

AMENDED IN ASSEMBLY JUNE 1, 1999

AMENDED IN ASSEMBLY MAY 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1670**

**Introduced by Committee on Judiciary (Kuehl (Chair),  
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, 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: <sup>2</sup>/<sub>3</sub> majority. 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, because the person is perceived  
14 to have one or more of those characteristics, or because  
15 the person is associated with a person who has, or is  
16 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 backpay, 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 “Employer” does not include a religious association or  
25 corporation not organized for private profit.

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

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

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

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

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



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

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

6 (A) The employer's judgment as to which functions  
7 are essential.

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

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

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

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

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

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

19 (g) "Labor organization" includes any organization  
20 that exists and is constituted for the purpose, in whole or  
21 in part, of collective bargaining or of dealing with  
22 employers concerning grievances, terms or conditions of  
23 employment, or of other mutual aid or protection.

24 (h) "Medical condition" includes (1) genetic  
25 characteristics, or (2) any health impairment related to  
26 or associated with a diagnosis of cancer, for which a  
27 person has been rehabilitated or cured, based on  
28 competent medical evidence. For purposes of this  
29 section, "genetic characteristics" means any scientifically  
30 or medically identifiable gene or chromosome, or  
31 combination or alteration thereof, that is known to be a  
32 cause of a disease or disorder in a person or his or her  
33 offspring, or is determined to be associated with a  
34 statistically increased risk of development of a disease or  
35 disorder, or inherited characteristics that may derive  
36 from the individual or family member, that is presently  
37 not associated with any symptoms of any disease or  
38 disorder.

39 (i) "Mental disability" includes any mental or  
40 psychological disorder, such as mental retardation,



1 organic brain syndrome, emotional or mental illness, and  
2 specific learning disabilities. However, “mental  
3 disability” does not include conditions excluded from the  
4 federal definition of “disability” pursuant to Section 511  
5 of the Americans with Disabilities Act of 1990 (42 U.S.C.  
6 Sec. 12211). Additionally, for purposes of this part, the  
7 unlawful use of controlled substances or other drugs shall  
8 not be deemed, in and of itself, to constitute a mental  
9 disability.

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

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

17 (1) Having any physiological disease, disorder,  
18 condition, cosmetic disfigurement, or anatomical loss that  
19 does both of the following:

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

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

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

30 (3) Being regarded as having or having had a disease,  
31 disorder, condition, cosmetic disfigurement, anatomical  
32 loss, or health impairment described in paragraph (1) or  
33 (2).

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

39 It is the intent of the Legislature that the definition of  
40 “physical disability” in this subdivision shall have the





1 same meaning as the term “physical handicap” formerly  
2 defined by this subdivision and construed in American  
3 National Ins. Co. v. Fair Employment & Housing Com.  
4 (1982) 32 Cal.3d 603. However, “physical disability” does  
5 not include conditions excluded from the federal  
6 definition of “disability” pursuant to Section 511 of the  
7 Americans with Disabilities Act of 1990 (42 U.S.C. Sec.  
8 12211). Additionally, for purposes of this part, the  
9 unlawful use of controlled substances or other drugs shall  
10 not be deemed, in and of itself, to constitute a physical  
11 disability.

12 (l) Notwithstanding subdivisions (i) and (k), if the  
13 definition of “disability” used in the Americans with  
14 Disabilities Act of 1990 (P.L. 101-336) would result in  
15 broader protection of the civil rights of individuals with  
16 a mental disability or physical disability, as defined in  
17 subdivision (i) or (k), or would include any medical  
18 condition not included within those definitions, then that  
19 broader protection or coverage shall be deemed  
20 incorporated by reference into, and shall prevail over  
21 conflicting provisions of, the definitions in subdivisions  
22 (i) and (k).

23 (m) “Race, religious creed, color, national origin,  
24 ancestry, physical disability, mental disability, medical  
25 condition, marital status, sex, or age” includes a  
26 perception that the person has any of those  
27 characteristics or that the person is associated with a  
28 person who has, or is perceived to have, any of those  
29 characteristics.

30 (n) “Reasonable accommodation” may include either  
31 of the following:

32 (1) Making existing facilities used by employees  
33 readily accessible to, and usable by, individuals with  
34 disabilities.

35 (2) Job restructuring, part-time or modified work  
36 schedules, reassignment to a vacant position, acquisition  
37 or modification of equipment or devices, adjustment or  
38 modifications of examinations, training materials or  
39 policies, the provision of qualified readers or interpreters,



1 and other similar accommodations for individuals with  
2 disabilities.

3 (o) “Religious creed,” “religion,” “religious  
4 observance,” “religious belief,” and “creed” include all  
5 aspects of religious belief, observance, and practice.

6 (p) “Sex” includes, but is not limited to, pregnancy,  
7 childbirth, or medical conditions related to pregnancy or  
8 childbirth.

9 (q) “Supervisor” means any individual having the  
10 authority, in the interest of the employer, to hire,  
11 transfer, suspend, lay off, recall, promote, discharge,  
12 assign, reward, or discipline other employees, or the  
13 responsibility to direct them, or to adjust their grievances,  
14 or effectively to recommend that action, if, in connection  
15 with the foregoing, the exercise of that authority is not of  
16 a merely routine or clerical nature, but requires the use  
17 of independent judgment.

18 (r) “Undue hardship” means an action requiring  
19 significant difficulty or expense, when considered in light  
20 of the following factors: (1) the nature and cost of the  
21 accommodation needed, (2) the overall financial  
22 resources of the facilities involved in the provision of the  
23 reasonable accommodations, the number of persons  
24 employed at the facility, and the effect on expenses and  
25 resources or the impact otherwise of these  
26 accommodations upon the operation of the facility, (3)  
27 the overall financial resources of the covered entity, the  
28 overall size of the business of a covered entity with  
29 respect to the number of employees, and the number,  
30 type, and location of its facilities, (4) the type of  
31 operations, including the composition, structure, and  
32 functions of the work force of the entity, and (5) the  
33 geographic separateness, administrative, or fiscal  
34 relationship of the facility or facilities.

35 SEC. 6. Section 12927 of the Government Code is  
36 amended to read:

37 12927. As used in this part in connection with housing  
38 accommodations, unless a different meaning clearly  
39 appears from the context:



1 (a) “Affirmative actions” means any activity for the  
2 purpose of eliminating discrimination in housing  
3 accommodations because of race, color, religion, sex,  
4 marital status, national origin, ancestry, familial status, or  
5 disability.

6 (b) “Conciliation council” means a nonprofit  
7 organization, or a city or county human relations  
8 commission, which provides education, factfinding, and  
9 mediation or conciliation services in resolution of  
10 complaints of housing discrimination.

11 (c) (1) “Discrimination” includes refusal to sell, rent,  
12 or lease housing accommodations; includes refusal to  
13 negotiate for the sale, rental, or lease of housing  
14 accommodations; includes representation that a housing  
15 accommodation is not available for inspection, sale, or  
16 rental when that housing accommodation is in fact so  
17 available; includes any other denial or withholding of  
18 housing accommodations; includes provision of inferior  
19 terms, conditions, privileges, facilities, or services in  
20 connection with those housing accommodations; includes  
21 harassment in connection with those housing  
22 accommodations; includes the cancellation or  
23 termination of a sale or rental agreement; includes the  
24 provision of segregated or separated housing  
25 accommodations; includes the refusal to permit, at the  
26 expense of the disabled person, reasonable modifications  
27 of existing premises occupied or to be occupied by the  
28 disabled person, if the modifications may be necessary to  
29 afford the disabled person full enjoyment of the premises,  
30 except that, in the case of a rental, the landlord may,  
31 where it is reasonable to do so condition permission for a  
32 modification on the renter’s agreeing to restore the  
33 interior of the premises to the condition that existed  
34 before the modification (other than for reasonable wear  
35 and tear), and includes refusal to make reasonable  
36 accommodations in rules, policies, practices, or services  
37 when these accommodations may be necessary to afford  
38 a disabled person equal opportunity to use and enjoy a  
39 dwelling.



1 (2) “Discrimination” does not include either of the  
2 following:

3 (A) Refusal to rent or lease a portion of an  
4 owner-occupied single-family house to a person as a  
5 roomer or boarder living within the household, provided  
6 that no more than one roomer or boarder is to live within  
7 the household, and the owner complies with subdivision  
8 (c) of Section 12955, which prohibits discriminatory  
9 notices, statements, and advertisements.

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

14 (d) “Housing accommodation” means any building,  
15 structure, or portion thereof that is occupied as, or  
16 intended for occupancy as, a residence by one or more  
17 families and any vacant land that is offered for sale or  
18 lease for the construction thereon of any building,  
19 structure, or portion thereof intended to be so occupied.

20 (e) “Owner” includes the lessee, sublessee, assignee,  
21 managing agent, real estate broker or salesperson, or any  
22 person having any legal or equitable right of ownership  
23 or possession or the right to rent or lease housing  
24 accommodations, and includes the state and any of its  
25 political subdivisions and any agency thereof.

26 (f) “Person” includes all individuals and entities that  
27 are described in Section 3602(d) of Title 42 of the United  
28 States Code, and in the definition of “owner” in  
29 subdivision (e) of this section, and all institutional third  
30 parties, including the Federal Home Loan Mortgage  
31 Corporation.

32 (g) “Aggrieved person” includes any person who  
33 claims to have been injured by a discriminatory housing  
34 practice or believes that the person will be injured by a  
35 discriminatory housing practice that is about to occur.

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

38 (1) The making or purchasing of loans or providing  
39 other financial assistance that is for the purpose of  
40 purchasing, constructing, improving, repairing, or



1 maintaining a dwelling, or that is secured by residential  
2 real estate.

3 (2) The selling, brokering, or appraising of residential  
4 real property.

5 (3) The use of territorial underwriting requirements,  
6 for the purpose of requiring a borrower in a specific  
7 geographic area to obtain earthquake insurance,  
8 required by an institutional third party on a loan secured  
9 by residential real property.

10 SEC. 7. Section 12940 of the Government Code is  
11 amended to read:

12 12940. It shall be an unlawful employment practice,  
13 unless based upon a bona fide occupational qualification,  
14 or, except where based upon applicable security  
15 regulations established by the United States or the State  
16 of California:

17 (a) For an employer, because of the race, religious  
18 creed, color, national origin, ancestry, physical disability,  
19 mental disability, medical condition, marital status, or sex  
20 of any person, to refuse to hire or employ the person or  
21 to refuse to select the person for a training program  
22 leading to employment, or to bar or to discharge the  
23 person from employment or from a training program  
24 leading to employment, or to discriminate against the  
25 person in compensation or in terms, conditions, or  
26 privileges of employment.

27 (1) This part does not prohibit an employer from  
28 refusing to hire or discharging an employee with a  
29 physical or mental disability, or subject an employer to  
30 any legal liability resulting from the refusal to employ or  
31 the discharge of an employee with a physical or mental  
32 disability, where the employee, because of his or her  
33 physical or mental disability, is unable to perform his or  
34 her essential duties even with reasonable  
35 accommodations, or cannot perform those duties in a  
36 manner that would not endanger his or her health or  
37 safety or the health or safety of others even with  
38 reasonable accommodations.

39 (2) This part does not prohibit an employer from  
40 refusing to hire or discharging an employee who, because



1 of the employee's medical condition, is unable to perform  
2 his or her essential duties even with reasonable  
3 accommodations, or cannot perform those duties in a  
4 manner that would not endanger the employee's health  
5 or safety or the health or safety of others even with  
6 reasonable accommodations. Nothing in this part shall  
7 subject an employer to any legal liability resulting from  
8 the refusal to employ or the discharge of an employee  
9 who, because of the employee's medical condition, is  
10 unable to perform his or her essential duties, or cannot  
11 perform those duties in a manner that would not  
12 endanger the employee's health or safety or the health or  
13 safety of others even with reasonable accommodations.

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

16 (A) Affect the right of an employer to reasonably  
17 regulate, for reasons of supervision, safety, security, or  
18 morale, the working of spouses in the same department,  
19 division, or facility, consistent with the rules and  
20 regulations adopted by the commission.

21 (B) Prohibit bona fide health plans from providing  
22 additional or greater benefits to employees with  
23 dependents than to those employees without or with  
24 fewer dependents.

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

29 (b) For a labor organization, because of the race,  
30 religious creed, color, national origin, ancestry, physical  
31 disability, mental disability, medical condition, marital  
32 status, or sex of any person, to exclude, expel, or restrict  
33 from its membership the person, or to provide only  
34 second-class or segregated membership or to  
35 discriminate against any person because of the race,  
36 religious creed, color, national origin, ancestry, physical  
37 disability, mental disability, medical condition, marital  
38 status, or sex of the person in the election of officers of the  
39 labor organization or in the selection of the labor  
40 organization's staff or to discriminate in any way against



1 any of its members or against any employer or against any  
2 person employed by an employer.

3 (c) For any person to discriminate against any person  
4 in the selection or training of that person in any  
5 apprenticeship training program or any other training  
6 program leading to employment because of the race,  
7 religious creed, color, national origin, ancestry, physical  
8 disability, mental disability, medical condition, marital  
9 status, or sex of the person discriminated against.

10 (d) For any employer or employment agency, unless  
11 specifically acting in accordance with federal equal  
12 employment opportunity guidelines and regulations  
13 approved by the commission, to print or circulate or  
14 cause to be printed or circulated any publication, or to  
15 make any non-job-related inquiry of an employee or  
16 applicant, either verbal or through use of an application  
17 form, which expresses, directly or indirectly, any  
18 limitation, specification, or discrimination as to race,  
19 religious creed, color, national origin, ancestry, physical  
20 disability, mental disability, medical condition, marital  
21 status, or sex, or any intent to make that limitation,  
22 specification or discrimination. Except as provided in the  
23 Americans with Disabilities Act of 1990 (P.L. 101-336) and  
24 the regulations adopted pursuant thereto, nothing in this  
25 subdivision shall prohibit any employer from making, in  
26 connection with prospective employment, an inquiry as  
27 to, or a request for information regarding, the physical  
28 fitness, medical condition, physical condition, or medical  
29 history of applicants if that inquiry or request for  
30 information is directly related and pertinent to the  
31 position the applicant is applying for or directly related  
32 to a determination of whether the applicant would  
33 endanger his or her health or safety or the health or safety  
34 of others.

35 (e) For any employer, labor organization, or  
36 employment agency to harass, discharge, expel, or  
37 otherwise discriminate against any person because the  
38 person has made a report pursuant to Section 11161.8 of  
39 the Penal Code, which prohibits retaliation against





1 hospital employees who report suspected patient abuse  
2 by health facilities or community care facilities.

3 (f) For any employer, labor organization,  
4 employment agency, or person to discharge, expel, or  
5 otherwise discriminate against any person because the  
6 person has opposed any practices forbidden under this  
7 part or because the person has filed a complaint, testified,  
8 or assisted in any proceeding under this part.

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

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

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

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





1 (B) Notwithstanding subparagraph (A), for purposes  
2 of this subdivision, “employer” does not include a  
3 religious association or corporation not organized for  
4 private profit.

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

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

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

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

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

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

27 (j) For an employer or other entity covered by this  
28 part to refuse to hire or employ a person or to refuse to  
29 select a person for a training program leading to  
30 employment or to bar or to discharge a person from  
31 employment or from a training program leading to  
32 employment, or to discriminate against a person in  
33 compensation or in terms, conditions, or privileges of  
34 employment because of a conflict between the person’s  
35 religious belief or observance and any employment  
36 requirement, unless the employer or other entity  
37 covered by this part demonstrates that it has explored any  
38 available reasonable alternative means of  
39 accommodating the religious belief or observance,  
40 including the possibilities of excusing the person from



1 those duties that conflict with his or her religious belief or  
2 observance or permitting those duties to be performed at  
3 another time or by another person, but is unable to  
4 reasonably accommodate the religious belief or  
5 observance without undue hardship on the conduct of the  
6 business of the employer or other entity covered by this  
7 part. Religious belief or observance, as used in this  
8 section, includes, but is not limited to, observance of a  
9 Sabbath or other religious holy day or days, and  
10 reasonable time necessary for travel prior and subsequent  
11 to a religious observance.

12 (k) For an employer or other entity covered by this  
13 part to fail to make reasonable accommodation for the  
14 known physical or mental disability of an applicant or  
15 employee. Nothing in this subdivision or in paragraph (1)  
16 or (2) of subdivision (a) shall be construed to require an  
17 accommodation that is demonstrated by the employer or  
18 other covered entity to produce undue hardship to its  
19 operation.

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

23 (1) Commencing January 1, 1993, for employers with  
24 25 or more employees, the state, and its municipalities  
25 and political subdivisions.

26 (2) Commencing July 26, 1994, for all other employers  
27 specified in paragraph (2) of the subdivision of Section  
28 12926 that defines “employer.”

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

33 SEC. 8. Section 12945 of the Government Code is  
34 amended to read:

35 12945. It shall be an unlawful employment practice,  
36 unless based upon a bona fide occupational qualification:

37 (a) For any employer, because of the pregnancy,  
38 childbirth, or related medical condition of any female  
39 employee, to refuse to promote her, or to refuse to select  
40 her for a training program leading to promotion,



1 provided she is able to complete the training program at  
2 least three months prior to the anticipated date of  
3 departure for her pregnancy leave, or to discharge her  
4 from employment or from a training program leading to  
5 promotion, or to discriminate against her in  
6 compensation or in terms, conditions, or privileges of  
7 employment.

8 (b) For any employer to refuse to allow a female  
9 employee affected by pregnancy, childbirth, or related  
10 medical conditions either:

11 (1) To receive the same benefits or privileges of  
12 employment granted by that employer to other persons  
13 not so affected who are similar in their ability or inability  
14 to work, including to take disability or sick leave or any  
15 other accrued leave that is made available by the  
16 employer to temporarily disabled employees. For  
17 purposes of this section, pregnancy, childbirth, and  
18 related medical conditions are treated as any other  
19 temporary disability. However, no employer shall be  
20 required to provide a female employee disability leave on  
21 account of normal pregnancy, childbirth, or related  
22 medical condition for a period exceeding six weeks. This  
23 section shall not be construed to require an employer to  
24 provide his or her employees with health insurance  
25 coverage for the medical costs of pregnancy, childbirth,  
26 or related medical conditions. The inclusion in any health  
27 insurance coverage of any provisions or coverage relating  
28 to medical costs of pregnancy, childbirth, or related  
29 medical conditions shall not be construed to require the  
30 inclusion of any other provisions or coverage, nor shall  
31 coverage of any related medical conditions be required  
32 by virtue of coverage of any medical costs of pregnancy,  
33 childbirth, or other related medical conditions.

34 (2) To take a leave on account of pregnancy for a  
35 reasonable period of time not to exceed four months. The  
36 employee shall be entitled to utilize any accrued vacation  
37 leave during this period of time. Reasonable period of  
38 time means that period during which the female  
39 employee is disabled on account of pregnancy, childbirth,  
40 or related medical conditions. This paragraph shall not be



1 construed to limit the provisions of paragraph (1) of  
2 subdivision (b).

3 An employer may require any employee who plans to  
4 take a leave pursuant to this subdivision to give the  
5 employer reasonable notice of the date the leave shall  
6 commence and the estimated duration of the leave.

7 (c) (1) For any employer, including both employers  
8 subject to and not subject to Title VII of the *federal* Civil  
9 Rights Act of 1964, to refuse to provide reasonable  
10 accommodation for a pregnant female employee for the  
11 duration of her pregnancy.

12 (2) For any employer, including both employers  
13 subject to and not subject to Title VII of the federal Civil  
14 Rights Act of 1964, who has a policy, practice, or collective  
15 bargaining agreement requiring or authorizing the  
16 transfer of temporarily disabled employees to less  
17 strenuous or hazardous positions for the duration of the  
18 disability to refuse to transfer a pregnant female  
19 employee who so requests.

20 (3) For any employer, including both employers  
21 subject to and not subject to Title VII of the federal Civil  
22 Rights Act of 1964, to refuse to temporarily transfer a  
23 pregnant female employee to a less strenuous or  
24 hazardous position for the duration of her pregnancy if  
25 she so requests, with the advice of her physician, where  
26 that transfer can be reasonably accommodated.  
27 However, no employer shall be required by this section  
28 to create additional employment that the employer  
29 would not otherwise have created, nor shall the employer  
30 be required to discharge any employee, transfer any  
31 employee with more seniority, or promote any employee  
32 who is not qualified to perform the job.

33 (d) This section shall not be construed to affect any  
34 other provision of law relating to sex discrimination or  
35 pregnancy, or in any way to diminish the coverage of  
36 pregnancy, childbirth, or medical conditions related to  
37 pregnancy or childbirth under any other provisions of this  
38 part, including subdivision (a) of Section 12940.

39 (e) Except for subdivision (c) and paragraph (2) of  
40 subdivision (b), this section is inapplicable to any



1 employer subject to Title VII of the federal Civil Rights  
2 Act of 1964.

3 SEC. 9. Section 12948 of the Government Code is  
4 amended to read:

5 12948. It is an unlawful practice under this part for a  
6 person to deny or to aid, incite, or conspire in the denial  
7 of the rights created by Section 51, 51.5, 51.7, 54, 54.1, or  
8 54.2 of the Civil Code.

9 SEC. 10. Section 12955 of the Government Code is  
10 amended to read:

11 12955. It shall be unlawful:

12 (a) For the owner of any housing accommodation to  
13 discriminate against or harass any person because of the  
14 race, color, religion, sex, marital status, national origin,  
15 ancestry, familial status, or disability of that person.

16 (b) For the owner of any housing accommodation to  
17 make or to cause to be made any written or oral inquiry  
18 concerning the race, color, religion, sex, marital status,  
19 national origin, ancestry, familial status, or disability of  
20 any person seeking to purchase, rent or lease any housing  
21 accommodation.

22 (c) For any person to make, print, or publish, or cause  
23 to be made, printed, or published any notice, statement,  
24 or advertisement, with respect to the sale or rental of a  
25 housing accommodation that indicates any preference,  
26 limitation, or discrimination based on race, color, religion,  
27 sex, marital status, national origin, ancestry, familial  
28 status, or disability or an intention to make any such  
29 preference, limitation, or discrimination.

30 (d) For any person subject to the provisions of Section  
31 51 of the Civil Code, as that section applies to housing  
32 accommodations, to discriminate against any person on  
33 the basis of sex, color, race, religion, ancestry, national  
34 origin, familial status, marital status, disability, or on any  
35 other basis prohibited by that section.

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



1 religion, sex, marital status, national origin, ancestry,  
2 familial status, or disability in the terms, conditions, or  
3 privileges relating to the obtaining or use of that financial  
4 assistance.

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

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

19 (h) For any person, for profit, to induce any person to  
20 sell or rent any dwelling by representations regarding the  
21 entry or prospective entry into the neighborhood of a  
22 person or persons of a particular race, color, religion, sex,  
23 marital status, ancestry, disability, familial status, or  
24 national origin.

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

32 (j) To deny a person access to, or membership or  
33 participation in, a multiple listing service, real estate  
34 brokerage organization, or other service because of race,  
35 color, religion, sex, marital status, ancestry, disability,  
36 familial status, or national origin.

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



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

10 (m) As used in this section, “race, color, religion, sex,  
11 marital status, national origin, ancestry, familial status, or  
12 disability” includes a perception that the person has any  
13 of those characteristics or that the person is associated  
14 with a person who has, or is perceived to have, any of  
15 those characteristics.

16 SEC. 11. Section 12965 of the Government Code is  
17 amended to read:

18 12965. (a) In the case of failure to eliminate an  
19 unlawful practice under this part through conference,  
20 conciliation, or persuasion, or in advance thereof if  
21 circumstances warrant, the director in his or her  
22 discretion may cause to be issued in the name of the  
23 department a written accusation. The accusation shall  
24 contain the name of the person, employer, labor  
25 organization, or employment agency accused, which  
26 shall be known as the respondent, shall set forth the  
27 nature of the charges, shall be served upon the  
28 respondent together with a copy of the verified  
29 complaint, as amended, and shall require the respondent  
30 to answer the charges at a hearing.

31 For any complaint treated by the director as a group or  
32 class complaint for purposes of investigation, conciliation,  
33 and accusation pursuant to Section 12961, an accusation  
34 shall be issued, if at all, within two years after the filing of  
35 the complaint. For all other complaints, an accusation  
36 shall be issued, if at all, within one year after the filing of  
37 a complaint. If the director determines, pursuant to  
38 Section 12961, that a complaint investigated as a group or  
39 class complaint under Section 12961 is to be treated as a  
40 group or class complaint for purposes of conciliation and





1 accusation as well, that determination shall be made and  
2 shall be communicated in writing within one year after  
3 the filing of the complaint to each person, employer, labor  
4 organization, employment agency, or public entity  
5 alleged in the complaint to have committed an unlawful  
6 practice.

7 (b) If an accusation is not issued within 150 days after  
8 the filing of a complaint, or if the department earlier  
9 determines that no accusation will issue, the department  
10 shall promptly notify, in writing, the person claiming to  
11 be aggrieved that the department shall issue, on his or her  
12 request, the right-to-sue notice. This notice shall indicate  
13 that the person claiming to be aggrieved may bring a civil  
14 action under this part against the person, employer, labor  
15 organization, or employment agency named in the  
16 verified complaint within one year from the date of that  
17 notice. If the person claiming to be aggrieved does not  
18 request a right-to-sue notice, the department shall issue  
19 the notice upon completion of its investigation, and not  
20 later than one year after the filing of the complaint. A city,  
21 county, or district attorney in a location having an  
22 enforcement unit established on or before March 1, 1991,  
23 pursuant to a local ordinance enacted for the purpose of  
24 prosecuting HIV/AIDS discrimination claims, acting on  
25 behalf of any person claiming to be aggrieved due to  
26 HIV/AIDS discrimination, may also bring a civil action  
27 under this part against the person, employer, labor  
28 organization, or employment agency named in the  
29 notice. The superior and municipal courts of the State of  
30 California shall have jurisdiction of those actions, and the  
31 aggrieved person may file in any of these courts. Such an  
32 action may be brought in any county in the state in which  
33 the unlawful practice is alleged to have been committed,  
34 in the county in which the records relevant to the  
35 practice are maintained and administered, or in the  
36 county in which the aggrieved person would have  
37 worked or would have had access to the public  
38 accommodation but for the alleged unlawful practice, but  
39 if the defendant is not found within any of these counties,  
40 an action may be brought within the county of the





1 defendant's residence or principal office. A copy of any  
2 complaint filed pursuant to this part shall be served on the  
3 principal offices of the department and of the  
4 commission. The remedy for failure to send a copy of a  
5 complaint is an order to do so. Those actions may not be  
6 filed as class actions or may not be maintained as class  
7 actions by the person or persons claiming to be aggrieved  
8 where those persons have filed a civil class action in the  
9 federal courts alleging a comparable claim of  
10 employment discrimination against the same defendant  
11 or defendants. In actions brought under this section, the  
12 court, in its discretion, may award to the prevailing party  
13 reasonable attorney's fees and costs, including expert  
14 witness fees, except where the action is filed by a public  
15 agency or a public official, acting in an official capacity.

16 (c) (1) If an accusation or amended accusation  
17 includes a prayer either for damages for emotional  
18 injuries as a component of actual damages, or for  
19 administrative fines, or for both, the respondent may  
20 within 30 days after service of the accusation or amended  
21 accusation, elect to transfer the proceedings to a court in  
22 lieu of a hearing pursuant to subdivision (a) by serving a  
23 written notice to that effect on the department, the  
24 commission, and the person claiming to be aggrieved.  
25 The commission shall prescribe the form and manner of  
26 giving written notice.

27 (2) No later than 30 days after the completion of  
28 service of the notice of election pursuant to paragraph  
29 (1), the department shall dismiss the accusation and shall,  
30 either itself or, at its election, through the Attorney  
31 General, file in the appropriate court an action in its own  
32 name on behalf of the person claiming to be aggrieved as  
33 the real party in interest. In this action, the person  
34 claiming to be aggrieved shall be the real party in interest  
35 and shall have the right to participate as a party and be  
36 represented by his or her own counsel. Complaints filed  
37 pursuant to this section shall be filed in the appropriate  
38 superior or municipal court in any county in which  
39 unlawful practices are alleged to have been committed,  
40 in the county in which records relevant to the alleged



1 unlawful practices are maintained and administered, or  
2 in the county in which the person claiming to be  
3 aggrieved would have worked or would have had access  
4 to public accommodation, but for the alleged unlawful  
5 practices. If the defendant is not found in any of these  
6 counties, the action may be brought within the county of  
7 the defendant's residence or principal office. Those  
8 actions shall be assigned to the court's delay reduction  
9 program, or otherwise given priority for disposition by  
10 the court in which the action is filed.

11 (3) A court may grant as relief in any action filed  
12 pursuant to this subdivision any relief a court is  
13 empowered to grant in a civil action brought pursuant to  
14 subdivision (b), in addition to any other relief that, in the  
15 judgment of the court, will effectuate the purpose of this  
16 part. This relief may include a requirement that the  
17 employer conduct training for all employees, supervisors,  
18 and management on the requirements of this part, the  
19 rights and remedies of those who allege a violation of this  
20 part, and the employer's internal grievance procedures.

21 (4) The department may amend an accusation to pray  
22 for either damages for emotional injury or for  
23 administrative fines, or both, provided that the  
24 amendment is made within 30 days of the issuance of the  
25 original accusation.

26 SEC. 12. Section 12970 of the Government Code is  
27 amended to read:

28 12970. (a) If the commission finds that a respondent  
29 has engaged in any unlawful practice under this part, it  
30 shall state its findings of fact and determination and shall  
31 issue and cause to be served on the parties an order  
32 requiring the respondent to cease and desist from the  
33 unlawful practice and to take action, including, but not  
34 limited to, any of the following:

35 (1) The hiring, reinstatement, or upgrading of  
36 employees, with or without backpay.

37 (2) The admission or restoration to membership in any  
38 respondent labor organization.

39 (3) The payment of actual damages as may be  
40 available in civil actions under this part, except as



1 otherwise provided in this section. Actual damages  
2 include, but are not limited to, damages for emotional  
3 injuries if the accusation or amended accusation prays for  
4 those damages. Actual damages awarded under this  
5 section for emotional pain, suffering, inconvenience,  
6 mental anguish, loss of enjoyment of life, and other  
7 nonpecuniary losses shall not exceed, in combination with  
8 the amounts of any administrative fines imposed  
9 pursuant to subdivision (c), one hundred fifty thousand  
10 dollars (\$150,000) per aggrieved person per respondent.

11 (4) Notwithstanding paragraph (3), the payment of  
12 actual damages up to one hundred fifty thousand dollars  
13 (\$150,000) assessed against a respondent for a violation of  
14 Section 51.7 of the Civil Code, as an unlawful practice  
15 under this part.

16 (5) Affirmative or prospective relief to prevent the  
17 recurrence of the unlawful practice.

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

20 (b) An unlawful practice under this part alone is not  
21 sufficient to sustain an award of actual damages pursuant  
22 to this section. The department is required to prove, by  
23 a preponderance of the evidence, that an aggrieved  
24 person has sustained actual injury. In determining  
25 whether to award damages for emotional injuries, and the  
26 amount of any award for these damages, the commission  
27 shall consider relevant evidence of the effects of  
28 discrimination on the aggrieved person with respect to  
29 any or all of the following:

30 (1) Physical and mental well-being.

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

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

34 (4) Personal and professional reputation.

35 (5) Family relationships.

36 (6) Access to the job and ability to associate with peers  
37 and coworkers.

38 The commission shall also consider the duration of the  
39 emotional injury, and whether that injury was caused or  
40 exacerbated by an aggrieved person's knowledge of a



1 respondent's failure to respond adequately to, or to  
2 correct, the discriminatory practice or by the  
3 egregiousness of the discriminatory practice.

4 (c) In addition to the foregoing, in order to vindicate  
5 the purposes and policies of this part, the commission may  
6 assess against the respondent, if the accusation or  
7 amended accusation so prays, an administrative fine per  
8 aggrieved person per respondent, the amount of which  
9 shall be determined in accordance with the combined  
10 amount limitation of paragraph (3) of subdivision (a).

11 (d) In determining whether to assess an  
12 administrative fine pursuant to this section, the  
13 commission shall find that the respondent has been guilty  
14 of oppression, fraud, or malice, expressed or implied, as  
15 required by Section 3294 of the Civil Code. In  
16 determining the amount of fines, the commission shall  
17 consider relevant evidence of, including, but not limited  
18 to, the following:

- 19 (1) Willful, intentional, or purposeful conduct.
- 20 (2) Refusal to prevent or eliminate discrimination.
- 21 (3) Conscious disregard for the rights of employees.
- 22 (4) Commission of unlawful conduct.
- 23 (5) Intimidation or harassment.
- 24 (6) Conduct without just cause or excuse.
- 25 (7) Multiple violations of the Fair Employment and  
26 Housing Act.

27 The moneys derived from an administrative fine  
28 assessed pursuant to this subdivision shall be deposited in  
29 the General Fund. No administrative fine shall be  
30 assessed against a public entity. The commission shall  
31 have no authority to award punitive damages as a remedy  
32 for a finding of employment discrimination.

33 (e) In addition to the foregoing, in order to vindicate  
34 the purposes and policies of this part, the commission may  
35 assess against the respondent if the accusation or  
36 amended accusation so prays, a civil penalty of up to  
37 twenty-five thousand dollars (\$25,000) to be awarded to  
38 a person denied any right provided for by Section 51.7 of  
39 the Civil Code, as an unlawful practice prohibited under  
40 this part.



1 (f) If the commission finds the respondent has  
2 engaged in an unlawful practice under this part, and the  
3 respondent is licensed or granted a privilege by an agency  
4 of the state to do business, provide a service, or conduct  
5 activities, and the unlawful practice is determined to  
6 have occurred in connection with the exercise of that  
7 license or privilege, the commission shall provide the  
8 licensing or privilege granting agency with a copy of its  
9 decision or order.

10 (g) If the commission finds that a respondent has not  
11 engaged in an unlawful practice under this part, the  
12 commission shall state its findings of fact and  
13 determination and issue and cause to be served on the  
14 parties an order dismissing the accusation as to that  
15 respondent.

16 (h) Any findings and determination made or any  
17 order issued pursuant to this section shall be written and  
18 shall indicate the identity of the members of the  
19 commission who participated therein.

20 (i) Any order issued by the commission shall have  
21 printed on its face references to the rights of appeal of any  
22 party to the proceeding to whose position the order is  
23 adverse.

24 (j) If the commission finds that a respondent has  
25 engaged in an unlawful practice under this part, and it  
26 appears that this practice consisted of acts described in  
27 Section 243.4, 261, 262, 286, 288, 288a, or 289 of the Penal  
28 Code, the commission, with the consent of the  
29 complainant, shall provide the local district attorney's  
30 office with a copy of its decision and order.

31 (k) Notwithstanding Section 12960, if the commission  
32 finds that a respondent has engaged in unlawful  
33 discrimination in housing under Section 12948, the  
34 remedies afforded in Section 12987 or any other provision  
35 in this part pertaining to housing discrimination, shall  
36 apply.

37 SEC. 13. Section 12989.2 of the Government Code is  
38 amended to read:

39 12989.2. In a civil action brought under Section 12989  
40 or 12989.1, if the court finds that a discriminatory housing



1 practice has occurred or is about to occur, the court may  
 2 award the plaintiff or complainant actual and punitive  
 3 damages and may grant other relief, including the  
 4 issuance of a temporary or permanent injunction, or  
 5 temporary restraining order, or other order, as it deems  
 6 appropriate to prevent any defendant from engaging in  
 7 or continuing to engage in an unlawful practice. The  
 8 court may, at its discretion, award the prevailing party,  
 9 other than the state, reasonable attorney’s fees and costs,  
 10 including expert witness fees against any party other than  
 11 the state.

12 SEC. 14. The amendments made by this act to Section  
 13 51.5 of the Civil Code, to Section 12926 of the Government  
 14 Code, and in the subdivision (m) added to Section 12955  
 15 of the Government Code do not constitute a change in,  
 16 but is declaratory of, existing law.

17 ~~SEC. 15. This act is an urgency statute necessary for~~  
 18 ~~the immediate preservation of the public peace, health,~~  
 19 ~~or safety within the meaning of Article IV of the~~  
 20 ~~Constitution and shall go into immediate effect. The facts~~  
 21 ~~constituting the necessity are:~~

22 ~~To protect Californians against invidious~~  
 23 ~~discrimination in the areas of housing, employment, and~~  
 24 ~~business, it is necessary that this act go into effect~~  
 25 ~~immediately.~~

