

AMENDED IN SENATE AUGUST 25, 1999

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.

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~~ *requested by an employee, with the advice of her health care provider, for conditions related to pregnancy, childbirth, or related medical conditions.*

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.

Vote: 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,



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

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

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

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

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

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

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

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

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

38 SEC. 5. Section 12926 of the Government Code is
39 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 ~~(e) (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 *(c) (1) For any employer, including both employers
13 subject to and not subject to Title VII of the federal Civil
14 Rights Act of 1964, to refuse to provide reasonable
15 accommodation for an employee for conditions related to
16 pregnancy, childbirth, or related medical conditions, if
17 she so requests, with the advice of her health care
18 provider.*

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

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



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

7 (e) Except for subdivision (c) and paragraph (2) of
8 subdivision (b), this section is inapplicable to any
9 employer subject to Title VII of the federal Civil Rights
10 Act of 1964.

11 SEC. 9. Section 12948 of the Government Code is
12 amended to read:

13 12948. It is an unlawful practice under this part for a
14 person to deny or to aid, incite, or conspire in the denial
15 of the rights created by Section 51, 51.5, 51.7, 54, 54.1, or
16 54.2 of the Civil Code.

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

19 12955. It shall be unlawful:

20 (a) For the owner of any housing accommodation to
21 discriminate against or harass any person because of the
22 race, color, religion, sex, marital status, national origin,
23 ancestry, familial status, or disability of that person.

24 (b) For the owner of any housing accommodation to
25 make or to cause to be made any written or oral inquiry
26 concerning the race, color, religion, sex, marital status,
27 national origin, ancestry, familial status, or disability of
28 any person seeking to purchase, rent or lease any housing
29 accommodation.

30 (c) For any person to make, print, or publish, or cause
31 to be made, printed, or published any notice, statement,
32 or advertisement, with respect to the sale or rental of a
33 housing accommodation that indicates any preference,
34 limitation, or discrimination based on race, color, religion,
35 sex, marital status, national origin, ancestry, familial
36 status, or disability or an intention to make any such
37 preference, limitation, or discrimination.

38 (d) For any person subject to the provisions of Section
39 51 of the Civil Code, as that section applies to housing
40 accommodations, to discriminate against any person on



1 the basis of sex, color, race, religion, ancestry, national
2 origin, familial status, marital status, disability, or on any
3 other basis prohibited by that section.

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

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

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

27 (h) For any person, for profit, to induce any person to
28 sell or rent any dwelling by representations regarding the
29 entry or prospective entry into the neighborhood of a
30 person or persons of a particular race, color, religion, sex,
31 marital status, ancestry, disability, familial status, or
32 national origin.

33 (i) For any person or other organization or entity
34 whose business involves real estate-related transactions to
35 discriminate against any person in making available a
36 transaction, or in the terms and conditions of a
37 transaction, because of race, color, religion, sex, marital
38 status, national origin, ancestry, familial status, or
39 disability.



1 (j) To deny a person access to, or membership or
2 participation in, a multiple listing service, real estate
3 brokerage organization, or other service because of race,
4 color, religion, sex, marital status, ancestry, disability,
5 familial status, or national origin.

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

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

18 (m) As used in this section, “race, color, religion, sex,
19 marital status, national origin, ancestry, familial status, or
20 disability” includes a perception that the person has any
21 of those characteristics or that the person is associated
22 with a person who has, or is perceived to have, any of
23 those characteristics.

24 SEC. 11. Section 12965 of the Government Code is
25 amended to read:

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

39 For any complaint treated by the director as a group or
40 class complaint for purposes of investigation, conciliation,



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

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



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

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

35 (2) No later than 30 days after the completion of
36 service of the notice of election pursuant to paragraph
37 (1), the department shall dismiss the accusation and shall,
38 either itself or, at its election, through the Attorney
39 General, file in the appropriate court an action in its own
40 name on behalf of the person claiming to be aggrieved as



1 the real party in interest. In this action, the person
2 claiming to be aggrieved shall be the real party in interest
3 and shall have the right to participate as a party and be
4 represented by his or her own counsel. Complaints filed
5 pursuant to this section shall be filed in the appropriate
6 superior or municipal court in any county in which
7 unlawful practices are alleged to have been committed,
8 in the county in which records relevant to the alleged
9 unlawful practices are maintained and administered, or
10 in the county in which the person claiming to be
11 aggrieved would have worked or would have had access
12 to public accommodation, but for the alleged unlawful
13 practices. If the defendant is not found in any of these
14 counties, the action may be brought within the county of
15 the defendant's residence or principal office. Those
16 actions shall be assigned to the court's delay reduction
17 program, or otherwise given priority for disposition by
18 the court in which the action is filed.

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

29 (4) The department may amend an accusation to pray
30 for either damages for emotional injury or for
31 administrative fines, or both, provided that the
32 amendment is made within 30 days of the issuance of the
33 original accusation.

34 SEC. 12. Section 12970 of the Government Code is
35 amended to read:

36 12970. (a) If the commission finds that a respondent
37 has engaged in any unlawful practice under this part, it
38 shall state its findings of fact and determination and shall
39 issue and cause to be served on the parties an order
40 requiring the respondent to cease and desist from the



1 unlawful practice and to take action, including, but not
2 limited to, any of the following:

3 (1) The hiring, reinstatement, or upgrading of
4 employees, with or without backpay.

5 (2) The admission or restoration to membership in any
6 respondent labor organization.

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

19 (4) Notwithstanding paragraph (3), the payment of
20 actual damages up to one hundred fifty thousand dollars
21 (\$150,000) assessed against a respondent for a violation of
22 Section 51.7 of the Civil Code, as an unlawful practice
23 under this part.

24 (5) Affirmative or prospective relief to prevent the
25 recurrence of the unlawful practice.

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

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

38 (1) Physical and mental well-being.

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



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

3 (4) Personal and professional reputation.

4 (5) Family relationships.

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

7 The commission shall also consider the duration of the
8 emotional injury, and whether that injury was caused or
9 exacerbated by an aggrieved person's knowledge of a
10 respondent's failure to respond adequately to, or to
11 correct, the discriminatory practice or by the
12 egregiousness of the discriminatory practice.

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

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

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

29 (2) Refusal to prevent or eliminate discrimination.

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

31 (4) Commission of unlawful conduct.

32 (5) Intimidation or harassment.

33 (6) Conduct without just cause or excuse.

34 (7) Multiple violations of the Fair Employment and
35 Housing Act.

36 The moneys derived from an administrative fine
37 assessed pursuant to this subdivision shall be deposited in
38 the General Fund. No administrative fine shall be
39 assessed against a public entity. The commission shall



1 have no authority to award punitive damages as a remedy
2 for a finding of employment discrimination.

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

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

20 (g) If the commission finds that a respondent has not
21 engaged in an unlawful practice under this part, the
22 commission shall state its findings of fact and
23 determination and issue and cause to be served on the
24 parties an order dismissing the accusation as to that
25 respondent.

26 (h) Any findings and determination made or any
27 order issued pursuant to this section shall be written and
28 shall indicate the identity of the members of the
29 commission who participated therein.

30 (i) Any order issued by the commission shall have
31 printed on its face references to the rights of appeal of any
32 party to the proceeding to whose position the order is
33 adverse.

34 (j) If the commission finds that a respondent has
35 engaged in an unlawful practice under this part, and it
36 appears that this practice consisted of acts described in
37 Section 243.4, 261, 262, 286, 288, 288a, or 289 of the Penal
38 Code, the commission, with the consent of the
39 complainant, shall provide the local district attorney's
40 office with a copy of its decision and order.



1 (k) Notwithstanding Section 12960, if the commission
2 finds that a respondent has engaged in unlawful
3 discrimination in housing under Section 12948, the
4 remedies afforded in Section 12987 or any other provision
5 in this part pertaining to housing discrimination, shall
6 apply.

7 SEC. 13. Section 12989.2 of the Government Code is
8 amended to read:

9 12989.2. In a civil action brought under Section 12989
10 or 12989.1, if the court finds that a discriminatory housing
11 practice has occurred or is about to occur, the court may
12 award the plaintiff or complainant actual and punitive
13 damages and may grant other relief, including the
14 issuance of a temporary or permanent injunction, or
15 temporary restraining order, or other order, as it deems
16 appropriate to prevent any defendant from engaging in
17 or continuing to engage in an unlawful practice. The
18 court may, at its discretion, award the prevailing party,
19 other than the state, reasonable attorney's fees and costs,
20 including expert witness fees against any party other than
21 the state.

22 SEC. 14. The amendments made by this act to Section
23 51.5 of the Civil Code, to Section 12926 of the Government
24 Code, and in the subdivision (m) added to Section 12955
25 of the Government Code do not constitute a change in,
26 but is declaratory of, existing law.

