

AMENDED IN ASSEMBLY APRIL 8, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 5

Introduced by Assembly Member Ammiano

December 3, 2012

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,~~ *low income, 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 counsels 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. This act shall be known and may be cited as the
2 ~~“Homeless Person’s Bill of Rights and Fairness Act.”~~ *Homeless*
3 *Person’s Bill of Rights and Fairness Act.*

4 SEC. 2. The Legislature finds and declares all of the following:
5 (a) In the State of California, there has been a long history of
6 discriminatory laws and ordinances that have disproportionately
7 affected people with low incomes and who are without homes,
8 including, but not limited to, all of the following:

9 (1) Jim Crow laws: After the Civil War, many states, especially
10 in the south, passed laws denying African Americans basic human
11 rights. In California, these laws also targeted Chinese immigrants.
12 In San Francisco, Chinese residents were forced to live in one area
13 of the city. The same segregation laws also prohibited interracial
14 marriage between Chinese and non-Chinese persons.

15 (2) Ugly laws: In 1867, San Francisco was the first city in the
16 country to pass a law making it illegal for people with “unsightly
17 or disgusting” disabilities to appear in public. In many cities, these
18 laws persisted until the 1970s.

19 (3) Anti-Okie laws: In 1937, California passed an Anti-Okie
20 law that criminalized “bringing or assisting in bringing” extremely
21 poor people into the state. The United States Supreme Court struck
22 down the law in 1941, when it declared that these laws are in
23 violation of the ~~Commerce Clause~~ *commerce clause*, and therefore
24 unconstitutional.

25 (4) ~~Sundown-towns~~ *town ordinances*: Town policies and real
26 estate covenants were aimed at preventing minorities, *homeless*
27 *persons*, and other persons considered to be socially undesirable
28 from remaining within city limits after sunset. Thousands of these
29 towns existed prior to the *federal* Civil Rights Act of 1968, which
30 made these ordinances and covenants illegal.

1 (5) Vagrancy laws: Vagrancy laws have been held to be
2 discriminatory on their face because they criminalize a person’s
3 status rather than a behavior. Nevertheless, these laws existed in
4 California until the Legislature revised them in 1961.

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

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

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

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

27 ~~(3)~~

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

30 ~~(4)~~

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

34 ~~(5)~~

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

37 ~~(6)~~

38 (5) The ability to make certain purchases or enter certain contests
39 as a result of not having a fixed or residential mailing address or
40 having a post office box as a mailing address.

1 ~~(7)~~

2 (6) Access to safe, clean restrooms, *water*, and hygienic supplies
3 necessary to maintain health, safety, and dignity, *especially with*
4 *the proliferation of closures of public restrooms.*

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

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

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

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

22 ~~(g)~~

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

26 ~~(h)~~

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

31 ~~(i)~~

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

37 ~~(j) All laws, therefore, should be enacted for the good of the~~
38 ~~whole.~~

39 (k) Subdivision (a) of Section 7 of Article I of the California
40 Constitution provides, in part, that "[a] person may not be deprived

1 of life, liberty, or property without due process of law or denied
2 equal protection of the laws... .”

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

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

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

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

25 (3) *Access to clean and safe facilities 24 hours a day, seven*
26 *days a week, with clearly identifiable staff able to react to safety*
27 *concerns, including, but not limited to, shelters and drop-in centers*
28 *that meet basic health, hygiene, and dignity needs, including any*
29 *special needs of lesbian, gay, bisexual, or transgender individuals,*
30 *youths, families, or those with mental illness or physical*
31 *disabilities. This includes the right of all individuals to secure*
32 *shelter without being required to state their gender or to share*
33 *confidential health information protected by the federal Health*
34 *Insurance Portability and Accountability Act of 1996 (Public Law*
35 *104-191).*

36 (4) *As a child enrolled in a publicly funded school, be provided*
37 *by his or her school with the supplies necessary to promote*
38 *academic success, including, but not limited to, backpacks,*
39 *textbooks, notebooks, pencils, pens, and appropriate academic*
40 *technology.*

1 (5) *Nonemergency health care and access to medical facilities*
2 *that provide quality care for both physical and mental needs.*

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

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

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

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

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

33 ~~(b) All persons within the jurisdiction of this state are free and~~
34 ~~equal, and no matter what their sex, race, color, religion, ancestry,~~
35 ~~national origin, disability, medical condition, genetic information,~~
36 ~~marital status, sexual orientation, or housing status, are entitled to~~
37 ~~the full and equal accommodations, advantages, facilities,~~
38 ~~privileges, or services in all business establishments of every kind~~
39 ~~whatsoever.~~

1 ~~(e) This section shall not be construed to confer any right or~~
2 ~~privilege on a person that is conditioned or limited by law or that~~
3 ~~is applicable alike to persons of every sex, color, race, religion,~~
4 ~~ancestry, national origin, disability, medical condition, marital~~
5 ~~status, sexual orientation, or housing status, or to persons regardless~~
6 ~~of their genetic information.~~

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

17 ~~(e) For purposes of this section:~~

18 ~~(1) "Disability" means any mental or physical disability as~~
19 ~~defined in Sections 12926 and 12926.1 of the Government Code.~~

20 ~~(2) (A) "Genetic information" means, with respect to any~~
21 ~~individual, information about any of the following:~~

22 ~~(i) The individual's genetic tests.~~

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

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

26 ~~(B) "Genetic information" includes any request for, or receipt~~
27 ~~of, genetic services, or participation in clinical research that~~
28 ~~includes genetic services, by an individual or any family member~~
29 ~~of the individual.~~

30 ~~(C) "Genetic information" does not include information about~~
31 ~~the sex or age of any individual.~~

32 ~~(3) "Housing status" means the status of having or not having~~
33 ~~a fixed or regular residence, including the status of living on the~~
34 ~~streets, in a vehicle, or in a homeless shelter, or similar temporary~~
35 ~~residence or elsewhere in the public domain.~~

36 ~~(4) "Medical condition" has the same meaning as defined in~~
37 ~~subdivision (j) of Section 12926 of the Government Code.~~

38 ~~(5) "Religion" includes all aspects of religious belief,~~
39 ~~observance, and practice.~~

1 (6) ~~“Sex” includes, but is not limited to, pregnancy, childbirth,~~
 2 ~~or medical conditions related to pregnancy or childbirth. “Sex”~~
 3 ~~also includes, but is not limited to, a person’s gender. “Gender”~~
 4 ~~means sex, and includes a person’s gender identity and gender~~
 5 ~~expression. “Gender expression” means a person’s gender-related~~
 6 ~~appearance and behavior whether or not stereotypically associated~~
 7 ~~with the person’s assigned sex at birth.~~

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

15 (8) ~~“Sexual orientation” has the same meaning as defined in~~
 16 ~~subdivision (s) of Section 12926 of the Government Code.~~

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

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

22
 23 PART 2.2. HOMELESS PERSONS
 24

25 53.1. For purposes of this part, the following definitions shall
 26 apply:

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

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

38 (b) *“BID” means a business improvement district, as established*
 39 *under Chapter 2 (commencing with Section 36520) of Part 6 of*
 40 *Division 18 of, or Chapter 2 (commencing with Section 36620) of*

1 *Part 7 of Division 18 of, the Streets and Highways Code, or any*
2 *public-private partnership established under any municipal or*
3 *county law authorized under Chapter 1 (commencing with Section*
4 *36500) of Part 6 of Division 18 of, or Chapter 1 (commencing with*
5 *Section 36600) of Part 7 of Division 18 of, the Streets and*
6 *Highways Code, whether or not the phrase “business improvement*
7 *district” is part of the public-private partnership’s name.*

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

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

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

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

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

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

37 (i) “Lawful representative” means any person who has been
38 asked to advocate on behalf of a ~~victim~~ *person* or any class that a
39 ~~victim~~ *person* identifies with, including, but not limited to, a
40 ~~homeless-victim’s~~ *person’s* retained attorney, a nonprofit

1 organization that advocates on behalf of homeless ~~victims~~ persons,
 2 or a prosecuting attorney upon the request of a homeless ~~victim~~
 3 person.

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

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

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

17 ~~(k)~~

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

25 ~~(l)~~

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

29 ~~(m)~~

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

32 ~~53.2. No person’s rights, privileges, or access to public services~~
 33 ~~may be denied or abridged because he or she is homeless, has a~~
 34 ~~low income, or suffers from a mental illness or physical disability.~~
 35 ~~Such a person shall be granted the same rights and privileges as~~
 36 ~~any other resident of this state. Every person in the state, regardless~~
 37 ~~of actual or perceived housing status, income level, mental illness,~~
 38 ~~or physical disability, shall be free from all of the following:~~

39 ~~(a) Any type of discriminatory treatment by law enforcement,~~
 40 ~~public or private security personnel, business owners, property~~

1 managers, or BID agents, including, but not limited to, harassment,
2 intimidation, or selective enforcement.

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

6 ~~(c) Abuse, both verbal and physical, discrimination, or~~
7 ~~harassment in the workplace.~~

8 ~~(d) Discrimination while seeking or maintaining housing or~~
9 ~~shelter.~~

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

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

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

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

25 ~~53.3.~~

26 53.2. (a) Every person in the state, regardless of actual or
27 perceived housing status, ~~income level, mental illness, or physical~~
28 ~~disability, low income, sexual orientation, gender identity,~~
29 ~~citizenship, or immigration status,~~ shall have the right to all of the
30 following basic human rights and legal and civil protections, *except*
31 *when prohibited by federal law:*

32 (a)

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

39 (b)

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

6 ~~(e)~~

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

20 ~~(d)~~

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

25 ~~(e)~~

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

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

38 (6) *The right to sleep, sit, lie down, stand, eat, solicit donations,*
39 *or share food in a public place or in a vehicle in a public place,*
40 *without being subject to criminal or civil sanctions or arrest by*

1 law enforcement, public or private security personnel, or BID
2 agents, except that law enforcement may enforce existing local
3 laws if all of the following are true: (1) the person's county of
4 residence maintains 12 months per year of nonmedical assistance
5 provided for in Section 17000 of the Welfare and Institutions Code
6 for employable, able-bodied adults without dependents who are
7 compliant with program rules established by the county, including
8 work requirements; (2) the locality is not a geographical area
9 identified by the United States Department of Labor in accordance
10 with Subpart A of Part 654 of Section 20 of the Code of Federal
11 Regulations as an area of concentrated unemployment or
12 underemployment or an area of labor surplus; and (3) the public
13 housing waiting list maintained by the county contains fewer than
14 50 persons.

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

21 ~~(g)~~

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

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

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

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

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

39 ~~(l) The right to safe, decent, permanent, affordable housing, as
40 soon as possible, and the right to be free from further dislocation,~~

1 ~~unless and until such time as safe, decent, permanent, affordable~~
 2 ~~housing is available.~~

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

10 ~~(n)~~

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

18 ~~(o)~~

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

27 ~~(p)~~

28 ~~(11) If *the person* is a child or youth, the right to state ~~and~~~~
 29 ~~federal enforcement of the educational protections under the federal~~
 30 ~~McKinney-Vento Act (42 U.S.C. Sec. 11432), particularly with~~
 31 ~~regard to Sections 11432(e)(3)(C)(ii)(I) and 11432(e)(3)(C)(ii)(II)~~
 32 ~~of Title 42 of the United States Code, which provide that a school~~
 33 ~~shall provide assistance to the parent or guardian of each homeless~~
 34 ~~child or youth (or, in the case of an unaccompanied youth, the~~
 35 ~~youth) to exercise the right to attend the parent's or guardian's (or~~
 36 ~~youth's) choice of school, and a school shall coordinate with the~~
 37 ~~local educational agency with jurisdiction for the school selected~~
 38 ~~by the parent or guardian (or youth), to provide transportation and~~
 39 ~~other necessary services.~~

1 ~~(q) If a child or youth, the right to be provided, by his or her~~
2 ~~school, with the supplies necessary to promote academic success,~~
3 ~~including, but not limited to, backpacks, textbooks, notebooks,~~
4 ~~pencils, pens, and appropriate academic technology.~~

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

8 (s)

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

19 (t)

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

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

30 (14) (A) *If a county chooses to initiate judicial proceedings*
31 *subject to Section 40508 of the Vehicle Code, Section 853.6, 853.7,*
32 *or 853.8 of the Penal Code, or any similar law authorizing arrest*
33 *for failure to appear or pay bail of the amount listed on the notice*
34 *to appear, the defendant shall be guaranteed the right to assistance*
35 *of counsel. The accused shall be advised of this right to counsel*
36 *before entering a plea, and any waiver of this right shall be explicit.*
37 *If the district attorney's office or its agent is representing the state*
38 *in any part of an infraction proceeding, the accused shall have the*
39 *right to assistance of counsel with regard to that infraction.*

1 (B) *The county where the citation was issued shall pay the cost*
2 *of providing counsel under this section.*

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

7 ~~(v)~~

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

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

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

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

22 ~~53.4.~~

23 53.3. (a) ~~A public employee shall be immune from civil or~~
24 ~~criminal liability, and shall not be retaliated against by his or her~~
25 ~~employer, for offering public resources to a homeless person in~~
26 ~~order to protect that person from harm, including, but not limited~~
27 ~~to, for offering or providing food, blankets, first-aid supplies, or~~
28 ~~water.~~

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

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

38 ~~53.5. To monitor the enforcement of local ordinances or the~~
39 ~~imposition of infractions against persons that are homeless, have~~
40 ~~low income, or suffer from mental illness or physical disability,~~

1 and to ensure that the provisions of this part are adequately adhered
2 to by law enforcement, every local law enforcement agency shall
3 compile and make publicly available information regarding the
4 number of citations, arrests, and other enforcement activities made
5 by the local law enforcement agency by ordinance or infraction,
6 as well as the housing status of those being cited, arrested, or
7 otherwise subject to enforcement. The local law enforcement
8 agency shall report this information to the Attorney General on an
9 annual basis.

10 53.4. (a) Every local government and disadvantaged
11 unincorporated community within the state shall have sufficient
12 health and hygiene centers available 24 hours a day, seven days
13 a week, for use by homeless people. These facilities may be part
14 of the Neighborhood Health Center Program.

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

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

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

27 53.5. (a) To ensure equitable and cost-effective enforcement
28 of the Homeless Person’s Bill of Rights and Fairness Act (Ch.____,
29 Stats. 2013), every local law enforcement agency shall annually
30 compile and review the number of citations, arrests, and other
31 enforcement activities made pursuant to laws prohibiting the
32 following:

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

35 (2) Loitering.

36 (3) Sitting.

37 (4) Lying down.

38 (5) Camping.

39 (6) Public lodging, including the prohibition specified in
40 subdivision (e) of Section 647 of the Penal Code.

1 (7) *Sleeping in a public place.*

2 (8) *Soliciting donations.*

3 (9) *Soliciting donations at certain restricted locations, including*
4 *citing people for panhandling under Section 22520.5 of the Vehicle*
5 *Code.*

6 (10) *Bathing in public places.*

7 (11) *Sharing or receiving food.*

8 (12) *Inhabiting or sleeping in a vehicle.*

9 (13) *Violating public park closure laws.*

10 (14) *Crossing streets or highways at particular locations,*
11 *including subdivisions (c) and (d) of Section 21451 of, subdivision*
12 *(d) of Section 21453 of, subdivision (b) of Section 21456 of, Section*
13 *21461.5 of, subdivision (b) of Section 21950 of, Section 21954 of,*
14 *Section 21955 of, and subdivision (a) of Section 21956 of, the*
15 *Vehicle Code.*

16 (15) *Trespassing, unless the trespassing charge is coupled with*
17 *any misdemeanor or felony, except those misdemeanors that are*
18 *included in Section 372 of, and subdivisions (h) to (j), inclusive,*
19 *and subdivisions (l) and (m), of Section 602 of, the Penal Code.*

20 (16) *Any other local or state law enforced against homeless*
21 *persons and identified by the Attorney General's office, a city*
22 *attorney's office, or any nonprofit organization whose work or*
23 *mission includes assistance to research about, or advocate for,*
24 *poor and homeless people.*

25 (b) *A local law enforcement agency shall make this information*
26 *publicly available under the terms set forth in the California Public*
27 *Records Act (Chapter 3.5 (commencing with Section 6250) of*
28 *Division 7 of Title 1 of the Government Code).*

29 (c) *A local law enforcement agency shall report the information*
30 *specified in this section to the Attorney General's office on an*
31 *annual basis.*

32 53.6. (a) Any person whose rights have been violated under
33 this part may enforce those rights and he or she, or his or her lawful
34 representative, may file a motion for relief in any trial or appellate
35 court with jurisdiction over the case as a matter of right. The court
36 shall act promptly on any motion for relief under this part.

37 (b) Any civil action alleging a violation of this part may be
38 brought against any person, entity, public entity, or public
39 employee. The court may award punitive damages, if applicable,
40 appropriate injunctive and declaratory relief, actual damages,

1 compensatory damages, general damages, special damages,
2 exemplary damages, statutory damages of one thousand dollars
3 (\$1,000) per violation, if applicable, and reasonable attorneys' fees
4 and costs to a prevailing plaintiff.

5 ~~SEC. 5. Section 54 of the Civil Code is amended to read:~~

6 ~~54. (a) Individuals with disabilities or medical conditions have~~
7 ~~the same right as the general public to the full and free use of the~~
8 ~~streets, highways, sidewalks, walkways, public buildings, medical~~
9 ~~facilities, including hospitals, clinics, and physicians' offices,~~
10 ~~public facilities, and other public places.~~

11 ~~(b) For purposes of this section:~~

12 ~~(1) "Disability" means any mental or physical disability as~~
13 ~~defined in Section 12926 of the Government Code.~~

14 ~~(2) "Medical condition" has the same meaning as defined in~~
15 ~~subdivision (j) of Section 12926 of the Government Code.~~

16 ~~(c) A violation of the right of an individual under the Americans~~
17 ~~with Disabilities Act of 1990 (Public Law 101-336) also constitutes~~
18 ~~a violation of this section.~~

19 ~~SEC. 6. Section 32228 of the Education Code is amended to~~
20 ~~read:~~

21 ~~32228. (a) It is the intent of the Legislature that public schools~~
22 ~~servicing pupils in any of grades 8 to 12, inclusive, have access to~~
23 ~~supplemental resources to establish programs and strategies that~~
24 ~~promote school safety and emphasize violence prevention among~~
25 ~~children and youth in public schools.~~

26 ~~(b) It is also the intent of the Legislature that public schools~~
27 ~~have access to supplemental resources to combat bias on the basis~~
28 ~~of race, color, religion, ancestry, national origin, disability, gender,~~
29 ~~gender identity, gender expression, or sexual orientation, as defined~~
30 ~~in subdivision (s) of Section 12926 of the Government Code, and~~
31 ~~to prevent and respond to acts of hate violence and bias-related~~
32 ~~incidents.~~

33 ~~(c) It is further the intent of the Legislature that schoolsites~~
34 ~~receiving funds pursuant to this article accomplish all of the~~
35 ~~following goals:~~

36 ~~(1) Teach pupils techniques for resolving conflicts without~~
37 ~~violence.~~

38 ~~(2) Train school staff and administrators to support and promote~~
39 ~~conflict resolution and mediation techniques for resolving conflicts~~
40 ~~between and among pupils.~~

1 ~~(3) Reduce incidents of violence at the schoolsite with an~~
2 ~~emphasis on prevention and early detection.~~

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

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

8 ~~354.5. (a) “Signature” includes either of the following:~~

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

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

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

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

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

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

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

39 ~~(e) A registered voter or any person who is eligible to vote, who~~
40 ~~qualifies as an authorized user pursuant to paragraph (1) of~~

1 ~~subdivision (g), may use a signature stamp only after he or she~~
2 ~~first submits his or her affidavit of registration or a new affidavit~~
3 ~~of registration, whichever is applicable, in the presence of a county~~
4 ~~elections official, using the signature stamp to sign the affidavit.~~

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

8 ~~(g) The following definitions apply for purposes of this section:~~

9 ~~(1) “Authorized user” means either of the following:~~

10 ~~(A) A person with a disability who, by reason of that disability,~~
11 ~~is unable to write and who owns a signature stamp.~~

12 ~~(B) A person using the signature stamp on behalf of the owner~~
13 ~~of the stamp with the owner’s express consent and in the presence~~
14 ~~of the owner.~~

15 ~~(2) “Disability” means a medical condition, mental disability,~~
16 ~~or physical disability, as those terms are defined in subdivisions~~
17 ~~(j), (k), and (m) of Section 12926 of the Government Code.~~

18 ~~(3) “Signature stamp” means a stamp that contains the~~
19 ~~impression of any of the following:~~

20 ~~(A) The actual signature of a person with a disability.~~

21 ~~(B) A mark or symbol that is adopted by the person with the~~
22 ~~disability.~~

23 ~~(C) A signature of the name of a person with a disability that is~~
24 ~~made by another person and is adopted by the person with the~~
25 ~~disability.~~

26 ~~SEC. 8. Section 11135 of the Government Code is amended~~
27 ~~to read:~~

28 ~~11135. (a) No person in the State of California shall, on the~~
29 ~~basis of race, national origin, ethnic group identification, religion,~~
30 ~~age, sex, sexual orientation, color, genetic information, disability,~~
31 ~~or housing status, be unlawfully denied full and equal access to~~
32 ~~the benefits of, or be unlawfully subjected to discrimination under,~~
33 ~~any program or activity that is conducted, operated, or administered~~
34 ~~by the state or by any state agency, is funded directly by the state,~~
35 ~~or receives any financial assistance from the state. Notwithstanding~~
36 ~~Section 11000, this section applies to the California State~~
37 ~~University.~~

38 ~~(b) With respect to discrimination on the basis of disability,~~
39 ~~programs and activities subject to subdivision (a) shall meet the~~
40 ~~protections and prohibitions contained in Section 202 of the federal~~

1 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132),
2 and the federal rules and regulations adopted in implementation
3 thereof, except that if the laws of this state prescribe stronger
4 protections and prohibitions, the programs and activities subject
5 to subdivision (a) shall be subject to the stronger protections and
6 prohibitions.

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

9 (2) The Legislature finds and declares that the amendments
10 made to this act are declarative of existing law. The Legislature
11 further finds and declares that in enacting Senate Bill 105 of the
12 2001–02 Regular Session (Chapter 1102 of the Statutes of 2002),
13 it was the intention of the Legislature to apply subdivision (d) to
14 the California State University in the same manner that
15 subdivisions (a), (b), and (c) already applied to the California State
16 University, notwithstanding Section 11000. In clarifying that the
17 California State University is subject to paragraph (2) of
18 subdivision (d), it is not the intention of the Legislature to increase
19 the cost of developing or procuring electronic and information
20 technology. The California State University shall, however, in
21 determining the cost of developing or procuring electronic or
22 information technology, consider whether technology that meets
23 the standards applicable pursuant to paragraph (2) of subdivision
24 (d) will reduce the long-term cost incurred by the California State
25 University in providing access or accommodations to future users
26 of this technology who are persons with disabilities, as required
27 by existing law, including this section, Title II of the federal
28 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
29 and following), and Section 504 of the Rehabilitation Act of 1973
30 (29 U.S.C. Sec. 794).

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

34 (2) In order to improve accessibility of existing technology, and
35 therefore increase the successful employment of individuals with
36 disabilities, particularly blind and visually impaired and deaf and
37 hard-of-hearing persons, state governmental entities, in developing,
38 procuring, maintaining, or using electronic or information
39 technology, either indirectly or through the use of state funds by
40 other entities, shall comply with the accessibility requirements of

1 Section 508 of the federal Rehabilitation Act of 1973, as amended
2 (29 U.S.C. Sec. 794d), and regulations implementing that act as
3 set forth in Part 1194 of Title 36 of the Federal Code of
4 Regulations.

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

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

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

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

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

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

27 12920. It is hereby declared as the public policy of this state
28 that it is necessary to protect and safeguard the right and
29 opportunity of all persons to seek, obtain, and hold employment
30 without discrimination or abridgment on account of race, religious
31 creed, color, national origin, ancestry, physical disability, mental
32 disability, medical condition, genetic information, marital status,
33 sex, gender, gender identity, gender expression, age, sexual
34 orientation, or housing status.

35 It is recognized that the practice of denying employment
36 opportunity and discriminating in the terms of employment for
37 these reasons foments domestic strife and unrest, deprives the state
38 of the fullest utilization of its capacities for development and
39 advancement, and substantially and adversely affects the interests
40 of employees, employers, and the public in general.

1 Further, the practice of discrimination because of race, color,
2 religion, sex, gender, gender identity, gender expression, sexual
3 orientation, marital status, national origin, ancestry, familial status,
4 source of income, disability, genetic information, or housing status
5 in housing accommodations is declared to be against public policy.

6 It is the purpose of this part to provide effective remedies that
7 will eliminate these discriminatory practices.

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

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

13 12921. (a) The opportunity to seek, obtain, and hold
14 employment without discrimination because of race, religious
15 creed, color, national origin, ancestry, physical disability, mental
16 disability, medical condition, genetic information, marital status,
17 sex, gender, gender identity, gender expression, age, sexual
18 orientation, or housing status is hereby recognized as and declared
19 to be a civil right.

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

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

29 12926. As used in this part in connection with unlawful
30 practices, unless a different meaning clearly appears from the
31 context:

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

39 (b) “Age” refers to the chronological age of any individual who
40 has reached his or her 40th birthday.

1 (e) “Employee” does not include any individual employed by
2 his or her parents, spouse, or child, or any individual employed
3 under a special license in a nonprofit sheltered workshop or
4 rehabilitation facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (E) The terms of a collective bargaining agreement.

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

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

39 (g) (1) “Genetic information” means, with respect to any
40 individual, information about any of the following:

- 1 ~~(A) The individual’s genetic tests.~~
- 2 ~~(B) The genetic tests of family members of the individual.~~
- 3 ~~(C) The manifestation of a disease or disorder in family members~~
- 4 ~~of the individual.~~
- 5 ~~(2) “Genetic information” includes any request for, or receipt~~
- 6 ~~of, genetic services, or participation in clinical research that~~
- 7 ~~includes genetic services, by an individual or any family member~~
- 8 ~~of the individual.~~
- 9 ~~(3) “Genetic information” does not include information about~~
- 10 ~~the sex or age of any individual.~~
- 11 ~~(h) “Housing status” means the status of having or not having~~
- 12 ~~a fixed or regular residence, including the status of living on the~~
- 13 ~~streets, in a vehicle, or in a homeless shelter, or similar temporary~~
- 14 ~~residence or elsewhere in the public domain.~~
- 15 ~~(i) “Labor organization” includes any organization that exists~~
- 16 ~~and is constituted for the purpose, in whole or in part, of collective~~
- 17 ~~bargaining or of dealing with employers concerning grievances,~~
- 18 ~~terms or conditions of employment, or of other mutual aid or~~
- 19 ~~protection.~~
- 20 ~~(j) “Medical condition” means either of the following:~~
- 21 ~~(1) Any health impairment related to or associated with a~~
- 22 ~~diagnosis of cancer or a record or history of cancer.~~
- 23 ~~(2) Genetic characteristics. For purposes of this section, “genetic~~
- 24 ~~characteristics” means either of the following:~~
- 25 ~~(A) Any scientifically or medically identifiable gene or~~
- 26 ~~chromosome, or combination or alteration thereof, that is known~~
- 27 ~~to be a cause of a disease or disorder in a person or his or her~~
- 28 ~~offspring, or that is determined to be associated with a statistically~~
- 29 ~~increased risk of development of a disease or disorder, and that is~~
- 30 ~~presently not associated with any symptoms of any disease or~~
- 31 ~~disorder.~~
- 32 ~~(B) Inherited characteristics that may derive from the individual~~
- 33 ~~or family member, that are known to be a cause of a disease or~~
- 34 ~~disorder in a person or his or her offspring, or that are determined~~
- 35 ~~to be associated with a statistically increased risk of development~~
- 36 ~~of a disease or disorder, and that are presently not associated with~~
- 37 ~~any symptoms of any disease or disorder.~~
- 38 ~~(k) “Mental disability” includes, but is not limited to, all of the~~
- 39 ~~following:~~

1 ~~(1) Having any mental or psychological disorder or condition,~~
2 ~~such as intellectual disability, organic brain syndrome, emotional~~
3 ~~or mental illness, or specific learning disabilities, that limits a~~
4 ~~major life activity. For purposes of this section:~~

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

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

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

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

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

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

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

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

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

37 ~~(m) “Physical disability” includes, but is not limited to, all of~~
38 ~~the following:~~

1 ~~(1) Having any physiological disease, disorder, condition,~~
2 ~~cosmetic disfigurement, or anatomical loss that does both of the~~
3 ~~following:~~
4 ~~(A) Affects one or more of the following body systems:~~
5 ~~neurological, immunological, musculoskeletal, special sense~~
6 ~~organs, respiratory, including speech organs,~~
7 ~~cardiovascular, reproductive, digestive, genitourinary, hemic and~~
8 ~~lymphatic, skin, and endocrine.~~
9 ~~(B) Limits a major life activity. For purposes of this section:~~
10 ~~(i) “Limits” shall be determined without regard to mitigating~~
11 ~~measures such as medications, assistive devices, prosthetics, or~~
12 ~~reasonable accommodations, unless the mitigating measure itself~~
13 ~~limits a major life activity.~~
14 ~~(ii) A physiological disease, disorder, condition, cosmetic~~
15 ~~disfigurement, or anatomical loss limits a major life activity if it~~
16 ~~makes the achievement of the major life activity difficult.~~
17 ~~(iii) “Major life activities” shall be broadly construed and~~
18 ~~includes physical, mental, and social activities and working.~~
19 ~~(2) Any other health impairment not described in paragraph (1)~~
20 ~~that requires special education or related services.~~
21 ~~(3) Having a record or history of a disease, disorder, condition,~~
22 ~~cosmetic disfigurement, anatomical loss, or health impairment~~
23 ~~described in paragraph (1) or (2), which is known to the employer~~
24 ~~or other entity covered by this part.~~
25 ~~(4) Being regarded or treated by the employer or other entity~~
26 ~~covered by this part as having, or having had, any physical~~
27 ~~condition that makes achievement of a major life activity difficult.~~
28 ~~(5) Being regarded or treated by the employer or other entity~~
29 ~~covered by this part as having, or having had, a disease, disorder,~~
30 ~~condition, cosmetic disfigurement, anatomical loss, or health~~
31 ~~impairment that has no present disabling effect but may become~~
32 ~~a physical disability as described in paragraph (1) or (2).~~
33 ~~(6) “Physical disability” does not include sexual behavior~~
34 ~~disorders, compulsive gambling, kleptomania, pyromania, or~~
35 ~~psychoactive substance use disorders resulting from the current~~
36 ~~unlawful use of controlled substances or other drugs.~~
37 ~~(n) Notwithstanding subdivisions (k) and (m), if the definition~~
38 ~~of “disability” used in the federal Americans with Disabilities Act~~
39 ~~of 1990 (P.L. 101-336) would result in broader protection of the~~
40 ~~civil rights of individuals with a mental disability or physical~~

1 disability, as defined in subdivision (k) or (m), or would include
2 any medical condition not included within those definitions, then
3 that broader protection or coverage shall be deemed incorporated
4 by reference into, and shall prevail over conflicting provisions of,
5 the definitions in subdivisions (k) and (m).

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

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

14 (1) ~~Making existing facilities used by employees readily~~
15 ~~accessible to, and usable by, individuals with disabilities.~~

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

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

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

33 (A) ~~Pregnancy or medical conditions related to pregnancy.~~

34 (B) ~~Childbirth or medical conditions related to childbirth.~~

35 (C) ~~Breastfeeding or medical conditions related to breastfeeding.~~

36 (2) ~~“Sex” also includes, but is not limited to, a person’s gender.~~
37 ~~“Gender” means sex, and includes a person’s gender identity and~~
38 ~~gender expression. “Gender expression” means a person’s~~
39 ~~gender-related appearance and behavior whether or not~~
40 ~~stereotypically associated with the person’s assigned sex at birth.~~

1 (s) “Sexual orientation” means heterosexuality, homosexuality,
2 and bisexuality.

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

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

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

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

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

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

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

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

29 12926.1. The Legislature finds and declares as follows:

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

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

1 ~~physical or mental impairment that is disabling, potentially~~
2 ~~disabling, or perceived as disabling or potentially disabling.~~

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

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

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

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

38 ~~12930. The department shall have the following functions,~~
39 ~~powers, and duties:~~

- 1 ~~(a) To establish and maintain a principal office and any other~~
2 ~~offices within the state as are necessary to carry out the purposes~~
3 ~~of this part.~~
- 4 ~~(b) To meet and function at any place within the state.~~
- 5 ~~(c) To appoint attorneys, investigators, conciliators, mediators,~~
6 ~~and other employees as it may deem necessary, fix their~~
7 ~~compensation within the limitations provided by law, and prescribe~~
8 ~~their duties.~~
- 9 ~~(d) To obtain upon request and utilize the services of all~~
10 ~~governmental departments and agencies and, in addition, with~~
11 ~~respect to housing discrimination, of conciliation councils.~~
- 12 ~~(e) To adopt, promulgate, amend, and rescind suitable procedural~~
13 ~~rules and regulations to carry out the investigation, prosecution,~~
14 ~~and dispute resolution functions and duties of the department~~
15 ~~pursuant to this part.~~
- 16 ~~(f) (1) To receive, investigate, conciliate, mediate, and prosecute~~
17 ~~complaints alleging practices made unlawful pursuant to Chapter~~
18 ~~6 (commencing with Section 12940).~~
- 19 ~~(2) To receive, investigate, conciliate, mediate, and prosecute~~
20 ~~complaints alleging a violation of Section 51, 51.5, 51.7, 54, 54.1,~~
21 ~~or 54.2 of the Civil Code. The remedies and procedures of this~~
22 ~~part shall be independent of any other remedy or procedure that~~
23 ~~might apply.~~
- 24 ~~(g) In connection with any matter under investigation or in~~
25 ~~question before the department pursuant to a complaint filed under~~
26 ~~Section 12960, 12961, or 12980:~~
- 27 ~~(1) To issue subpoenas to require the attendance and testimony~~
28 ~~of witnesses and the production of books, records, documents, and~~
29 ~~physical materials.~~
- 30 ~~(2) To administer oaths, examine witnesses under oath and take~~
31 ~~evidence, and take depositions and affidavits.~~
- 32 ~~(3) To issue written interrogatories.~~
- 33 ~~(4) To request the production for inspection and copying of~~
34 ~~books, records, documents, and physical materials.~~
- 35 ~~(5) To petition the superior courts to compel the appearance~~
36 ~~and testimony of witnesses, the production of books, records,~~
37 ~~documents, and physical materials, and the answering of~~
38 ~~interrogatories.~~

1 ~~(h) To bring civil actions pursuant to Section 12965 or 12981~~
2 ~~and to prosecute those civil actions before state and federal trial~~
3 ~~courts.~~

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

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

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

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

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

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

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

36 ~~(3) Where removal to court is not feasible, the department shall~~
37 ~~retain the services of the Office of Administrative Hearings to~~
38 ~~adjudicate the administrative action pursuant to Sections 11370.3~~
39 ~~and 11502.~~

1 ~~(n) On any Section 1094.5 Code of Civil Procedure challenge~~
2 ~~to a decision of the former Fair Employment and Housing~~
3 ~~Commission pending on or after January 1, 2013, the director or~~
4 ~~his or her designee shall consult with the Attorney General~~
5 ~~regarding the defense of that writ petition.~~

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

8 ~~12931. The department may also provide assistance to~~
9 ~~communities and persons therein in resolving disputes,~~
10 ~~disagreements, or difficulties relating to discriminatory practices~~
11 ~~based on race, religious creed, color, national origin, ancestry,~~
12 ~~physical disability, mental disability, medical condition, genetic~~
13 ~~information, marital status, sex, gender, gender identity, gender~~
14 ~~expression, familial status, age, sexual orientation, or housing~~
15 ~~status that impair the rights of persons in those communities under~~
16 ~~the Constitution or laws of the United States or of this state. The~~
17 ~~services of the department may be made available in cases of these~~
18 ~~disputes, disagreements, or difficulties only when, in its judgment,~~
19 ~~peaceful relations among the citizens of the community involved~~
20 ~~are threatened thereby. The department's services are to be made~~
21 ~~available only upon the request of an appropriate state or local~~
22 ~~public body, or upon the request of any person directly affected~~
23 ~~by any such dispute, disagreement, or difficulty.~~

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

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

29 ~~12940. It is an unlawful employment practice, unless based~~
30 ~~upon a bona fide occupational qualification, or, except where based~~
31 ~~upon applicable security regulations established by the United~~
32 ~~States or the State of California:~~

33 ~~(a) For an employer, because of the race, religious creed, color,~~
34 ~~national origin, ancestry, physical disability, mental disability,~~
35 ~~medical condition, genetic information, marital status, sex, gender,~~
36 ~~gender identity, gender expression, age, sexual orientation, or~~
37 ~~housing status of any person, to refuse to hire or employ the person~~
38 ~~or to refuse to select the person for a training program leading to~~
39 ~~employment, or to bar or to discharge the person from employment~~
40 ~~or from a training program leading to employment, or to~~

1 ~~discriminate against the person in compensation or in terms,~~
2 ~~conditions, or privileges of employment.~~

3 ~~(1) This part does not prohibit an employer from refusing to~~
4 ~~hire or discharging an employee with a physical or mental~~
5 ~~disability, or subject an employer to any legal liability resulting~~
6 ~~from the refusal to employ or the discharge of an employee with~~
7 ~~a physical or mental disability, where the employee, because of~~
8 ~~his or her physical or mental disability, is unable to perform his~~
9 ~~or her essential duties even with reasonable accommodations, or~~
10 ~~cannot perform those duties in a manner that would not endanger~~
11 ~~his or her health or safety or the health or safety of others even~~
12 ~~with reasonable accommodations.~~

13 ~~(2) This part does not prohibit an employer from refusing to~~
14 ~~hire or discharging an employee who, because of the employee's~~
15 ~~medical condition, is unable to perform his or her essential duties~~
16 ~~even with reasonable accommodations, or cannot perform those~~
17 ~~duties in a manner that would not endanger the employee's health~~
18 ~~or safety or the health or safety of others even with reasonable~~
19 ~~accommodations. Nothing in this part shall subject an employer~~
20 ~~to any legal liability resulting from the refusal to employ or the~~
21 ~~discharge of an employee who, because of the employee's medical~~
22 ~~condition, is unable to perform his or her essential duties, or cannot~~
23 ~~perform those duties in a manner that would not endanger the~~
24 ~~employee's health or safety or the health or safety of others even~~
25 ~~with reasonable accommodations.~~

26 ~~(3) Nothing in this part relating to discrimination on account of~~
27 ~~marital status shall do either of the following:~~

28 ~~(A) Affect the right of an employer to reasonably regulate, for~~
29 ~~reasons of supervision, safety, security, or morale, the working of~~
30 ~~spouses in the same department, division, or facility, consistent~~
31 ~~with the rules and regulations adopted by the commission.~~

32 ~~(B) Prohibit bona fide health plans from providing additional~~
33 ~~or greater benefits to employees with dependents than to those~~
34 ~~employees without or with fewer dependents.~~

35 ~~(4) Nothing in this part relating to discrimination on account of~~
36 ~~sex shall affect the right of an employer to use veteran status as a~~
37 ~~factor in employee selection or to give special consideration to~~
38 ~~Vietnam-era veterans.~~

39 ~~(5) (A) This part does not prohibit an employer from refusing~~
40 ~~to employ an individual because of his or her age if the law~~

1 compels or provides for that refusal. Promotions within the existing
2 staff, hiring or promotion on the basis of experience and training,
3 rehiring on the basis of seniority and prior service with the
4 employer, or hiring under an established recruiting program from
5 high schools, colleges, universities, or trade schools do not, in and
6 of themselves, constitute unlawful employment practices.

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

15 (b) For a labor organization, because of the race, religious creed,
16 color, national origin, ancestry, physical disability, mental
17 disability, medical condition, genetic information, marital status,
18 sex, gender, gender identity, gender expression, age, sexual
19 orientation, or housing status of any person, to exclude, expel, or
20 restrict from its membership the person, or to provide only
21 second-class or segregated membership or to discriminate against
22 any person because of the race, religious creed, color, national
23 origin, ancestry, physical disability, mental disability, medical
24 condition, genetic information, marital status, sex, gender, gender
25 identity, gender expression, age, sexual orientation, or housing
26 status of the person in the election of officers of the labor
27 organization or in the selection of the labor organization's staff or
28 to discriminate in any way against any of its members or against
29 any employer or against any person employed by an employer.

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

38 (d) For any employer or employment agency to print or circulate
39 or cause to be printed or circulated any publication, or to make
40 any nonjob-related inquiry of an employee or applicant, either

1 verbal or through use of an application form, that expresses,
2 directly or indirectly, any limitation, specification, or discrimination
3 as to race, religious creed, color, national origin, ancestry, physical
4 disability, mental disability, medical condition, genetic information,
5 marital status, sex, gender, gender identity, gender expression,
6 age, sexual orientation, or housing status, or any intent to make
7 any such limitation, specification, or discrimination. This part does
8 not prohibit an employer or employment agency from inquiring
9 into the age of an applicant, or from specifying age limitations,
10 where the law compels or provides for that action.

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

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

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

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

38 ~~(2) Notwithstanding paragraph (1), an employer or employment~~
39 ~~agency may require any examinations or inquiries that it can show~~
40 ~~to be job related and consistent with business necessity. An~~

1 employer or employment agency may conduct voluntary medical
2 examinations, including voluntary medical histories, which are
3 part of an employee health program available to employees at that
4 worksite.

5 (g) For any employer, labor organization, or employment agency
6 to harass, discharge, expel, or otherwise discriminate against any
7 person because the person has made a report pursuant to Section
8 11161.8 of the Penal Code that prohibits retaliation against hospital
9 employees who report suspected patient abuse by health facilities
10 or community care facilities.

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

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

19 (j) (1) For an employer, labor organization, employment agency,
20 apprenticeship training program or any training program leading
21 to employment, or any other person, because of race, religious
22 creed, color, national origin, ancestry, physical disability, mental
23 disability, medical condition, genetic information, marital status,
24 sex, gender, gender identity, gender expression, age, sexual
25 orientation, or housing status, to harass an employee, an applicant,
26 or a person providing services pursuant to a contract. Harassment
27 of an employee, an applicant, or a person providing services
28 pursuant to a contract by an employee, other than an agent or
29 supervisor, shall be unlawful if the entity, or its agents or
30 supervisors, knows or should have known of this conduct and fails
31 to take immediate and appropriate corrective action. An employer
32 may also be responsible for the acts of nonemployees, with respect
33 to sexual harassment of employees, applicants, or persons providing
34 services pursuant to a contract in the workplace, where the
35 employer, or its agents or supervisors, knows or should have known
36 of the conduct and fails to take immediate and appropriate
37 corrective action. In reviewing cases involving the acts of
38 nonemployees, the extent of the employer's control and any other
39 legal responsibility that the employer may have with respect to the
40 conduct of those nonemployees shall be considered. An entity shall

1 take all reasonable steps to prevent harassment from occurring.
2 Loss of tangible job benefits shall not be necessary in order to
3 establish harassment.

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

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

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

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

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

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

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

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

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

39 (k) For an employer, labor organization, employment agency,
40 apprenticeship training program, or any training program leading

1 to employment, to fail to take all reasonable steps necessary to
2 prevent discrimination and harassment from occurring.

3 ~~(l) (1) For an employer or other entity covered by this part to~~
4 ~~refuse to hire or employ a person or to refuse to select a person~~
5 ~~for a training program leading to employment or to bar or to~~
6 ~~discharge a person from employment or from a training program~~
7 ~~leading to employment, or to discriminate against a person in~~
8 ~~compensation or in terms, conditions, or privileges of employment~~
9 ~~because of a conflict between the person's religious belief or~~
10 ~~observance and any employment requirement, unless the employer~~
11 ~~or other entity covered by this part demonstrates that it has explored~~
12 ~~any available reasonable alternative means of accommodating the~~
13 ~~religious belief or observance, including the possibilities of~~
14 ~~excusing the person from those duties that conflict with his or her~~
15 ~~religious belief or observance or permitting those duties to be~~
16 ~~performed at another time or by another person, but is unable to~~
17 ~~reasonably accommodate the religious belief or observance without~~
18 ~~undue hardship, as defined in subdivision (t) of Section 12926, on~~
19 ~~the conduct of the business of the employer or other entity covered~~
20 ~~by this part. Religious belief or observance, as used in this section,~~
21 ~~includes, but is not limited to, observance of a Sabbath or other~~
22 ~~religious holy day or days, reasonable time necessary for travel~~
23 ~~prior and subsequent to a religious observance, and religious dress~~
24 ~~practice and religious grooming practice as described in subdivision~~
25 ~~(p) of Section 12926.~~

26 ~~(2) An accommodation of an individual's religious dress practice~~
27 ~~or religious grooming practice is not reasonable if the~~
28 ~~accommodation requires segregation of the individual from other~~
29 ~~employees or the public.~~

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

35 ~~(m) For an employer or other entity covered by this part to fail~~
36 ~~to make reasonable accommodation for the known physical or~~
37 ~~mental disability of an applicant or employee. Nothing in this~~
38 ~~subdivision or in paragraph (1) or (2) of subdivision (a) shall be~~
39 ~~construed to require an accommodation that is demonstrated by~~

1 the employer or other covered entity to produce undue hardship,
2 as defined in subdivision (t) of Section 12926, to its operation.

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

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

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

15 ~~12944. (a) It shall be unlawful for a licensing board to require
16 any examination or establish any other qualification for licensing
17 that has an adverse impact on any class by virtue of its race, creed,
18 color, national origin or ancestry, sex, gender, gender identity,
19 gender expression, age, medical condition, genetic information,
20 physical disability, mental disability, sexual orientation, or housing
21 status, unless the practice can be demonstrated to be job related.~~

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

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

31 ~~(c) It shall be unlawful for any licensing board, unless
32 specifically acting in accordance with federal equal employment
33 opportunity guidelines or regulations approved by the council, to
34 print or circulate or cause to be printed or circulated any
35 publication, or to make any non-job-related inquiry, either verbal
36 or through use of an application form, which expresses, directly
37 or indirectly, any limitation, specification, or discrimination as to
38 race, religious creed, color, national origin, ancestry, physical
39 disability, mental disability, medical condition, genetic information,
40 sex, gender, gender identity, gender expression, age, sexual~~

1 orientation, or housing status or any intent to make any such
2 limitation, specification, or discrimination. Nothing in this
3 subdivision shall prohibit any licensing board from making, in
4 connection with prospective licensure or certification, an inquiry
5 as to, or a request for information regarding, the physical fitness
6 of applicants if that inquiry or request for information is directly
7 related and pertinent to the license or the licensed position the
8 applicant is applying for. Nothing in this subdivision shall prohibit
9 any licensing board, in connection with prospective examinations,
10 licensure, or certification, from inviting individuals with physical
11 or mental disabilities to request reasonable accommodations or
12 from making inquiries related to reasonable accommodations.

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

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

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

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

26 12944. (a) It shall be unlawful for a licensing board to require
27 any examination or establish any other qualification for licensing
28 that has an adverse impact on any class by virtue of its race, creed,
29 color, national origin or ancestry, sex, gender, gender identity,
30 gender expression, age, medical condition, genetic information,
31 physical disability, mental disability, sexual orientation, or housing
32 status unless the practice can be demonstrated to be job related.

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

38 If an examination or other qualification for licensing is
39 determined to be unlawful under this section, that determination
40 shall not void, limit, repeal, or otherwise affect any right, privilege,

1 status, or responsibility previously conferred upon any person by
2 the examination or by a license issued in reliance on the
3 examination or qualification.

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

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

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

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

35 (f) As used in this section, "licensing board" means any state
36 board, agency, or authority in the Business, Consumer Services,
37 and Housing Agency that has the authority to grant licenses or
38 certificates which are prerequisites to employment eligibility or
39 professional status.

1 ~~SEC. 18.~~ Section 12955 of the Government Code is amended to
2 read:

3 ~~12955.~~ It shall be unlawful:

4 (a) ~~For the owner of any housing accommodation to discriminate~~
5 ~~against or harass any person because of the race, color, religion,~~
6 ~~sex, gender, gender identity, gender expression, sexual orientation,~~
7 ~~marital status, national origin, ancestry, familial status, source of~~
8 ~~income, disability, genetic information, or housing status of that~~
9 ~~person.~~

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

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

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

36 (e) ~~For any person, bank, mortgage company or other financial~~
37 ~~institution that provides financial assistance for the purchase,~~
38 ~~organization, or construction of any housing accommodation to~~
39 ~~discriminate against any person or group of persons because of~~
40 ~~the race, color, religion, sex, gender, gender identity, gender~~

1 ~~expression, sexual orientation, marital status, national origin,~~
2 ~~ancestry, familial status, source of income, disability, genetic~~
3 ~~information, or housing status in the terms, conditions, or privileges~~
4 ~~relating to the obtaining or use of that financial assistance.~~

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

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

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

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

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

38 ~~(k) To otherwise make unavailable or deny a dwelling based~~
39 ~~on discrimination because of race, color, religion, sex, gender,~~
40 ~~gender identity, gender expression, sexual orientation, familial~~

1 status, source of income, disability, genetic information, national
2 origin, or housing status.

3 ~~(l) To discriminate through public or private land use practices,~~
4 ~~decisions, and authorizations because of race, color, religion, sex,~~
5 ~~gender, gender identity, gender expression, sexual orientation,~~
6 ~~familial status, marital status, disability, genetic information,~~
7 ~~national origin, source of income, ancestry, or housing status.~~
8 ~~Discrimination includes, but is not limited to, restrictive covenants,~~
9 ~~zoning laws, denials of use permits, and other actions authorized~~
10 ~~under the Planning and Zoning Law (Title 7 (commencing with~~
11 ~~Section 65000)), that make housing opportunities unavailable.~~

12 ~~Discrimination under this subdivision also includes the existence~~
13 ~~of a restrictive covenant, regardless of whether accompanied by a~~
14 ~~statement that the restrictive covenant is repealed or void.~~

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

22 ~~(n) To use a financial or income standard in the rental of housing~~
23 ~~that fails to account for the aggregate income of persons residing~~
24 ~~together or proposing to reside together on the same basis as the~~
25 ~~aggregate income of married persons residing together or proposing~~
26 ~~to reside together.~~

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

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

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

38 ~~SEC. 19. Section 12955.8 of the Government Code is amended~~
39 ~~to read:~~

1 ~~12955.8. For purposes of this article, in connection with~~
2 ~~unlawful practices:~~

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

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

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

38 ~~(2) For purposes of this subdivision, the term “business~~
39 ~~establishment” shall have the same meaning as in Section 51 of~~
40 ~~the Civil Code.~~

1 ~~SEC. 20.~~ Section 12956.1 of the Government Code is amended
2 to read:

3 12956.1. (a) As used in this section, “association,” “governing
4 documents,” and “declaration” have the same meanings as set forth
5 in Sections 4080, 4135, and 4150 of the Civil Code.

6 (b) ~~(1) A county recorder, title insurance company, escrow~~
7 ~~company, real estate broker, real estate agent, or association that~~
8 ~~provides a copy of a declaration, governing document, or deed to~~
9 ~~any person shall place a cover page or stamp on the first page of~~
10 ~~the previously recorded document or documents stating, in at least~~
11 ~~14-point boldface type, the following:~~

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

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

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

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

34 12956.2. (a) A person who holds an ownership interest of
35 record in property that he or she believes is the subject of an
36 unlawfully restrictive covenant in violation of subdivision (l) of
37 Section 12955 may record a document titled Restrictive Covenant
38 Modification. The county recorder may choose to waive the fee
39 prescribed for recording and indexing instruments pursuant to
40 Section 27361 in the case of the modification document provided

1 for in this section. The modification document shall include a
2 complete copy of the original document containing the unlawfully
3 restrictive language with the unlawfully restrictive language
4 stricken.

5 (b) Before recording the modification document, the county
6 recorder shall submit the modification document and the original
7 document to the county counsel who shall determine whether the
8 original document contains an unlawful restriction based on race,
9 color, religion, sex, gender, gender identity, gender expression,
10 sexual orientation, familial status, marital status, disability, national
11 origin, source of income as defined in subdivision (p) of Section
12 12955, ancestry, or housing status. The county counsel shall return
13 the documents and inform the county recorder of its determination.
14 The county recorder shall refuse to record the modification
15 document if the county counsel finds that the original document
16 does not contain an unlawful restriction as specified in this
17 paragraph.

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

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

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

33 (f) If the holder of an ownership interest of record in property
34 causes to be recorded a modified document pursuant to this section
35 that contains modifications not authorized by this section, the
36 county recorder shall not incur liability for recording the document.
37 The liability that may result from the unauthorized recordation is
38 the sole responsibility of the holder of the ownership interest of
39 record who caused the modified recordation.

1 ~~(g) This section does not apply to persons holding an ownership~~
2 ~~interest in property that is part of a common interest development~~
3 ~~as defined in Section 4100 of the Civil Code if the board of~~
4 ~~directors of that common interest development is subject to the~~
5 ~~requirements of subdivision (b) of Section 4225 of the Civil Code.~~

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

8 ~~12993. (a) The provisions of this part shall be construed~~
9 ~~liberally for the accomplishment of the purposes of this part.~~
10 ~~Nothing contained in this part shall be deemed to repeal any of the~~
11 ~~provisions of the Civil Rights Law or of any other law of this state~~
12 ~~relating to discrimination because of race, religious creed, color,~~
13 ~~national origin, ancestry, physical disability, mental disability,~~
14 ~~medical condition, genetic information, marital status, sex, age,~~
15 ~~sexual orientation, or housing status, unless those provisions~~
16 ~~provide less protection to the enumerated classes of persons~~
17 ~~covered under this part.~~

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

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

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

33 ~~868.8. Notwithstanding any other provision of law, in any~~
34 ~~criminal proceeding in which the defendant is charged with a~~
35 ~~violation of Section 243.4, 261, 273a, 273d, 285, 286, 288, 288a,~~
36 ~~288.5, or 289, subdivision (1) of Section 314, Section 647.6, or~~
37 ~~former Section 647a, or any crime that constitutes domestic~~
38 ~~violence defined in Section 13700, committed with or upon a~~
39 ~~person with a disability or a minor under 11 years of age, the court~~
40 ~~shall take special precautions to provide for the comfort and support~~

1 of the person with a disability or minor and to protect him or her
2 from coercion, intimidation, or undue influence as a witness;
3 including, but not limited to, any of the following:

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

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

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

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

22 (e) For the purposes of this section, the term "disability" is
23 defined in subdivision (k) of Section 12926 of the Government
24 Code.

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

27 4900. (a) The definitions contained in this section shall govern
28 the construction of this division, unless the context requires
29 otherwise. These definitions shall not be construed to alter or
30 impact the definitions or other provisions of the Elder Abuse and
31 Dependent Adult Civil Protection Act (Chapter 11 (commencing
32 with Section 15600)), or Chapter 13 (commencing with Section
33 15750), of Part 3 of Division 9.

34 (b) "Abuse" means an act, or failure to act, that would constitute
35 abuse as that term is defined in federal regulations pertaining to
36 the authority of protection and advocacy agencies, including
37 Section 51.2 of Title 42 of the Code of Federal Regulations or
38 Section 1386.19 of Title 45 of the Code of Federal Regulations.
39 "Abuse" also means an act, or failure to act, that would constitute

1 abuse as that term is defined in Section 15610.07 of this code or
2 Section 11165.6 of the Penal Code.

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

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

20 (e) “Facility” or “program” means a public or private facility
21 or program providing services, support, care, or treatment to
22 persons with disabilities, even if only on an as-needed basis or
23 under contractual arrangement. “Facility” or “program” includes,
24 but is not limited to, a hospital, a long-term health care facility, a
25 community living arrangement for people with disabilities,
26 including a group home, a board and care home, an individual
27 residence or apartment of a person with a disability where services
28 are provided, a day program, a juvenile detention facility, a
29 homeless shelter, a jail, or a prison, including all general areas, as
30 well as special, mental health, or forensic units. The term includes
31 any facility licensed under Division 2 (commencing with Section
32 1200) of the Health and Safety Code and any facility that is
33 unlicensed but is not exempt from licensure as provided in
34 subdivision (a) of Section 1503.5 of the Health and Safety Code.
35 The term also includes a public or private school or other institution
36 or program providing education, training, habilitation, therapeutic,
37 or residential services to persons with disabilities.

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

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

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

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

36 (i) “Protection and advocacy agency” means the private
37 nonprofit corporation designated by the Governor in this state
38 pursuant to federal law for the protection and advocacy of the
39 rights of persons with disabilities, including the following:

1 (1) ~~People with developmental disabilities, as authorized under~~
2 ~~the federal Developmental Disabilities Assistance and Bill of~~
3 ~~Rights Act of 2000, contained in Chapter 144 (commencing with~~
4 ~~Section 15001) of Title 42 of the United States Code.~~

5 (2) ~~People with mental illness, as authorized under the federal~~
6 ~~Protection and Advocacy for Mentally Ill Individuals Amendments~~
7 ~~Act of 1991, contained in Chapter 114 (commencing with Section~~
8 ~~10801) of Title 42 of the United States Code.~~

9 (3) ~~People with disabilities within the meaning of the federal~~
10 ~~Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101~~
11 ~~et seq.) as defined in Section 12102(2) of Title 42 of the United~~
12 ~~States Code, who do not have a developmental disability as defined~~
13 ~~in Section 15002(8) of Title 42 of the United States Code, people~~
14 ~~with a mental illness as defined in Section 10802(4) of Title 42 of~~
15 ~~the United States Code, and who are receiving services under the~~
16 ~~federal Protection and Advocacy of Individual Rights Act as~~
17 ~~defined in Section 794e of Title 29 of the United States Code, or~~
18 ~~people with a disability within the meaning of the California Fair~~
19 ~~Employment and Housing Act (Part 2.8 (commencing with Section~~
20 ~~12900) of Division 3 of Title 2 of the Government Code), as~~
21 ~~defined in subdivision (k) or (m) of Section 12926 of the~~
22 ~~Government Code.~~

23 (j) ~~“Reasonable unaccompanied access” means access that~~
24 ~~permits the protection and advocacy agency, without undue~~
25 ~~interference, to monitor, inspect, and observe conditions in facilities~~
26 ~~and programs, to meet and communicate with residents and service~~
27 ~~recipients privately and confidentially on a regular basis, formally~~
28 ~~or informally, by telephone, mail, electronic mail, and in person,~~
29 ~~and to review records privately and confidentially, in a manner~~
30 ~~that minimizes interference with the activities of the program or~~
31 ~~service, that respects residents’ privacy interests and honors a~~
32 ~~resident’s request to terminate an interview, and that does not~~
33 ~~jeopardize the physical health or safety of facility or program staff,~~
34 ~~residents, service recipients, or protection and advocacy agency~~
35 ~~staff.~~

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

38 11135. (a) No person in the State of California shall, on the
39 basis of race, national origin, ethnic group identification, religion,
40 age, sex, sexual orientation, color, *housing status*, genetic

1 information, or disability, be unlawfully denied full and equal
2 access to the benefits of, or be unlawfully subjected to
3 discrimination under, any program or activity that is conducted,
4 operated, or administered by the state or by any state agency, is
5 funded directly by the state, or receives any financial assistance
6 from the state. Notwithstanding Section 11000, this section applies
7 to the California State University.

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

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

19 (2) The Legislature finds and declares that the amendments
20 made to this act are declarative of existing law. The Legislature
21 further finds and declares that in enacting Senate Bill 105 of the
22 2001–02 Regular Session (Chapter 1102 of the Statutes of 2002),
23 it was the intention of the Legislature to apply subdivision (d) to
24 the California State University in the same manner that
25 subdivisions (a), (b), and (c) already applied to the California State
26 University, notwithstanding Section 11000. In clarifying that the
27 California State University is subject to paragraph (2) of
28 subdivision (d), it is not the intention of the Legislature to increase
29 the cost of developing or procuring electronic and information
30 technology. The California State University shall, however, in
31 determining the cost of developing or procuring electronic or
32 information technology, consider whether technology that meets
33 the standards applicable pursuant to paragraph (2) of subdivision
34 (d) will reduce the long-term cost incurred by the California State
35 University in providing access or accommodations to future users
36 of this technology who are persons with disabilities, as required
37 by existing law, including this section, Title II of the federal
38 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
39 and following) *et seq.*, and Section 504 of the Rehabilitation Act
40 of 1973 (29 U.S.C. Sec. 794).

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

4 (2) In order to improve accessibility of existing technology, and
5 therefore increase the successful employment of individuals with
6 disabilities, particularly blind and visually impaired and deaf and
7 hard-of-hearing persons, state governmental entities, in developing,
8 procuring, maintaining, or using electronic or information
9 technology, either indirectly or through the use of state funds by
10 other entities, shall comply with the accessibility requirements of
11 Section 508 of the federal Rehabilitation Act of 1973, as amended
12 (29 U.S.C. Sec. 794d), and regulations implementing that act as
13 set forth in Part 1194 of Title 36 of the Federal Code of
14 Regulations.

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

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

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

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

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

34 ~~SEC. 25.~~

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

1 ~~SEC. 26.~~

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

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

15 However, if the Commission on State Mandates determines that
16 this act contains other costs mandated by the state, reimbursement
17 to local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.

20 *SEC. 8.* If the Commission on State Mandates determines that
21 this act contains costs mandated by the state, reimbursement to
22 local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.