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AB-830 Civil actions: gender violence. (2015-2016)

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Assembly Bill No. 830

CHAPTER 202

An act to amend Section 52.4 of, and to add Section 52.45 to, the Civil Code, relating to civil actions.

[Approved by Governor August 13, 2015. Filed with Secretary of State August 13, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 830, Eggman. Civil actions: gender violence.

Existing law allows a person who has been subjected to gender violence to bring a civil action for damages against any responsible party and defines gender violence for this purpose as a crime of violence motivated by the gender of the victim or a physical intrusion or invasion of a sexual nature, as specified. The Unruh Civil Rights Act prohibits discrimination based on a person's sex, race, religion, or sexual orientation, among others, and specifies that sex includes gender, which includes a person's gender identity and gender expression.

This bill, for the purposes of the former provision, would specify that gender has the same meaning as in the Unruh Civil Rights Act. The bill would also allow a person who has been subject to sexual orientation violence, as defined, to bring a civil action for damages against any responsible party under provisions identical to those for gender violence.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 52.4 of the Civil Code is amended to read:

52.4. (a) Any person who has been subjected to gender violence may bring a civil action for damages against any responsible party. The plaintiff may seek actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or any other appropriate relief. A prevailing plaintiff may also be awarded attorney's fees and costs.

(b) An action brought pursuant to this section shall be commenced within three years of the act, or if the victim was a minor when the act occurred, within eight years after the date the plaintiff attains the age of majority or within three years after the date the plaintiff discovers or reasonably should have discovered the psychological injury or illness occurring after the age of majority that was caused by the act, whichever date occurs later.

(c) For purposes of this section, "gender violence" is a form of sex discrimination and means either of the following:

(1) One or more acts that would constitute a criminal offense under state law that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, committed at least in part based on the gender of the victim, whether or not those acts have resulted in criminal complaints, charges, prosecution, or conviction.

(2) A physical intrusion or physical invasion of a sexual nature under coercive conditions, whether or not those acts have resulted in criminal complaints, charges, prosecution, or conviction.

(d) For purposes of this section, "gender" has the meaning set forth in Section 51.

(e) Notwithstanding any other laws that may establish the liability of an employer for the acts of an employee, this section does not establish any civil liability of a person because of his or her status as an employer, unless the employer personally committed an act of gender violence.

SEC. 2. Section 52.45 is added to the Civil Code, immediately following Section 52.4, to read:

52.45. (a) Any person who has been subjected to sexual orientation violence may bring a civil action for damages against any responsible party. The plaintiff may seek actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those, or any other appropriate relief. A prevailing plaintiff may also be awarded attorney's fees and costs.

(b) An action brought pursuant to this section shall be commenced within three years of the act, or if the victim was a minor when the act occurred, within eight years after the date the plaintiff attains the age of majority or within three years after the date the plaintiff discovers or reasonably should have discovered the psychological injury or illness occurring after the age of majority that was caused by the act, whichever date occurs later.

(c) For purposes of this section, "sexual orientation violence" means one or more acts that would constitute a criminal offense under state law that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, committed at least in part based on the sexual orientation of the victim, whether or not those acts have resulted in criminal complaints, charges, prosecution, or conviction.

(d) Notwithstanding any other laws that may establish the liability of an employer for the acts of an employee, this section does not establish any civil liability of a person because of his or her status as an employer, unless the employer personally committed an act of sexual orientation violence.