4900 of the Welfare and Institutions Code is amended to read:

4900. (a) The definitions contained in this section shall govern the construction of this division, unless the context requires otherwise. These definitions shall not be construed to alter or impact the definitions or other provisions of the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11 (commencing with Section 15600)), or Chapter 13 (commencing with Section 15750), of Part 3 of Division 9.

(b) “Abuse” means an act, or failure to act, that would constitute abuse as that term is defined in federal regulations pertaining to the authority of protection and advocacy agencies, including Section 51.2 of Title 42 of the Code of Federal Regulations or Section 1386.19 of Title 45 of the Code of Federal Regulations. “Abuse” also means an act, or failure to act, that would constitute
abuse as that term is defined in Section 15610.07 of this code or
Section 11165.6 of the Penal Code.

(c) “Complaint” has the same meaning as “complaint” as defined
in federal statutes and regulations pertaining to the authority of
protection and advocacy agencies, including Section 10802(1) of
Title 42 of the United States Code, Section 51.2 of Title 42 of the
Code of Federal Regulations, or Section 1386.19 of Title 45 of the
Code of Federal Regulations.

(d) “Disability” means a developmental disability, as defined
in Section 15002(8) of Title 42 of the United States Code, a mental
illness, as defined in Section 10802(4) of Title 42 of the United
States Code, a disability within the meaning of the federal
Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
et seq.), as defined in Section 12102(2) of Title 42 of the United
States Code, or a disability within the meaning of the California
Fair Employment and Housing Act (Part 2.8 (commencing with
Section 12900) of Division 3 of Title 2 of the Government Code),
as defined in subdivision (k) or (m) of Section 12926 of the
Government Code.

(e) “Facility” or “program” means a public or private facility
or program providing services, support, care, or treatment to
persons with disabilities, even if only on an as-needed basis or
under contractual arrangement. “Facility” or “program” includes,
but is not limited to, a hospital, a long-term health care facility, a
community-living arrangement for people with disabilities;
including a group home, a board and care home, an individual
residence or apartment of a person with a disability where services
are provided, a day program, a juvenile detention facility, a
homeless shelter, a jail, or a prison, including all general areas, as
well as special, mental health, or forensic units. The term includes
any facility licensed under Division 2 (commencing with Section
1200) of the Health and Safety Code and any facility that is
unlicensed but is not exempt from licensure as provided in
subdivision (a) of Section 1503.5 of the Health and Safety Code.
The term also includes a public or private school or other institution
or program providing education, training, habilitation, therapeutic;
or residential services to persons with disabilities.

(f) “Legal guardian,” “conservator,” or “legal representative”
means a person appointed by a state court or agency empowered
under state law to appoint and review the legal guardian;

98
conservator, or legal representative, as appropriate. With respect to an individual described under paragraph (2) of subdivision (i), this person is one who has the legal authority to consent to health or mental health care or treatment on behalf of the individual. With respect to an individual described under paragraphs (1) or (3) of subdivision (i), this person is one who has the legal authority to make all decisions on behalf of the individual. These terms include the parent of a minor who has legal custody of the minor. These terms do not include a person acting solely as a representative payee, a person acting solely to handle financial matters, an attorney or other person acting on behalf of an individual with a disability solely in individual legal matters, or an official or his or her designee who is responsible for the provision of treatment or services to an individual with a disability.

(g) "Neglect" means a negligent act, or omission to act, that would constitute neglect as that term is defined in federal statutes and regulations pertaining to the authority of protection and advocacy agencies, including Section 10802(5) of Title 42 of the United States Code, Section 51.2 of Title 42 of the Code of Federal Regulations, or Section 1386.19 of Title 45 of the Code of Federal Regulations. "Neglect" also means a negligent act, or omission to act, that would constitute neglect as that term is defined in subdivision (b) of Section 15610.07 of this code or Section 11165.2 of the Penal Code.

(h) "Probable cause" to believe that an individual has been subject to abuse or neglect, or is at significant risk of being subjected to abuse or neglect, exists when the protection and advocacy agency determines that it is objectively reasonable for a person to entertain that belief. The individual making a probable cause determination may base the decision on reasonable inferences drawn from his or her experience or training regarding similar incidents, conditions, or problems that are usually associated with abuse or neglect. Information supporting a probable cause determination may result from monitoring or other activities, including, but not limited to, media reports and newspaper articles.

(i) "Protection and advocacy agency" means the private nonprofit corporation designated by the Governor in this state pursuant to federal law for the protection and advocacy of the rights of persons with disabilities, including the following:
(1) People with developmental disabilities, as authorized under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, contained in Chapter 144 (commencing with Section 15001) of Title 42 of the United States Code.

(2) People with mental illness, as authorized under the federal Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991, contained in Chapter 114 (commencing with Section 10801) of Title 42 of the United States Code.

(3) People with disabilities within the meaning of the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) as defined in Section 12102(2) of Title 42 of the United States Code, who do not have a developmental disability as defined in Section 15002(8) of Title 42 of the United States Code, people with a mental illness as defined in Section 10802(4) of Title 42 of the United States Code, and who are receiving services under the federal Protection and Advocacy of Individual Rights Act as defined in Section 794e of Title 29 of the United States Code, or people with a disability within the meaning of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), as defined in subdivision (k) or (m) of Section 12926 of the Government Code.

(i) "Reasonable unaccompanied access" means access that permits the protection and advocacy agency, without undue interference, to monitor, inspect, and observe conditions in facilities and programs, to meet and communicate with residents and service recipients privately and confidentially on a regular basis, formally or informally, by telephone, mail, electronic mail, and in person, and to review records privately and confidentially, in a manner that minimizes interference with the activities of the program or service, that respects residents’ privacy interests and honors a resident’s request to terminate an interview, and that does not jeopardize the physical health or safety of facility or program staff, residents, service recipients, or protection and advocacy agency staff.

SEC. 5. Section 11135 of the Government Code is amended to read:

11135. (a) No person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, housing status, genetic
information, or disability, be unlawfully denied full and equal
access to the benefits of, or be unlawfully subjected to
discrimination under, any program or activity that is conducted,
operated, or administered by the state or by any state agency, is
funded directly by the state, or receives any financial assistance
from the state. Notwithstanding Section 11000, this section applies
to the California State University.

(b) With respect to discrimination on the basis of disability,
programs and activities subject to subdivision (a) shall meet the
protections and prohibitions contained in Section 202 of the federal
Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132),
and the federal rules and regulations adopted in implementation
thereof, except that if the laws of this state prescribe stronger
protections and prohibitions, the programs and activities subject
to subdivision (a) shall be subject to the stronger protections and
prohibitions.

(c) (1) As used in this section, “disability” means any mental
or physical disability, as defined in Section 12926.
(2) The Legislature finds and declares that the amendments
made to this act are declarative of existing law. The Legislature
further finds and declares that in enacting Senate Bill 105 of the
2001–02 Regular Session (Chapter 1102 of the Statutes of 2002),
it was the intention of the Legislature to apply subdivision (d) to
the California State University in the same manner that
subdivisions (a), (b), and (c) already applied to the California State
University, notwithstanding Section 11000. In clarifying that the
California State University is subject to paragraph (2) of
subdivision (d), it is not the intention of the Legislature to increase
the cost of developing or procuring electronic and information
technology. The California State University shall, however, in
determining the cost of developing or procuring electronic or
information technology, consider whether technology that meets
the standards applicable pursuant to paragraph (2) of subdivision
(d) will reduce the long-term cost incurred by the California State
University in providing access or accommodations to future users
of this technology who are persons with disabilities, as required
by existing law, including this section, Title II of the federal
Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
and following) et seq.), and Section 504 of the Rehabilitation Act
The Legislature finds and declares that the ability to utilize electronic or information technology is often an essential function for successful employment in the current work world.

In order to improve accessibility of existing technology, and therefore increase the successful employment of individuals with disabilities, particularly blind and visually impaired and deaf and hard-of-hearing persons, state governmental entities, in developing, procuring, maintaining, or using electronic or information technology, either indirectly or through the use of state funds by other entities, shall comply with the accessibility requirements of Section 508 of the federal Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 794d), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations.

Any entity that contracts with a state or local entity subject to this section for the provision of electronic or information technology or for the provision of related services shall agree to respond to, and resolve any complaint regarding accessibility of its products or services that is brought to the attention of the entity.

As used in this section, “sex” and “sexual orientation” have the same meanings as those terms are defined in subdivisions (q) and (r) of Section 12926.

As used in this section, “race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability” includes a perception that a person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

As used in this section, “genetic information” has the same definition as in paragraph (2) of subdivision (e) of Section 51 of the Civil Code.

For purposes of this section “housing status” has the same meaning as that term is defined in subdivision (g) of Section 53.1 of the Civil Code.

SEC. 25.
SEC. 6. The Legislature finds and declares that the need to address discriminatory practices is a matter of statewide concern and is not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act shall apply to all cities, including charter cities.
SEC. 26.

SEC. 7. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 27. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction; eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 8. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.