

AMENDED IN ASSEMBLY MAY 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1670

**Introduced by Committee on Judiciary (Kuehl (Chair),
~~Aroner, Corbett, Hertzberg, Jackson, Knox, Shelley, and
Steinberg~~) Aroner, Bock, Corbett, Jackson, Knox,
Longville, Shelley, Steinberg, and Wiggins)**

March 15, 1999

An act to amend Section 51.5 of the Civil Code, and to amend Sections 11139, 12921, 12926, ~~12940, 12945, 12927, 12940, 12945, 12948, 12955, 12965, 12970, and 12989.2~~ of the Government Code, relating to discrimination, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1670, as amended, Committee on Judiciary. California Civil Rights Amendments of 1999.

Existing law prohibits business establishments from discriminating against, boycotting or blacklisting, or refusing to buy from, sell to, or trade with any person because of the race, creed, religion, color, national origin, sex, or disability of any person or the person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers.

This bill would additionally prohibit these forms of discrimination (1) because of a perception that any of those persons have one or more of the above characteristics or (2)

because the person is associated with a person who has, or is perceived to have, any of those characteristics.

Existing law prohibits denial of benefits under, or discrimination against any person in, any program or activity funded or financially assisted by the state on the basis of ethnic group identification, religion, age, sex, color, or physical or mental disability. Existing law specifies a hearing procedure for determining violations and requires curtailing state funding for any contractor, grantee, or local agency found to be in violation.

This bill would make these provisions and regulations adopted thereunder enforceable by a civil action for equitable relief.

Existing provisions of the California Fair Employment and Housing Act declare as a civil right the opportunity to seek, obtain, and hold employment without discrimination on specified bases.

This bill would declare as a civil right the opportunity to seek, obtain, and hold housing without discrimination on specified bases or any arbitrary basis prohibited by the Unruh Civil Rights Act. *The bill would also revise the definition of discrimination for the purposes of these provisions to include harassment in connection with housing accommodations.*

Existing provisions of the California Fair Employment and Housing Act make it an unlawful employment practice for employers, including employer agents, among others, to harass an employee or applicant because of specified bases. Under existing law, harassment of an employee or applicant by other than an employer agent or supervisor is unlawful only if the employer, or its agents or supervisors, knows or should have known of the harassment and fails to take immediate and appropriate corrective action.

This bill would add a definition of “supervisor” to the act and expand the act’s provisions on harassment to make them applicable to harassment of persons providing services pursuant to a contract, as defined. The bill would provide that the definition of “supervisor” that it would add is declaratory of existing law.



Nothing in the California Fair Employment and Housing Act makes it an unlawful employment practice to require testing for a genetic characteristic.

This bill would make it an unlawful employment practice for an employer or other entity to require testing for a genetic characteristic. *This bill would also make it an unlawful employment practice to make, in connection with prospective employment, any inquiry as to, or a request for information regarding, the physical fitness or physical or mental condition of an applicant, except as specified.*

Existing provisions of the California Fair Employment and Housing Act prohibit discrimination based on specified bases.

This bill would provide that those bases include a perception that the person has any of those characteristics or is associated with a person who has, or is perceived to have, any of those characteristics.

Nothing in the California Fair Employment and Housing Act makes it an unlawful employment practice to refuse to provide a reasonable accommodation for a pregnant female employee during the pregnancy.

This bill would make it an unlawful employment practice for an employer to refuse to provide a reasonable accommodation for a pregnant female employee during the pregnancy.

In any civil action brought under the California Fair Employment and Housing Act the court, with certain exceptions, is authorized to award the prevailing party reasonable attorney's fees and costs.

This bill would additionally authorize the court to award the prevailing party his or her expert witness fees.

Under existing law, the respondent named in an administrative accusation under the California Fair Employment and Housing Act brought for damages for emotional injuries or for an administrative fine may elect to transfer the proceedings to a court. Existing law authorizes the court in those actions to grant specified relief.

This bill would additionally authorize the relief granted by the court to include a requirement that the employer conduct prescribed training.



Existing provisions of the California Fair Employment and Housing Act limit the total amount of damages that may be awarded by the Fair Employment and Housing Commission for nonpecuniary loss and administrative fines to \$50,000 per aggrieved person per respondent.

This bill would increase this limitation to \$150,000.

This bill would specify that the changes it would make in types of discrimination prohibited by the Unruh Civil Rights Act, and in certain of the definitional provisions of the California Fair Employment and Housing Act, are declaratory of existing law.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. This act shall be known, and may be
2 cited, as the California Civil Rights Amendments of 1999.

3 SEC. 2. Section 51.5 of the Civil Code is amended to
4 read:

5 51.5. No business establishment of any kind
6 whatsoever shall discriminate against, boycott or
7 blacklist, or refuse to buy from, *contract with*, sell to, or
8 trade with any person in this state because of the race,
9 creed, religion, color, national origin, sex, or disability of
10 the person or of the person’s partners, members,
11 stockholders, directors, officers, managers,
12 superintendents, agents, employees, business associates,
13 suppliers, or customers, ~~or~~ because the person is
14 perceived to have one or more of those characteristics, *or*
15 *because the person is associated with a person who has,*
16 *or is perceived to have, any of those characteristics.*

17 As used in this section, “person” includes any person,
18 firm, association, organization, partnership, business
19 trust, corporation, limited liability company, or company.

20 This section shall not be construed to require any
21 construction, alteration, repair, structural or otherwise,
22 or modification of any sort whatsoever, beyond that



1 construction, alteration, repair, or modification that is
2 otherwise required by other provisions of law, to any new
3 or existing establishment, facility, building,
4 improvement, or any other structure, nor shall this
5 section be construed to augment, restrict, or alter in any
6 way the authority of the State Architect to require
7 construction, alteration, repair, or modifications that the
8 State Architect otherwise possesses pursuant to other
9 laws.

10 SEC. 3. Section 11139 of the Government Code is
11 amended to read:

12 11139. The prohibitions and sanctions imposed by this
13 article are in addition to any other prohibitions and
14 sanctions imposed by law.

15 This article shall not be interpreted in a manner that
16 would frustrate its purpose.

17 This article shall not be interpreted in a manner that
18 would adversely affect lawful programs which benefit the
19 disabled, the aged, minorities, and women.

20 This article and regulations adopted pursuant to this
21 article may be enforced by a civil action for equitable
22 relief.

23 SEC. 4. Section 12921 of the Government Code is
24 amended to read:

25 12921. (a) The opportunity to seek, obtain, and hold
26 employment without discrimination because of race,
27 religious creed, color, national origin, ancestry, physical
28 disability, mental disability, medical condition, marital
29 status, sex, or age is hereby recognized as and declared to
30 be a civil right.

31 (b) The opportunity to seek, obtain, and hold housing
32 without discrimination because of race, color, religion,
33 sex, marital status, national origin, ancestry, familial
34 status, disability, or any other basis prohibited by Section
35 51 of the Civil Code is hereby recognized as and declared
36 to be a civil right.

37 SEC. 5. Section 12926 of the Government Code is
38 amended to read:



1 12926. As used in this part in connection with
2 unlawful practices, unless a different meaning clearly
3 appears from the context:

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

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

15 (c) “Employee” does not include any individual
16 employed by his or her parents, spouse, or child, or any
17 individual employed under a special license in a nonprofit
18 sheltered workshop or rehabilitation facility.

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

24 ~~(1) “Employer”~~

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

27 ~~(2) “Employer,” for purposes of provisions defining~~
28 ~~unlawful employment practices related to mental~~
29 ~~disability, means any person regularly employing 15 or~~
30 ~~more persons, or any person directly or indirectly acting~~
31 ~~as an agent of such an employer, and also includes the~~
32 ~~state and municipalities and political subdivisions of the~~
33 ~~state.~~

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

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



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

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

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

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

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

14 (A) The employer's judgment as to which functions
15 are essential.

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

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

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

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

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

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

27 (g) "Labor organization" includes any organization
28 that exists and is constituted for the purpose, in whole or
29 in part, of collective bargaining or of dealing with
30 employers concerning grievances, terms or conditions of
31 employment, or of other mutual aid or protection.

32 (h) "Medical condition" includes (1) genetic
33 characteristics, or (2) any health impairment related to
34 or associated with a diagnosis of cancer, for which a
35 person has been rehabilitated or cured, based on
36 competent medical evidence. For purposes of this
37 section, "genetic characteristics" means any scientifically
38 or medically identifiable gene or chromosome, or
39 combination or alteration thereof, that is known to be a
40 cause of a disease or disorder in a person or his or her



1 offspring, or is determined to be associated with a
2 statistically increased risk of development of a disease or
3 disorder, or inherited characteristics that may derive
4 from the individual or family member, that is presently
5 not associated with any symptoms of any disease or
6 disorder.

7 (i) “Mental disability” includes any mental or
8 psychological disorder, such as mental retardation,
9 organic brain syndrome, emotional or mental illness, and
10 specific learning disabilities. However, “mental
11 disability” does not include conditions excluded from the
12 federal definition of “disability” pursuant to Section 511
13 of the Americans with Disabilities Act of 1990 (42 U.S.C.
14 Sec. 12211). Additionally, for purposes of this part, the
15 unlawful use of controlled substances or other drugs shall
16 not be deemed, in and of itself, to constitute a mental
17 disability.

18 (j) “On the bases enumerated in this part” means or
19 refers to discrimination on the basis of one or more of the
20 following: race, religious creed, color, national origin,
21 ancestry, physical disability, mental disability, medical
22 condition, marital status, sex, or age.

23 (k) “Physical disability” includes, but is not limited to,
24 all of the following:

25 (1) Having any physiological disease, disorder,
26 condition, cosmetic disfigurement, or anatomical loss that
27 does both of the following:

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

33 (B) Limits an individual’s ability to participate in
34 major life activities.

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

38 (3) Being regarded as having or having had a disease,
39 disorder, condition, cosmetic disfigurement, anatomical



1 loss, or health impairment described in paragraph (1) or
2 (2).

3 (4) Being regarded as having, or having had, a disease,
4 disorder, condition, cosmetic disfigurement, anatomical
5 loss, or health impairment that has no present disabling
6 effect but may become a physical disability as described
7 in paragraph (1) or (2).

8 It is the intent of the Legislature that the definition of
9 “physical disability” in this subdivision shall have the
10 same meaning as the term “physical handicap” formerly
11 defined by this subdivision and construed in American
12 National Ins. Co. v. Fair Employment & Housing Com.
13 (1982) 32 Cal.3d 603. However, “physical disability” does
14 not include conditions excluded from the federal
15 definition of “disability” pursuant to Section 511 of the
16 Americans with Disabilities Act of 1990 (42 U.S.C. Sec.
17 12211). Additionally, for purposes of this part, the
18 unlawful use of controlled substances or other drugs shall
19 not be deemed, in and of itself, to constitute a physical
20 disability.

21 (l) Notwithstanding subdivisions (i) and (k), if the
22 definition of “disability” used in the Americans with
23 Disabilities Act of 1990 (P.L. 101-336) would result in
24 broader protection of the civil rights of individuals with
25 a mental disability or physical disability, as defined in
26 subdivision (i) or (k), or would include any medical
27 condition not included within those definitions, then that
28 broader protection or coverage shall be deemed
29 incorporated by reference into, and shall prevail over
30 conflicting provisions of, the definitions in subdivisions
31 (i) and (k).

32 (m) *“Race, religious creed, color, national origin,*
33 *ancestry, physical disability, mental disability, medical*
34 *condition, marital status, sex, or age” includes a*
35 *perception that the person has any of those*
36 *characteristics or that the person is associated with a*
37 *person who has, or is perceived to have, any of those*
38 *characteristics.*

39 (n) “Reasonable accommodation” may include either
40 of the following:



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

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

11 ~~(n)~~
12 (o) “Religious creed,” “religion,” “religious
13 observance,” “religious belief,” and “creed” include all
14 aspects of religious belief, observance, and practice.

15 ~~(o)~~
16 (p) “Sex” includes, but is not limited to, pregnancy,
17 childbirth, or medical conditions related to pregnancy or
18 childbirth.

19 ~~(p)~~
20 (q) “Supervisor” means any individual having the
21 authority, in the interest of the employer, to hire,
22 transfer, suspend, lay off, recall, promote, discharge,
23 assign, reward, or discipline other employees, or the
24 responsibility to direct them, or to adjust their grievances,
25 or effectively to recommend that action, if, in connection
26 with the foregoing, the exercise of that authority is not of
27 a merely routine or clerical nature, but requires the use
28 of independent judgment.

29 ~~(q)~~
30 (r) “Undue hardship” means an action requiring
31 significant difficulty or expense, when considered in light
32 of the following factors: (1) the nature and cost of the
33 accommodation needed, (2) the overall financial
34 resources of the facilities involved in the provision of the
35 reasonable accommodations, the number of persons
36 employed at the facility, and the effect on expenses and
37 resources or the impact otherwise of these
38 accommodations upon the operation of the facility, (3)
39 the overall financial resources of the covered entity, the
40 overall size of the business of a covered entity with



1 respect to the number of employees, and the number,
2 type, and location of its facilities, (4) the type of
3 operations, including the composition, structure, and
4 functions of the work force of the entity, and (5) the
5 geographic separateness, administrative, or fiscal
6 relationship of the facility or facilities.

7 SEC. 6. *Section 12927 of the Government Code is*
8 *amended to read:*

9 12927. As used in this part in connection with housing
10 accommodations, unless a different meaning clearly
11 appears from the context:

12 (a) “Affirmative actions” means any activity for the
13 purpose of eliminating discrimination in housing
14 accommodations because of race, color, religion, sex,
15 marital status, national origin, ancestry, familial status, or
16 disability.

17 (b) “Conciliation council” means a nonprofit
18 organization, or a city or county human relations
19 commission, which provides education, factfinding, and
20 mediation or conciliation services in resolution of
21 complaints of housing discrimination.

22 (c) (1) “Discrimination” includes refusal to sell, rent,
23 or lease housing accommodations; includes refusal to
24 negotiate for the sale, rental, or lease of housing
25 accommodations; includes representation that a housing
26 accommodation is not available for inspection, sale, or
27 rental when that housing accommodation is in fact so
28 available; includes any other denial or withholding of
29 housing accommodations; includes provision of inferior
30 terms, conditions, privileges, facilities, or services in
31 connection with those housing accommodations; *includes*
32 *harassment in connection with those housing*
33 *accommodations*; includes the cancellation or
34 termination of a sale or rental agreement; includes the
35 provision of segregated or separated housing
36 accommodations; includes the refusal to permit, at the
37 expense of the disabled person, reasonable modifications
38 of existing premises occupied or to be occupied by the
39 disabled person, if the modifications may be necessary to
40 afford the disabled person full enjoyment of the premises,



1 except that, in the case of a rental, the landlord may,
2 where it is reasonable to do so condition permission for a
3 modification on the renter's agreeing to restore the
4 interior of the premises to the condition that existed
5 before the modification (other than for reasonable wear
6 and tear), and includes refusal to make reasonable
7 accommodations in rules, policies, practices, or services
8 when these accommodations may be necessary to afford
9 a disabled person equal opportunity to use and enjoy a
10 dwelling.

11 (2) "Discrimination" does not include either of the
12 following:

13 (A) Refusal to rent or lease a portion of an
14 owner-occupied single-family house to a person as a
15 roomer or boarder living within the household, provided
16 that no more than one roomer or boarder is to live within
17 the household, and the owner complies with subdivision
18 (c) of Section 12955, which prohibits discriminatory
19 notices, statements, and advertisements.

20 (B) Where the sharing of living areas in a single
21 dwelling unit is involved, the use of words stating or
22 tending to imply that the housing being advertised is
23 available only to persons of one sex.

24 (d) "Housing accommodation" means any building,
25 structure, or portion thereof that is occupied as, or
26 intended for occupancy as, a residence by one or more
27 families and any vacant land that is offered for sale or
28 lease for the construction thereon of any building,
29 structure, or portion thereof intended to be so occupied.

30 (e) "Owner" includes the lessee, sublessee, assignee,
31 managing agent, real estate broker or salesperson, or any
32 person having any legal or equitable right of ownership
33 or possession or the right to rent or lease housing
34 accommodations, and includes the state and any of its
35 political subdivisions and any agency thereof.

36 (f) "Person" includes all individuals and entities that
37 are described in Section 3602(d) of Title 42 of the United
38 States Code, and in the definition of "owner" in
39 subdivision (e) of this section, and all institutional third



1 parties, including the Federal Home Loan Mortgage
2 Corporation.

3 (g) “Aggrieved person” includes any person who
4 claims to have been injured by a discriminatory housing
5 practice or believes that the person will be injured by a
6 discriminatory housing practice that is about to occur.

7 (h) “Real estate-related transactions” include any of
8 the following:

9 (1) The making or purchasing of loans or providing
10 other financial assistance that is for the purpose of
11 purchasing, constructing, improving, repairing, or
12 maintaining a dwelling, or that is secured by residential
13 real estate.

14 (2) The selling, brokering, or appraising of residential
15 real property.

16 (3) The use of territorial underwriting requirements,
17 for the purpose of requiring a borrower in a specific
18 geographic area to obtain earthquake insurance,
19 required by an institutional third party on a loan secured
20 by residential real property.

21 *SEC. 7.* Section 12940 of the Government Code is
22 amended to read:

23 12940. It shall be an unlawful employment practice,
24 unless based upon a bona fide occupational qualification,
25 or, except where based upon applicable security
26 regulations established by the United States or the State
27 of California:

28 (a) For an employer, because of the race, religious
29 creed, color, national origin, ancestry, physical disability,
30 mental disability, medical condition, marital status, or sex
31 of any person, to refuse to hire or employ the person or
32 to refuse to select the person for a training program
33 leading to employment, or to bar or to discharge the
34 person from employment or from a training program
35 leading to employment, or to discriminate against the
36 person in compensation or in terms, conditions, or
37 privileges of employment.

38 (1) This part does not prohibit an employer from
39 refusing to hire or discharging an employee with a
40 physical or mental disability, or subject an employer to



1 any legal liability resulting from the refusal to employ or
2 the discharge of an employee with a physical or mental
3 disability, where the employee, because of his or her
4 physical or mental disability, is unable to perform his or
5 her essential duties even with reasonable
6 accommodations, or cannot perform those duties in a
7 manner that would not endanger his or her health or
8 safety or the health or safety of others even with
9 reasonable accommodations.

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

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

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

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

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



1 (b) For a labor organization, because of the race,
2 religious creed, color, national origin, ancestry, physical
3 disability, mental disability, medical condition, marital
4 status, or sex of any person, to exclude, expel, or restrict
5 from its membership the person, or to provide only
6 second-class or segregated membership or to
7 discriminate against any person because of the race,
8 religious creed, color, national origin, ancestry, physical
9 disability, mental disability, medical condition, marital
10 status, or sex of the person in the election of officers of the
11 labor organization or in the selection of the labor
12 organization's staff or to discriminate in any way against
13 any of its members or against any employer or against any
14 person employed by an employer.

15 (c) For any person to discriminate against any person
16 in the selection or training of that person in any
17 apprenticeship training program or any other training
18 program leading to employment because of the race,
19 religious creed, color, national origin, ancestry, physical
20 disability, mental disability, medical condition, marital
21 status, or sex of the person discriminated against.

22 (d) For any employer or employment agency, unless
23 specifically acting in accordance with federal equal
24 employment opportunity guidelines and regulations
25 approved by the commission, to print or circulate or
26 cause to be printed or circulated any publication, or to
27 make any non-job-related inquiry *of an employee or*
28 *applicant*, either verbal or through use of an application
29 form, which expresses, directly or indirectly, any
30 limitation, specification, or discrimination as to race,
31 religious creed, color, national origin, ancestry, physical
32 disability, mental disability, medical condition, marital
33 status, or sex, or any intent to make that limitation,
34 specification or discrimination. Except as provided in the
35 Americans with Disabilities Act of 1990 (P.L. 101-336) and
36 the regulations adopted pursuant thereto, nothing in this
37 subdivision shall prohibit any employer from making, in
38 connection with prospective employment, an inquiry as
39 to, or a request for information regarding, the physical
40 fitness, medical condition, physical condition, or medical



1 history of applicants if that inquiry or request for
2 information is directly related and pertinent to the
3 position the applicant is applying for or directly related
4 to a determination of whether the applicant would
5 endanger his or her health or safety or the health or safety
6 of others.

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

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

20 (g) For any person to aid, abet, incite, compel, or
21 coerce the doing of any of the acts forbidden under this
22 part, or to attempt to do so.

23 (h) (1) For an employer, labor organization,
24 employment agency, apprenticeship training program or
25 any training program leading to employment, or any
26 other person, because of race, religious creed, color,
27 national origin, ancestry, physical disability, mental
28 disability, medical condition, marital status, sex, or age, to
29 harass an employee, an applicant, or a person providing
30 services pursuant to a contract. Harassment of an
31 employee, an applicant, or a person providing services
32 pursuant to a contract by an employee other than an
33 agent or supervisor shall be unlawful if the entity, or its
34 agents or supervisors, knows or should have known of this
35 conduct and fails to take immediate and appropriate
36 corrective action. An entity shall take all reasonable steps
37 to prevent harassment from occurring. Loss of tangible
38 job benefits shall not be necessary in order to establish
39 harassment.



1 (2) This subdivision is declaratory of existing law,
2 except for the new duties imposed on employers with
3 regard to harassment.

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

13 (B) Notwithstanding subparagraph (A), for purposes
14 of this subdivision, “employer” does not include a
15 religious association or corporation not organized for
16 private profit.

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

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

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

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

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

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

39 (j) For an employer or other entity covered by this
40 part to refuse to hire or employ a person or to refuse to



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

24 (k) For an employer or other entity covered by this
25 part to fail to make reasonable accommodation for the
26 known physical or mental disability of an applicant or
27 employee. Nothing in this subdivision or in paragraph (1)
28 or (2) of subdivision (a) shall be construed to require an
29 accommodation that is demonstrated by the employer or
30 other covered entity to produce undue hardship to its
31 operation.

32 (l) Initial application of this section to discrimination
33 by employers on the basis of mental disability shall be in
34 accordance with the following schedule:

35 (1) Commencing January 1, 1993, for employers with
36 25 or more employees, the state, and its municipalities
37 and political subdivisions.

38 (2) Commencing July 26, 1994, for all other employers
39 specified in paragraph (2) of the subdivision of Section
40 12926 that defines "employer."



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

5 ~~SEC. 7.—~~

6 *SEC. 8.* Section 12945 of the Government Code is
7 amended to read:

8 12945. It shall be an unlawful employment practice,
9 unless based upon a bona fide occupational qualification:

10 (a) For any employer, because of the pregnancy,
11 childbirth, or related medical condition of any female
12 employee, to refuse to promote her, or to refuse to select
13 her for a training program leading to promotion,
14 provided she is able to complete the training program at
15 least three months prior to the anticipated date of
16 departure for her pregnancy leave, or to discharge her
17 from employment or from a training program leading to
18 promotion, or to discriminate against her in
19 compensation or in terms, conditions, or privileges of
20 employment.

21 (b) For any employer to refuse to allow a female
22 employee affected by pregnancy, childbirth, or related
23 medical conditions either:

24 (1) To receive the same benefits or privileges of
25 employment granted by that employer to other persons
26 not so affected who are similar in their ability or inability
27 to work, including to take disability or sick leave or any
28 other accrued leave that is made available by the
29 employer to temporarily disabled employees. For
30 purposes of this section, pregnancy, childbirth, and
31 related medical conditions are treated as any other
32 temporary disability. However, no employer shall be
33 required to provide a female employee disability leave on
34 account of normal pregnancy, childbirth, or related
35 medical condition for a period exceeding six weeks. This
36 section shall not be construed to require an employer to
37 provide his or her employees with health insurance
38 coverage for the medical costs of pregnancy, childbirth,
39 or related medical conditions. The inclusion in any health
40 insurance coverage of any provisions or coverage relating

1 to medical costs of pregnancy, childbirth, or related
2 medical conditions shall not be construed to require the
3 inclusion of any other provisions or coverage, nor shall
4 coverage of any related medical conditions be required
5 by virtue of coverage of any medical costs of pregnancy,
6 childbirth, or other related medical conditions.

7 (2) To take a leave on account of pregnancy for a
8 reasonable period of time not to exceed four months. The
9 employee shall be entitled to utilize any accrued vacation
10 leave during this period of time. Reasonable period of
11 time means that period during which the female
12 employee is disabled on account of pregnancy, childbirth,
13 or related medical conditions. This paragraph shall not be
14 construed to limit the provisions of paragraph (1) of
15 subdivision (b).

16 An employer may require any employee who plans to
17 take a leave pursuant to this subdivision to give the
18 employer reasonable notice of the date the leave shall
19 commence and the estimated duration of the leave.

20 (c) (1) For any employer, including both employers
21 subject to and not subject to Title VII of the Civil Rights
22 Act of 1964, to refuse to provide reasonable
23 accommodation for a pregnant female employee for the
24 duration of her pregnancy.

25 (2) For any employer, including both employers
26 subject to and not subject to Title VII of the federal Civil
27 Rights Act of 1964, who has a policy, practice, or collective
28 bargaining agreement requiring or authorizing the
29 transfer of temporarily disabled employees to less
30 strenuous or hazardous positions for the duration of the
31 disability to refuse to transfer a pregnant female
32 employee who so requests.

33 (3) For any employer, including both employers
34 subject to and not subject to Title VII of the federal Civil
35 Rights Act of 1964, to refuse to temporarily transfer a
36 pregnant female employee to a less strenuous or
37 hazardous position for the duration of her pregnancy if
38 she so requests, with the advice of her physician, where
39 that transfer can be reasonably accommodated.
40 However, no employer shall be required by this section



1 to create additional employment that the employer
2 would not otherwise have created, nor shall the employer
3 be required to discharge any employee, transfer any
4 employee with more seniority, or promote any employee
5 who is not qualified to perform the job.

6 (d) This section shall not be construed to affect any
7 other provision of law relating to sex discrimination or
8 pregnancy, or in any way to diminish the coverage of
9 pregnancy, childbirth, or medical conditions related to
10 pregnancy or childbirth under any other provisions of this
11 part, including subdivision (a) of Section 12940.

12 (e) Except for subdivision (c) and paragraph (2) of
13 subdivision (b), this section is inapplicable to any
14 employer subject to Title VII of the federal Civil Rights
15 Act of 1964.

16 ~~SEC. 8.—~~

17 *SEC. 9. Section 12948 of the Government Code is*
18 *amended to read:*

19 12948. It is an unlawful practice under this part for a
20 person to deny or to aid, incite, or conspire in the denial
21 of the rights created by Section 51, 51.5, 51.7, 54, 54.1, or
22 54.2 of the Civil Code.

23 *SEC. 10. Section 12955 of the Government Code is*
24 *amended to read:*

25 12955. It shall be unlawful:

26 (a) For the owner of any housing accommodation to
27 discriminate against *or harass* any person because of the
28 race, color, religion, sex, marital status, national origin,
29 ancestry, familial status, or disability of that person.

30 (b) For the owner of any housing accommodation to
31 make or to cause to be made any written or oral inquiry
32 concerning the race, color, religion, sex, marital status,
33 national origin, ancestry, familial status, or disability of
34 any person seeking to purchase, rent or lease any housing
35 accommodation.

36 (c) For any person to make, print, or publish, or cause
37 to be made, printed, or published any notice, statement,
38 or advertisement, with respect to the sale or rental of a
39 housing accommodation that indicates any preference,
40 limitation, or discrimination based on race, color, religion,



1 sex, marital status, national origin, ancestry, familial
2 status, or disability or an intention to make any such
3 preference, limitation, or discrimination.

4 (d) For any person subject to the provisions of Section
5 51 of the Civil Code, as that section applies to housing
6 accommodations, to discriminate against any person on
7 the basis of sex, color, race, religion, ancestry, national
8 origin, familial status, marital status, disability, or on any
9 other basis prohibited by that section.

10 (e) For any person, bank, mortgage company or other
11 financial institution that provides financial assistance for
12 the purchase, organization, or construction of any
13 housing accommodation to discriminate against any
14 person or group of persons because of the race, color,
15 religion, sex, marital status, national origin, ancestry,
16 familial status, or disability in the terms, conditions, or
17 privileges relating to the obtaining or use of that financial
18 assistance.

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

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

33 (h) For any person, for profit, to induce any person to
34 sell or rent any dwelling by representations regarding the
35 entry or prospective entry into the neighborhood of a
36 person or persons of a particular race, color, religion, sex,
37 marital status, ancestry, disability, familial status, or
38 national origin.

39 (i) For any person or other organization or entity
40 whose business involves real estate-related transactions to



1 discriminate against any person in making available a
2 transaction, or in the terms and conditions of a
3 transaction, because of race, color, religion, sex, marital
4 status, national origin, ancestry, familial status, or
5 disability.

6 (j) To deny a person access to, or membership or
7 participation in, a multiple listing service, real estate
8 brokerage organization, or other service because of race,
9 color, religion, sex, marital status, ancestry, disability,
10 familial status, or national origin.

11 (k) To otherwise make unavailable or deny a dwelling
12 based on discrimination because of race, color, religion,
13 sex, familial status, disability, or national origin.

14 (l) To discriminate through public or private land use
15 practices, decisions, and authorizations because of race,
16 color, religion, sex, familial status, marital status,
17 disability, national origin, or ancestry. Discrimination
18 includes, but is not limited to, restrictive covenants,
19 zoning laws, denials of use permits, and other actions
20 authorized under the Planning and Zoning Law (Title 7
21 (commencing with Section 65000)), that make housing
22 opportunities unavailable.

23 (m) *As used in this section, "race, color, religion, sex,*
24 *marital status, national origin, ancestry, familial status, or*
25 *disability" includes a perception that the person has any*
26 *of those characteristics or that the person is associated*
27 *with a person who has, or is perceived to have, any of*
28 *those characteristics.*

29 *SEC. 11.* Section 12965 of the Government Code is
30 amended to read:

31 12965. (a) In the case of failure to eliminate an
32 unlawful practice under this part through conference,
33 conciliation, or persuasion, or in advance thereof if
34 circumstances warrant, the director in his or her
35 discretion may cause to be issued in the name of the
36 department a written accusation. The accusation shall
37 contain the name of the person, employer, labor
38 organization, or employment agency accused, which
39 shall be known as the respondent, shall set forth the
40 nature of the charges, shall be served upon the



1 respondent together with a copy of the verified
2 complaint, as amended, and shall require the respondent
3 to answer the charges at a hearing.

4 For any complaint treated by the director as a group or
5 class complaint for purposes of investigation, conciliation,
6 and accusation pursuant to Section 12961, an accusation
7 shall be issued, if at all, within two years after the filing of
8 the complaint. For all other complaints, an accusation
9 shall be issued, if at all, within one year after the filing of
10 a complaint. If the director determines, pursuant to
11 Section 12961, that a complaint investigated as a group or
12 class complaint under Section 12961 is to be treated as a
13 group or class complaint for purposes of conciliation and
14 accusation as well, that determination shall be made and
15 shall be communicated in writing within one year after
16 the filing of the complaint to each person, employer, labor
17 organization, employment agency, or public entity
18 alleged in the complaint to have committed an unlawful
19 practice.

20 (b) If an accusation is not issued within 150 days after
21 the filing of a complaint, or if the department earlier
22 determines that no accusation will issue, the department
23 shall promptly notify, in writing, the person claiming to
24 be aggrieved that the department shall issue, on his or her
25 request, the right-to-sue notice. This notice shall indicate
26 that the person claiming to be aggrieved may bring a civil
27 action under this part against the person, employer, labor
28 organization, or employment agency named in the
29 verified complaint within one year from the date of that
30 notice. If the person claiming to be aggrieved does not
31 request a right-to-sue notice, the department shall issue
32 the notice upon completion of its investigation, and not
33 later than one year after the filing of the complaint. A city,
34 county, or district attorney in a location having an
35 enforcement unit established on or before March 1, 1991,
36 pursuant to a local ordinance enacted for the purpose of
37 prosecuting HIV/AIDS discrimination claims, acting on
38 behalf of any person claiming to be aggrieved due to
39 HIV/AIDS discrimination, may also bring a civil action
40 under this part against the person, employer, labor



1 organization, or employment agency named in the
2 notice. The superior and municipal courts of the State of
3 California shall have jurisdiction of those actions, and the
4 aggrieved person may file in any of these courts. Such an
5 action may be brought in any county in the state in which
6 the unlawful practice is alleged to have been committed,
7 in the county in which the records relevant to the
8 practice are maintained and administered, or in the
9 county in which the aggrieved person would have
10 worked or would have had access to the public
11 accommodation but for the alleged unlawful practice, but
12 if the defendant is not found within any of these counties,
13 an action may be brought within the county of the
14 defendant's residence or principal office. A copy of any
15 complaint filed pursuant to this part shall be served on the
16 principal offices of the department and of the
17 commission. The remedy for failure to send a copy of a
18 complaint is an order to do so. Those actions may not be
19 filed as class actions or may not be maintained as class
20 actions by the person or persons claiming to be aggrieved
21 where those persons have filed a civil class action in the
22 federal courts alleging a comparable claim of
23 employment discrimination against the same defendant
24 or defendants. In actions brought under this section, the
25 court, in its discretion, may award to the prevailing party
26 reasonable attorney's fees and costs, including expert
27 witness fees, except where the action is filed by a public
28 agency or a public official, acting in an official capacity.

29 (c) (1) If an accusation or amended accusation
30 includes a prayer either for damages for emotional
31 injuries as a component of actual damages, or for
32 administrative fines, or for both, the respondent may
33 within 30 days after service of the accusation or amended
34 accusation, elect to transfer the proceedings to a court in
35 lieu of a hearing pursuant to subdivision (a) by serving a
36 written notice to that effect on the department, the
37 commission, and the person claiming to be aggrieved.
38 The commission shall prescribe the form and manner of
39 giving written notice.



1 (2) No later than 30 days after the completion of
 2 service of the notice of election pursuant to paragraph
 3 (1), the department shall dismiss the accusation and shall,
 4 either itself or, at its election, through the Attorney
 5 General, file in the appropriate court an action in its own
 6 name on behalf of the person claiming to be aggrieved as
 7 the real party in interest. In this action, the person
 8 claiming to be aggrieved shall be the real party in interest
 9 and shall have the right to participate as a party and be
 10 represented by his or her own counsel. Complaints filed
 11 pursuant to this section shall be filed in the appropriate
 12 superior or municipal court in any county in which
 13 unlawful practices are alleged to have been committed,
 14 in the county in which records relevant to the alleged
 15 unlawful practices are maintained and administered, or
 16 in the county in which the person claiming to be
 17 aggrieved would have worked or would have had access
 18 to public accommodation, but for the alleged unlawful
 19 practices. If the defendant is not found in any of these
 20 counties, the action may be brought within the county of
 21 the defendant's residence or principal office. Those
 22 actions shall be assigned to the court's delay reduction
 23 program, or otherwise given priority for disposition by
 24 the court in which the action is filed.

25 (3) A court may grant as relief in any action filed
 26 pursuant to this subdivision any relief a court is
 27 empowered to grant in a civil action brought pursuant to
 28 subdivision (b), in addition to any other relief that, in the
 29 judgment of the court, will effectuate the purpose of this
 30 part. This relief may include a requirement that the
 31 employer conduct training for all employees, supervisors,
 32 and management on the requirements of this part, the
 33 rights and remedies of those who allege a violation of this
 34 part, and the employer's internal grievance procedures.

35 (4) The department may amend an accusation to pray
 36 for either damages for emotional injury or for
 37 administrative fines, or both, provided that the
 38 amendment is made within 30 days of the issuance of the
 39 original accusation.

40 ~~SEC. 9.—~~



1 SEC. 12. Section 12970 of the Government Code is
2 amended to read:

3 12970. (a) If the commission finds that a respondent
4 has engaged in any unlawful practice under this part, it
5 shall state its findings of fact and determination and shall
6 issue and cause to be served on the parties an order
7 requiring the respondent to cease and desist from the
8 unlawful practice and to take action, including, but not
9 limited to, any of the following:

10 (1) The hiring, reinstatement, or upgrading of
11 employees, with or without back pay.

12 (2) The admission or restoration to membership in any
13 respondent labor organization.

14 (3) The payment of actual damages as may be
15 available in civil actions under this part, except as
16 otherwise provided in this section. Actual damages
17 include, but are not limited to, damages for emotional
18 injuries if the accusation or amended accusation prays for
19 those damages. Actual damages awarded under this
20 section for emotional pain, suffering, inconvenience,
21 mental anguish, loss of enjoyment of life, and other
22 nonpecuniary losses shall not exceed, in combination with
23 the amounts of any administrative fines imposed
24 pursuant to subdivision (c), one hundred fifty thousand
25 dollars (\$150,000) per aggrieved person per respondent.

26 (4) Notwithstanding paragraph (3), the payment of
27 actual damages up to one hundred fifty thousand dollars
28 (\$150,000) assessed against a respondent for a violation of
29 Section 51.7 of the Civil Code, as an unlawful practice
30 under this part.

31 (5) Affirmative or prospective relief to prevent the
32 recurrence of the unlawful practice.

33 (6) A report to the commission as to the manner of
34 compliance with the commission's order.

35 (b) An unlawful practice under this part alone is not
36 sufficient to sustain an award of actual damages pursuant
37 to this section. The department is required to prove, by
38 a preponderance of the evidence, that an aggrieved
39 person has sustained actual injury. In determining
40 whether to award damages for emotional injuries, and the



1 amount of any award for these damages, the commission
2 shall consider relevant evidence of the effects of
3 discrimination on the aggrieved person with respect to
4 any or all of the following:

5 (1) Physical and mental well-being.

6 (2) Personal integrity, dignity, and privacy.

7 (3) Ability to work, earn a living, and advance in his or
8 her career.

9 (4) Personal and professional reputation.

10 (5) Family relationships.

11 (6) Access to the job and ability to associate with peers
12 and coworkers.

13 The commission shall also consider the duration of the
14 emotional injury, and whether that injury was caused or
15 exacerbated by an aggrieved person's knowledge of a
16 respondent's failure to respond adequately to, or to
17 correct, the discriminatory practice or by the
18 egregiousness of the discriminatory practice.

19 (c) In addition to the foregoing, in order to vindicate
20 the purposes and policies of this part, the commission may
21 assess against the respondent, if the accusation or
22 amended accusation so prays, an administrative fine per
23 aggrieved person per respondent, the amount of which
24 shall be determined in accordance with the combined
25 amount limitation of paragraph (3) of subdivision (a).

26 (d) In determining whether to assess an
27 administrative fine pursuant to this section, the
28 commission shall find that the respondent has been guilty
29 of oppression, fraud, or malice, expressed or implied, as
30 required by Section 3294 of the Civil Code. In
31 determining the amount of fines, the commission shall
32 consider relevant evidence of, including, but not limited
33 to, the following:

34 (1) Willful, intentional, or purposeful conduct.

35 (2) Refusal to prevent or eliminate discrimination.

36 (3) Conscious disregard for the rights of employees.

37 (4) Commission of unlawful conduct.

38 (5) Intimidation or harassment.

39 (6) Conduct without just cause or excuse.



1 (7) Multiple violations of the Fair Employment and
2 Housing Act.

3 The moneys derived from an administrative fine
4 assessed pursuant to this subdivision shall be deposited in
5 the General Fund. No administrative fine shall be
6 assessed against a public entity. The commission shall
7 have no authority to award punitive damages as a remedy
8 for a finding of employment discrimination.

9 (e) In addition to the foregoing, in order to vindicate
10 the purposes and policies of this part, the commission may
11 assess against the respondent if the accusation or
12 amended accusation so prays, a civil penalty of up to
13 twenty-five thousand dollars (\$25,000) to be awarded to
14 a person denied any right provided for by Section 51.7 of
15 the Civil Code, as an unlawful practice prohibited under
16 this part.

17 (f) If the commission finds the respondent has
18 engaged in an unlawful practice under this part, and the
19 respondent is licensed or granted a privilege by an agency
20 of the state to do business, provide a service, or conduct
21 activities, and the unlawful practice is determined to
22 have occurred in connection with the exercise of that
23 license or privilege, the commission shall provide the
24 licensing or privilege granting agency with a copy of its
25 decision or order.

26 (g) If the commission finds that a respondent has not
27 engaged in an unlawful practice under this part, the
28 commission shall state its findings of fact and
29 determination and issue and cause to be served on the
30 parties an order dismissing the accusation as to that
31 respondent.

32 (h) Any findings and determination made or any
33 order issued pursuant to this section shall be written and
34 shall indicate the identity of the members of the
35 commission who participated therein.

36 (i) Any order issued by the commission shall have
37 printed on its face references to the rights of appeal of any
38 party to the proceeding to whose position the order is
39 adverse.



1 (j) If the commission finds that a respondent has
2 engaged in an unlawful practice under this part, and it
3 appears that this practice consisted of acts described in
4 Section 243.4, 261, 262, 286, 288, 288a, or 289 of the Penal
5 Code, the commission, with the consent of the
6 complainant, shall provide the local district attorney's
7 office with a copy of its decision and order.

8 (k) Notwithstanding Section 12960, if the commission
9 finds that a respondent has engaged in unlawful
10 discrimination in housing under Section 12948, the
11 remedies afforded in Section 12987 or any other provision
12 in this part pertaining to housing discrimination, shall
13 apply.

14 ~~SEC. 10.—~~

15 *SEC. 13.* Section 12989.2 of the Government Code is
16 amended to read:

17 12989.2. In a civil action brought under Section 12989
18 or 12989.1, if the court finds that a discriminatory housing
19 practice has occurred or is about to occur, the court may
20 award the plaintiff or complainant actual and punitive
21 damages and may grant other relief, including the
22 issuance of a temporary or permanent injunction, or
23 temporary restraining order, or other order, as it deems
24 appropriate to prevent any defendant from engaging in
25 or continuing to engage in an unlawful practice. The
26 court may, at its discretion, award the prevailing party,
27 other than the state, reasonable attorney's fees and costs,
28 including expert witness fees *against any party other than*
29 *the state.*

30 ~~SEC. 11.—~~

31 *SEC. 14.* The ~~amendment~~ *of amendments made by*
32 *this act to Section 51.5 of the Civil Code, to Section 12926*
33 *of the Government Code made by this act does, and in*
34 *the subdivision (m) added to Section 12955 of the*
35 *Government Code do not constitute a change in, but is*
36 *declaratory of, existing law.*

37 ~~SEC. 12.—~~

38 *SEC. 15.* This act is an urgency statute necessary for
39 the immediate preservation of the public peace, health,
40 or safety within the meaning of Article IV of the



1 Constitution and shall go into immediate effect. The facts
2 constituting the necessity are:
3 To protect Californians against invidious
4 discrimination in the areas of housing, employment, and
5 business, it is necessary that this act go into effect
6 immediately.

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