

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 15**

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**Introduced by Assembly Member Holden**

December 1, 2014

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An act ~~relating to a living wage~~, to amend Section 52.5 of the Civil Code, and to add Section 354.8 to the Code of Civil Procedure, relating to civil actions.

LEGISLATIVE COUNSEL'S DIGEST

AB 15, as amended, Holden. ~~Living wage~~. *Limitation of actions: human rights abuses.*

*Existing law requires a civil action for assault, battery, or injury to, or for the death of, an individual caused by the wrongful act or neglect of another to be commenced with 2 years. Existing law requires a civil action brought by a victim of human trafficking, as defined, to be commenced within 5 years of the date on which the trafficking victim was freed from the trafficking situation or, if the victim was a minor when the act of human trafficking against the victim occurred, within 8 years after the date the plaintiff attains the age of majority.*

*This bill would instead require a civil action for assault, battery, or wrongful death, when the conduct would also constitute torture, genocide, a war crime, an attempted extrajudicial killing, or a crime against humanity, as defined, to be commenced within 10 years. The bill would also require a civil action for human trafficking or the taking of property in violation of international law, as specified, or a civil action seeking benefits under an insurance policy, where the insurance claim arises out of any of the conduct specified above, to be commenced within 10 years. The bill would authorize a prevailing plaintiff to recover*

*reasonable attorney’s fees and litigation costs. The bill would require these provisions to be construed as applying retroactively and would provide that these provisions are severable, as specified.*

~~Existing law establishes a minimum wage for all industries and prescribes requirements relative to payment of prevailing wages on public works.~~

~~This bill would express the intent of the Legislature to enact legislation that would provide for a living wage for work performed by parties who contract with the state.~~

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

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

1 *SECTION 1. Section 52.5 of the Civil Code is amended to read:*

2 52.5. (a) A victim of human trafficking, as defined in Section  
3 236.1 of the Penal Code, may bring a civil action for actual  
4 damages, compensatory damages, punitive damages, injunctive  
5 relief, any combination of those, or any other appropriate relief.  
6 A prevailing plaintiff may also be awarded attorney’s fees and  
7 costs.

8 (b) In addition to the remedies specified ~~herein~~, *in this section*,  
9 in an action under subdivision (a), the plaintiff may be awarded  
10 up to three times his or her actual damages or ten thousand dollars  
11 (\$10,000), whichever is greater. In addition, punitive damages  
12 may also be awarded upon proof of the defendant’s malice,  
13 oppression, fraud, or duress in committing the act of human  
14 trafficking.

15 ~~(e) An action brought pursuant to this section shall be~~  
16 ~~commenced within five years of the date on which the trafficking~~  
17 ~~victim was freed from the trafficking situation or, if the victim was~~  
18 ~~a minor when the act of human trafficking against the victim~~  
19 ~~occurred, within eight years after the date the plaintiff attains the~~  
20 ~~age of majority.~~

21 ~~(d)~~

22 (c) If a person entitled to sue is under a disability at the time  
23 the cause of action accrues, so that it is impossible or impracticable  
24 for him or her to bring an action, then the time of the disability is  
25 not part of the time limited for the commencement of the action.

1 Disability will toll the running of the statute of limitation for this  
2 action.

3 (1) Disability includes being a minor, lacking legal capacity to  
4 make decisions, imprisonment, or other incapacity or  
5 incompetence.

6 (2) The statute of limitations shall not run against a plaintiff  
7 who is a minor or who lacks the legal competence to make  
8 decisions simply because a guardian ad litem has been appointed.  
9 A guardian ad litem's failure to bring a plaintiff's action within  
10 the applicable limitation period will not prejudice the plaintiff's  
11 right to do so after his or her disability ceases.

12 (3) A defendant is estopped to assert a defense of the statute of  
13 limitations when the expiration of the statute is due to conduct by  
14 the defendant inducing the plaintiff to delay the filing of the action,  
15 or due to threats made by the defendant causing duress upon the  
16 plaintiff.

17 (4) The suspension of the statute of limitations due to disability,  
18 lack of knowledge, or estoppel applies to all other related claims  
19 arising out of the trafficking situation.

20 (5) The running of the statute of limitations is postponed during  
21 the pendency of criminal proceedings against the victim.

22 ~~(e)~~

23 *(d)* The running of the statute of limitations may be suspended  
24 where a person entitled to sue could not have reasonably discovered  
25 the cause of action due to circumstances resulting from the  
26 trafficking situation, such as psychological trauma, cultural and  
27 linguistic isolation, and the inability to access services.

28 ~~(f)~~

29 *(e)* A prevailing plaintiff may also be awarded reasonable  
30 attorney's fees and litigation costs including, but not limited to,  
31 expert witness fees and expenses as part of the costs.

32 ~~(g)~~

33 *(f)* Restitution paid by the defendant to the victim shall be  
34 credited against a judgment, award, or settlement obtained pursuant  
35 to this section. A judgment, award, or settlement obtained pursuant  
36 to an action under this section shall be subject to the provisions of  
37 Section 13963 of the Government Code.

38 ~~(h)~~

39 *(g)* A civil action filed under this section shall be stayed during  
40 the pendency of any criminal action arising out of the same

1 occurrence in which the claimant is the victim. As used in this  
2 section, a “criminal action” includes investigation and prosecution,  
3 and is pending until a final adjudication in the trial court or  
4 dismissal.

5 *SEC. 2. Section 354.8 is added to the Code of Civil Procedure,*  
6 *to read:*

7 *354.8. (a) Notwithstanding any other law, including, but not*  
8 *limited to Section 335.1, the following actions shall be commenced*  
9 *within 10 years:*

10 *(1) An action for assault, battery, or both, where the conduct*  
11 *constituting the assault or battery would also constitute any of the*  
12 *following:*

13 *(A) An act of torture, as described in Section 206 of the Penal*  
14 *Code.*

15 *(B) An act of genocide, as described in Section 1091(a) of Title*  
16 *18 of the United States Code.*

17 *(C) A war crime, as defined in Section 2441 of Title 18 of the*  
18 *United States Code.*

19 *(D) An attempted extrajudicial killing, as defined in Section*  
20 *3(a) of Public Law 102-256.*

21 *(E) (i) Crimes against humanity.*

22 *(ii) For purposes of this paragraph, “crimes against humanity”*  
23 *means any of the following acts as part of a widespread or*  
24 *systematic attack directed against a civil population, with*  
25 *knowledge of the attack:*

26 *(I) Murder.*

27 *(II) Extermination.*

28 *(III) Enslavement.*

29 *(IV) Forcible transfer of population.*

30 *(V) Arbitrary detention.*

31 *(VI) Rape, sexual slavery, enforced prostitution, forced*  
32 *pregnancy, enforced sterilization, or any other form of sexual*  
33 *violence of comparable gravity.*

34 *(VII) Persecution on political, race, national, ethnic, cultural,*  
35 *religious, or gender grounds.*

36 *(VIII) Enforced disappearance of persons.*

37 *(IX) Other inhuman acts of similar character intentionally*  
38 *causing great suffering, serious bodily injury, or serious mental*  
39 *injury.*

- 1     (2) *An action for wrongful death, where the death arises out of*  
2 *conduct constituting any of the acts described in paragraph (1),*  
3 *or where the death would constitute an extrajudicial killing, as*  
4 *defined in Section 3(a) of Public Law 102-256.*
- 5     (3) *An action brought pursuant to Section 52.5 of the Civil Code.*
- 6     (4) *An action for the taking of property in violation of*  
7 *international law, in which either of the following apply:*
- 8     (A) *That property, or any property exchanged for such property,*  
9 *is present in the United States in connection with a commercial*  
10 *activity carried on in the United States by a foreign state.*
- 11     (B) *That property, or any property exchanged for such property,*  
12 *is owned or operated by an agency or instrumentality of a foreign*  
13 *state and that agency or instrumentality is engaged in a commercial*  
14 *activity in the United States.*
- 15     (5) *An action seeking benefits under an insurance policy where*  
16 *the insurance claim arises out of any of the conduct described in*  
17 *paragraphs (1) to (4), inclusive.*
- 18     (b) *An action brought under this section shall not be dismissed*  
19 *for failure to comply with any previously applicable statute of*  
20 *limitations.*
- 21     (c) *Section 361 shall not apply to an action brought under this*  
22 *section.*
- 23     (d) *A prevailing plaintiff may be awarded reasonable attorney's*  
24 *fees and litigation costs including, but not limited to, expert witness*  
25 *fees and expenses as part of the costs.*
- 26     (e) *This section shall be construed to apply retroactively, and*  
27 *shall apply regardless of when an action or claim accrues or is*  
28 *filed and regardless of whether it may have lapsed or otherwise*  
29 *been barred by time under the laws of the state.*
- 30     (f) *This section shall apply to all pending and future actions*  
31 *commenced on or before January 1, 2016, including any actions*  
32 *dismissed based on the expiration of statutes of limitations in effect*  
33 *before January 1, 2016, if the judgment in that action is not yet*  
34 *final or if the time for filing an appeal from a decision on that*  
35 *action has not expired, if the action concerns an act described in*  
36 *paragraphs (1) to (5), inclusive, of subdivision (a), that occurred*  
37 *within 115 years before January 1, 2016.*
- 38     (g) *The provisions of this section are severable. If any provision*  
39 *of this act or its application is held invalid, that invalidity shall*

1 *not affect other provisions or applications that can be given effect*  
2 *without the invalid provision or application.*

3 ~~SECTION 1. (a) The Legislature finds and declares the~~  
4 ~~following:~~

5 ~~(1) Raising the pay of low-wage workers increases their morale~~  
6 ~~and the productivity and quality of their work, lowers turnover~~  
7 ~~and its accompanying costs, and reduces supervisory costs.~~

8 ~~(2) These savings and quality improvements will lead to~~  
9 ~~improved economy and efficiency in state government~~  
10 ~~procurement.~~

11 ~~(b) Accordingly, it is the intent of the Legislature to enact~~  
12 ~~legislation that would increase efficiency and cost savings in the~~  
13 ~~work performed by parties who contract with the state government~~  
14 ~~by providing a living wage.~~