



SB-1022 Enforcement of civil rights. (2023-2024)

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CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL

NO. 1022

Introduced by Senator Skinner
(Coauthor: Senator Wiener)

February 06, 2024

An act to amend Sections 12926, 12960, 12965, 12980, and 12981 of the Government Code, relating to civil rights.

LEGISLATIVE COUNSEL'S DIGEST

SB 1022, Skinner. Enforcement of civil rights.

Existing law, the California Fair Employment and Housing Act (FEHA), establishes the Civil Rights Department under the direction of an executive officer known as the Director of Civil Rights, to enforce civil rights laws with respect to housing and employment and to protect and safeguard the right of all persons to obtain and hold employment without discrimination based upon specified characteristics or status. The FEHA makes certain discriminatory employment and housing practices unlawful, and authorizes a person claiming to be aggrieved by an alleged unlawful practice to file a verified complaint with the department. The FEHA requires the department to make an investigation in connection with a filed complaint alleging facts sufficient to constitute a violation of the FEHA, and requires the department to endeavor to eliminate the unlawful practice by conference, conciliation, and persuasion.

Existing law defines terms for purposes of these provisions, in connection with unlawful practices, as specified.

This bill would define the term “group or class complaint” for these provisions to include any complaint alleging a pattern or practice.

Existing law prohibits a complaint alleging a violation of specified civil rights provisions from being filed after specified timeframes following the date that the alleged unlawful practice, or refusal to cooperate with remediation of the alleged unlawful practice, occurred. Existing law allows those filing periods to be extended under specified circumstances. Existing law provides that notwithstanding other tolling or limitations period, the time for a complainant to file a civil action alleging a violation of specified civil right provisions shall be tolled during the period beginning with the filing of a complaint with the department until either the department files a civil action or one year after the department issues a written notice to a complainant that it has closed its investigation without electing to file a complaint.

This bill would make the filing deadlines for a complaint alleging a violation of those specified civil rights or alleging housing discrimination inapplicable to a complaint filed by the director or their authorized representative, or treated by the director or their authorized representative, as a group or class complaint that is alleged to have occurred within a period of 7 years or fewer before the date the complaint was filed. This bill would provide that notwithstanding any other tolling or limitations period, the time for a complainant to file a civil action under these provisions shall be tolled during the period beginning with the filing of a complaint with the department until either the department files a civil action or one year after the department issues a written notice to a complainant that it has closed its investigation without electing to file a complaint, or if the complainant timely appeals within the department the closure of their complaint, written notice to the complainant that it has remained closed following the appeal.

Existing law authorizes the director to bring a civil action in the name of the department, acting in the public interest, on behalf of an aggrieved person if conference, conciliation, mediation, or persuasion fails to eliminate an unlawful practice. Existing law specifies deadlines under which a civil action shall be brought, if it is to be brought, after the filing of the complaint, including deadlines for a complaint that is treated by the director as a group or class complaint for purposes of investigation, conciliation, mediation, or civil action, as specified, and a complaint alleging specified violations. Existing law requires those deadlines to be tolled during a dispute resolution proceeding.

This bill would require those deadlines for filing a civil action to be tolled during a dispute resolution proceeding, for the amount of time specified in any written agreement between the department and a respondent executed before the expiration of the applicable time period, for the length of time for which the department's investigation is extended due to the pendency of a petition to compel, as specified, and during a timely appeal within the department of the closure of the complaint by the department.

If conference, conciliation, mediation, or persuasion fails to eliminate an unlawful practice, existing law requires the department to issue the person claiming to be aggrieved a right-to-sue notice if a civil action is not brought by the department, as specified. Existing law requires the department to issue a right-to-sue notice upon completion of its investigation for a complaint treated as a group or class complaint for purposes of investigation, conciliation, mediation, or civil action, within a specified time period after filing of the complaint. Existing law requires the deadlines related to issuing a right-to-sue notice be tolled during a dispute resolution proceeding beginning on the date that the department refers the case to its dispute resolution division and ending on the date that the department's dispute resolution division closes its mediation record and returns the case to the division that referred it.

This bill would require the department to issue any right-to-sue notice, if the department determines that an aggrieved person's complaint relates to a complaint filed in the name of the director or a group or class complaint for purposes of investigation, conciliation, mediation, or civil action, as specified, upon request by the person claiming to be aggrieved or after the director's or group or class complaint has been fully and finally disposed of and all administrative proceedings, civil actions, appeals, or related proceedings have terminated. The bill would also require the deadlines related to issuing a right-to-sue notice to be tolled for the amount of time specified in any written agreement between the department and a respondent executed before the expiration of the applicable deadline, for the length of time for which the department's investigation is extended due the pendency of a petition to compel, as specified, and during a timely appeal within the department of the closure of the complaint by the department.

Existing law authorizes an aggrieved person in relation to specified violations concerning housing discrimination to file a claim with the department. Existing law authorizes the Attorney General to file complaints in a like manner and specifies that no complaint may be filed after the expiration of one year from the date upon which the alleged violation occurred or terminated.

This bill would, instead, make the provision prohibiting a complaint from being filed after the expiration of one year from the date upon which the alleged violation occurred or terminated applicable to a complaint filed with the department by the aggrieved person as described above.

Existing law authorizes the department, in the case of failure to eliminate specified violations that have occurred, or that are about to occur, through conference, conciliation, mediation, or persuasion, or, if circumstances warrant, in advance thereof, to bring a civil action in the name of the department, acting in the public interest, on behalf of the aggrieved person as a real party in interest, as specified. Existing law authorizes the action to be filed in any county where the unlawful practice is alleged to have

been committed, the records relevant to that practice are maintained and administered, the aggrieved party would have resided, or the defendant's residence or principal office is located, as specified.

This bill would remove the provisions described above specifying the counties where the civil action may be filed.

This bill would incorporate additional changes to Section 12926 of the Government Code proposed by SB 1137 and AB 1815 to be operative only if this bill and SB 1137 or AB 1815, or all three bills, are enacted and this bill is enacted last.

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

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

SECTION 1. Section 12926 of the Government Code is amended to read:

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

(a) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) "Age" refers to the chronological age of any individual who has reached a 40th birthday.

(c) Except as provided by Section 12926.05, "employee" does not include any individual employed by that person's parent, spouse, or child or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:

"Employer" does not include a religious association or corporation not organized for private profit.

(e) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(f) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

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

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

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

(C) The function may be highly specialized, so that the incumbent in the position is hired based on expertise or the ability to perform a particular function.

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

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

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

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

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

(E) The terms of a collective bargaining agreement.

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

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

(g) (1) "Genetic information" means, with respect to any individual, information about any of the following:

(A) The individual's genetic tests.

(B) The genetic tests of family members of the individual.

(C) The manifestation of a disease or disorder in family members of the individual.

(2) "Genetic information" includes any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by an individual or any family member of the individual.

(3) "Genetic information" does not include information about the sex or age of any individual.

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

(i) "Medical condition" means either of the following:

(1) Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer.

(2) Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:

(A) Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or that person's offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.

(B) Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or that person's offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

(j) "Mental disability" includes, but is not limited to, all of the following:

(1) Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

(A) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(B) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

(C) "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.

(2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

"Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(k) "Veteran or military status" means a member or veteran of the United States Armed Forces, United States Armed Forces Reserve, the United States National Guard, and the California National Guard.

(l) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, reproductive health decisionmaking, or veteran or military status.

(m) "Physical disability" includes, but is not limited to, all of the following:

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

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

(B) Limits a major life activity. For purposes of this section:

(i) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.

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

(3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

(6) "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(n) Notwithstanding subdivisions (j) and (m), if the definition of "disability" used in the federal Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (j) or (m), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (j) and (m).

(o) "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, reproductive health decisionmaking, or veteran or military status" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(p) "Reasonable accommodation" may include either of the following:

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

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

(q) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice, including religious dress and grooming practices. "Religious dress practice" shall be construed broadly to include the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of an individual observing a religious creed. "Religious grooming practice" shall be construed broadly to include all forms of head, facial, and body hair that are part of an individual observing a religious creed.

(r) (1) "Sex" includes, but is not limited to, the following:

(A) Pregnancy or medical conditions related to pregnancy.

(B) Childbirth or medical conditions related to childbirth.

(C) Breastfeeding or medical conditions related to breastfeeding.

(2) "Sex" also includes, but is not limited to, a person's gender. "Gender" means sex, and includes a person's gender identity and gender expression. "Gender expression" means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

(s) "Sexual orientation" means heterosexuality, homosexuality, and bisexuality.

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

(u) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors:

(1) The nature and cost of the accommodation needed.

(2) The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility.

(3) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities.

(4) The type of operations, including the composition, structure, and functions of the workforce of the entity.

(5) The geographic separateness or administrative or fiscal relationship of the facility or facilities.

(v) "National origin" discrimination includes, but is not limited to, discrimination on the basis of possessing a driver's license or identification card granted under Section 12801.9 of the Vehicle Code.

(w) "Race" is inclusive of traits historically associated with race, including, but not limited to, hair texture and protective hairstyles.

(x) "Protective hairstyles" includes, but is not limited to, such hairstyles as braids, locks, and twists.

(y) "Reproductive health decisionmaking" includes, but is not limited to, a decision to use or access a particular drug, device, product, or medical service for reproductive health. This subdivision and other provisions in this part relating to "reproductive health decisionmaking" shall not be construed to mean that subdivision (r) of this section and other provisions in this part related to "sex" do not include reproductive health decisionmaking.

(z) "Group or class complaint" includes any complaint alleging a pattern or practice. This subdivision is declarative of, and clarifies, existing law.

SEC. 1.1. Section 12926 of the Government Code is amended to read:

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

(a) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) "Age" refers to the chronological age of any individual who has reached a 40th birthday.

(c) Except as provided by Section 12926.05, "employee" does not include any individual employed by that person's parent, spouse, or child or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:

"Employer" does not include a religious association or corporation not organized for private profit.

(e) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(f) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

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

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

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

(C) The function may be highly specialized, so that the incumbent in the position is hired based on expertise or the ability to perform a particular function.

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

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

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

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

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

(E) The terms of a collective bargaining agreement.

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

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

(g) (1) "Genetic information" means, with respect to any individual, information about any of the following:

(A) The individual's genetic tests.

(B) The genetic tests of family members of the individual.

(C) The manifestation of a disease or disorder in family members of the individual.

(2) "Genetic information" includes any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by an individual or any family member of the individual.

(3) "Genetic information" does not include information about the sex or age of any individual.

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

(i) "Medical condition" means either of the following:

(1) Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer.

(2) Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:

(A) Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or that person's offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.

(B) Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or that person's offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

(j) "Mental disability" includes, but is not limited to, all of the following:

(1) Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

(A) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(B) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

(C) "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.

(2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

"Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(k) "Veteran or military status" means a member or veteran of the United States Armed Forces, United States Armed Forces Reserve, the United States National Guard, and the California National Guard.

(l) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, reproductive health decisionmaking, or veteran or military status.

(m) "Physical disability" includes, but is not limited to, all of the following:

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

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

(B) Limits a major life activity. For purposes of this section:

(i) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.

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

(3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

(6) "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(n) Notwithstanding subdivisions (j) and (m), if the definition of "disability" used in the federal Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (j) or (m), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (j) and (m).

(o) "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, reproductive health decisionmaking, or veteran or military status" includes any of the following:

(1) Any combination of those characteristics.

(2) A perception that the person has any of those characteristics or any combination of those characteristics.

(3) A perception that the person is associated with a person who has, or is perceived to have, any of those characteristics or any combination of those characteristics.

(p) "Reasonable accommodation" may include either of the following:

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

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

(q) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice, including religious dress and grooming practices. "Religious dress practice" shall be construed broadly to include the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of an individual observing a religious creed. "Religious grooming practice" shall be construed broadly to include all forms of head, facial, and body hair that are part of an individual observing a religious creed.

(r) (1) "Sex" includes, but is not limited to, the following:

(A) Pregnancy or medical conditions related to pregnancy.

(B) Childbirth or medical conditions related to childbirth.

(C) Breastfeeding or medical conditions related to breastfeeding.

(2) "Sex" also includes, but is not limited to, a person's gender. "Gender" means sex, and includes a person's gender identity and gender expression. "Gender expression" means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

(s) "Sexual orientation" means heterosexuality, homosexuality, and bisexuality.

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

(u) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors:

(1) The nature and cost of the accommodation needed.

(2) The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility.

(3) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities.

(4) The type of operations, including the composition, structure, and functions of the workforce of the entity.

(5) The geographic separateness or administrative or fiscal relationship of the facility or facilities.

(v) "National origin" discrimination includes, but is not limited to, discrimination on the basis of possessing a driver's license or identification card granted under Section 12801.9 of the Vehicle Code.

(w) "Race" is inclusive of traits historically associated with race, including, but not limited to, hair texture and protective hairstyles.

(x) "Protective hairstyles" includes, but is not limited to, such hairstyles as braids, locks, and twists.

(y) "Reproductive health decisionmaking" includes, but is not limited to, a decision to use or access a particular drug, device, product, or medical service for reproductive health. This subdivision and other provisions in this part relating to "reproductive health decisionmaking" shall not be construed to mean that subdivision (r) of this section and other provisions in this part related to "sex" do not include reproductive health decisionmaking.

(z) "Group or class complaint" includes any complaint alleging a pattern or practice. This subdivision is declarative of, and clarifies, existing law.

SEC. 1.2. Section 12926 of the Government Code is amended to read:

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

(a) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) "Age" refers to the chronological age of any individual who has reached a 40th birthday.

(c) Except as provided by Section 12926.05, "employee" does not include any individual employed by that person's parent, spouse, or child or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:

"Employer" does not include a religious association or corporation not organized for private profit.

(e) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(f) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

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

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

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

(C) The function may be highly specialized, so that the incumbent in the position is hired based on expertise or the ability to perform a particular function.

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

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

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

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

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

(E) The terms of a collective bargaining agreement.

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

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

(g) (1) "Genetic information" means, with respect to any individual, information about any of the following:

(A) The individual's genetic tests.

(B) The genetic tests of family members of the individual.

(C) The manifestation of a disease or disorder in family members of the individual.

(2) "Genetic information" includes any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by an individual or any family member of the individual.

(3) "Genetic information" does not include information about the sex or age of any individual.

(h) "Labor organization" includes any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or

protection.

(i) "Medical condition" means either of the following:

(1) Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer.

(2) Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:

(A) Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or that person's offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.

(B) Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or that person's offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

(j) "Mental disability" includes, but is not limited to, all of the following:

(1) Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

(A) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(B) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

(C) "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.

(2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

"Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(k) "Veteran or military status" means a member or veteran of the United States Armed Forces, United States Armed Forces Reserve, the United States National Guard, and the California National Guard.

(l) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, reproductive health decisionmaking, or veteran or military status.

(m) "Physical disability" includes, but is not limited to, all of the following:

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

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

(B) Limits a major life activity. For purposes of this section:

(i) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.

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

(3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

(6) "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(n) Notwithstanding subdivisions (j) and (m), if the definition of "disability" used in the federal Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (j) or (m), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (j) and (m).

(o) "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, reproductive health decisionmaking, or veteran or military status" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(p) "Reasonable accommodation" may include either of the following:

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

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

(q) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice, including religious dress and grooming practices. "Religious dress practice" shall be construed broadly to include the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of an individual observing a religious creed. "Religious grooming practice" shall be construed broadly to include all forms of head, facial, and body hair that are part of an individual observing a religious creed.

(r) (1) "Sex" includes, but is not limited to, the following:

(A) Pregnancy or medical conditions related to pregnancy.

(B) Childbirth or medical conditions related to childbirth.

(C) Breastfeeding or medical conditions related to breastfeeding.

(2) "Sex" also includes, but is not limited to, a person's gender. "Gender" means sex, and includes a person's gender identity and gender expression. "Gender expression" means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

(s) "Sexual orientation" means heterosexuality, homosexuality, and bisexuality.

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

(u) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors:

(1) The nature and cost of the accommodation needed.

(2) The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility.

(3) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities.

(4) The type of operations, including the composition, structure, and functions of the workforce of the entity.

(5) The geographic separateness or administrative or fiscal relationship of the facility or facilities.

(v) "National origin" discrimination includes, but is not limited to, discrimination on the basis of possessing a driver's license or identification card granted under Section 12801.9 of the Vehicle Code.

(w) "Race" is inclusive of traits associated with race, including, but not limited to, hair texture and protective hairstyles.

(x) "Protective hairstyles" includes, but is not limited to, such hairstyles as braids, locs, and twists.

(y) "Reproductive health decisionmaking" includes, but is not limited to, a decision to use or access a particular drug, device, product, or medical service for reproductive health. This subdivision and other provisions in this part relating to "reproductive health decisionmaking" shall not be construed to mean that subdivision (r) of this section and other provisions in this part related to "sex" do not include reproductive health decisionmaking.

(z) (1) "Group or class complaint" includes any complaint alleging a pattern or practice. This paragraph is declarative of, and clarifies, existing law.

(2) Changes made to subdivisions (w) and (x) by the measure that added this paragraph do not constitute changes in, but are declaratory of, existing law.

SEC. 1.3. Section 12926 of the Government Code is amended to read:

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

(a) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) "Age" refers to the chronological age of any individual who has reached a 40th birthday.

(c) Except as provided by Section 12926.05, "employee" does not include any individual employed by that person's parent, spouse, or child or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:

"Employer" does not include a religious association or corporation not organized for private profit.

(e) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(f) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

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

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

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

(C) The function may be highly specialized, so that the incumbent in the position is hired based on expertise or the ability to perform a particular function.

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

- (A) The employer's judgment as to which functions are essential.
- (B) Written job descriptions prepared before advertising or interviewing applicants for the job.
- (C) The amount of time spent on the job performing the function.
- (D) The consequences of not requiring the incumbent to perform the function.
- (E) The terms of a collective bargaining agreement.
- (F) The work experiences of past incumbents in the job.
- (G) The current work experience of incumbents in similar jobs.

(g) (1) "Genetic information" means, with respect to any individual, information about any of the following:

- (A) The individual's genetic tests.
- (B) The genetic tests of family members of the individual.
- (C) The manifestation of a disease or disorder in family members of the individual.

(2) "Genetic information" includes any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by an individual or any family member of the individual.

(3) "Genetic information" does not include information about the sex or age of any individual.

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

(i) "Medical condition" means either of the following:

(1) Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer.

(2) Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:

(A) Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or that person's offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.

(B) Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or that person's offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

(j) "Mental disability" includes, but is not limited to, all of the following:

(1) Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

(A) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(B) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

(C) "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.

(2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

"Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(k) "Veteran or military status" means a member or veteran of the United States Armed Forces, United States Armed Forces Reserve, the United States National Guard, and the California National Guard.

(l) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, reproductive health decisionmaking, or veteran or military status.

(m) "Physical disability" includes, but is not limited to, all of the following:

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

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

(B) Limits a major life activity. For purposes of this section:

(i) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.

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

(3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

(6) "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(n) Notwithstanding subdivisions (j) and (m), if the definition of "disability" used in the federal Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (j) or (m), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (j) and (m).

(o) "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, reproductive health decisionmaking, or veteran or military status" includes any of the following:

(1) Any combination of those characteristics.

(2) A perception that the person has any of those characteristics or any combination of those characteristics.

(3) A perception that the person is associated with a person who has, or is perceived to have, any of those characteristics or any combination of those characteristics.

(p) "Reasonable accommodation" may include either of the following:

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

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

(q) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice, including religious dress and grooming practices. "Religious dress practice" shall be construed broadly to include the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of an individual observing a religious creed. "Religious grooming practice" shall be construed broadly to include all forms of head, facial, and body hair that are part of an individual observing a religious creed.

(r) (1) "Sex" includes, but is not limited to, the following:

(A) Pregnancy or medical conditions related to pregnancy.

(B) Childbirth or medical conditions related to childbirth.

(C) Breastfeeding or medical conditions related to breastfeeding.

(2) "Sex" also includes, but is not limited to, a person's gender. "Gender" means sex, and includes a person's gender identity and gender expression. "Gender expression" means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

(s) "Sexual orientation" means heterosexuality, homosexuality, and bisexuality.

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

(u) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors:

(1) The nature and cost of the accommodation needed.

(2) The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility.

(3) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities.

(4) The type of operations, including the composition, structure, and functions of the workforce of the entity.

(5) The geographic separateness or administrative or fiscal relationship of the facility or facilities.

(v) "National origin" discrimination includes, but is not limited to, discrimination on the basis of possessing a driver's license or identification card granted under Section 12801.9 of the Vehicle Code.

(w) "Race" is inclusive of traits associated with race, including, but not limited to, hair texture and protective hairstyles.

(x) "Protective hairstyles" includes, but is not limited to, such hairstyles as braids, locs, and twists.

(y) "Reproductive health decisionmaking" includes, but is not limited to, a decision to use or access a particular drug, device, product, or medical service for reproductive health. This subdivision and other provisions in this part relating to "reproductive health decisionmaking" shall not be construed to mean that subdivision (r) of this section and other provisions in this part related to "sex" do not include reproductive health decisionmaking.

(z) (1) "Group or class complaint" includes any complaint alleging a pattern or practice. This paragraph is declarative of, and clarifies, existing law.

(2) Changes made to subdivisions (w) and (x) by the measure that added this paragraph do not constitute changes in, but are declaratory of, existing law.

SEC. 2. Section 12960 of the Government Code is amended to read:

12960. (a) This article governs the procedure for the prevention and elimination of practices made unlawful pursuant to Article 1 (commencing with Section 12940) of Chapter 6.

(b) For purposes of this section, filing a complaint means filing an intake form with the department and the operative date of the verified complaint relates back to the filing of the intake form.

(c) Any person claiming to be aggrieved by an alleged unlawful practice may file with the department a verified complaint, in writing, that shall state the name and address of the person, employer, labor organization, or employment agency alleged to have committed the unlawful practice complained of, and that shall set forth the particulars thereof and contain other information as may be required by the department. The director or the director's authorized representative may in like manner, on that person's own motion, make, sign, and file a complaint.

(d) Any employer whose employees, or some of them, refuse or threaten to refuse to cooperate with this part may file with the department a verified complaint asking for assistance by conciliation or other remedial action.

(e) (1) A complaint alleging a violation of Section 51, 51.5, 51.7, 54, 54.1, or 54.2 of the Civil Code shall not be filed pursuant to this article after the expiration of one year from the date that the alleged unlawful practice or refusal to cooperate occurred.

(2) A complaint alleging a violation of Section 52.5 of the Civil Code shall not be filed pursuant to this article after the expiration of the applicable period of time for commencing a civil action pursuant to that section.

(3) A complaint alleging a violation of Article 9.5 (commencing with Section 11135) of Chapter 1 of Part 1 shall not be filed pursuant to this article after the expiration of three years from the date that the alleged unlawful practice occurred or refusal to cooperate occurred.

(4) A complaint alleging a violation of Section 1197.5 of the Labor Code shall not be filed pursuant to this article after the expiration of the applicable period of time for commencing a civil action pursuant to that section.

(5) A complaint alleging a violation of Section 51.9 of the Civil Code or any other violation of Article 1 (commencing with Section 12940) of Chapter 6 shall not be filed after the expiration of three years from the date upon which the unlawful practice or refusal to cooperate occurred.

(6) Notwithstanding the filing deadlines contained in this subdivision or in Section 12980, a complaint filed by the director, or the director's authorized representative, or a complaint treated by the director or the director's representative, as a group or class complaint pursuant to Section 12961 may allege any violation of this part that occurred within a period of seven years or fewer before the date the complaint was filed.

(7) Notwithstanding paragraphs (1) to (6), inclusive, the filing periods set forth by this section may be extended as follows:

(A) For a period of time not to exceed 90 days following the expiration of the applicable filing deadline, if a person allegedly aggrieved by an unlawful practice first obtained knowledge of the facts of the alleged unlawful practice during the 90 days following the expiration of the applicable filing deadline.

(B) For a period of time not to exceed one year following a rebutted presumption of the identity of the person's employer under Section 12928, in order to allow a person allegedly aggrieved by an unlawful practice to make a substitute identification of the actual employer.

(C) For a period of time, not to exceed one year from the date the person aggrieved by an alleged violation of Section 51.7 of the Civil Code becomes aware of the identity of a person liable for the alleged violation, but in no case exceeding three years from the date of the alleged violation if during that period the aggrieved person is unaware of the identity of any person liable for the alleged violation.

(D) For a period of time not to exceed one year from the date that a person allegedly aggrieved by an unlawful practice attains the age of majority.

(E) For the periods of time specified in Section 52.5 of the Civil Code for complaints alleging a violation of that section.

(f) (1) Notwithstanding any tolling or limitations period under any other law, the time for a complainant to file a civil action under a statute referenced in this section shall be tolled during the period commencing with the filing of a complaint with the department for an alleged violation of that statute until either of the following:

(A) The department files a civil action for the alleged violation under this part.

(B) One year after the department issues either of the following:

(i) Written notice to a complainant that it has closed its investigation without electing to file a civil action for the alleged violation.

(ii) If the complainant timely appeals within the department the closure of their complaint, written notice to the complainant that it has remained closed following the appeal within the department.

(2) The tolling provided under this subdivision shall apply retroactively.

(3) This subdivision is not intended to revive claims that have already lapsed.

SEC. 3. Section 12965 of the Government Code is amended to read:

12965. (a) (1) In the case of failure to eliminate an unlawful practice under this part through conference, conciliation, mediation, or persuasion, or in advance thereof if circumstances warrant, the director in the director's discretion may bring a civil action in the name of the department, acting in the public interest, on behalf of the person claiming to be aggrieved.

(2) Prior to filing a civil action, the department shall require all parties to participate in mandatory dispute resolution in the department's internal dispute resolution division free of charge to the parties in an effort to resolve the dispute without litigation.

(3) In a civil action, the person claiming to be aggrieved shall be the real party in interest and shall have the right to participate as a party and be represented by that person's own counsel.

(4) A civil action under this subdivision shall be brought in a county in which the department has an office, in a county in which unlawful practices are alleged to have been committed, in the county in which records relevant to the alleged unlawful practices are maintained and administered, in the county in which the person claiming to be aggrieved would have worked or would have had access to public accommodation, but for the alleged unlawful practices, in the county of the defendant's residence or principal office, or, if the civil action includes class or group allegations on behalf of the department, in any county in the state.

(5) (A) A complaint treated by the director as a group or class complaint for purposes of investigation, conciliation, mediation, or civil action pursuant to Section 12961, a civil action shall be brought, if at all, within two years after the filing of the complaint.

(B) For a complaint alleging a violation of Section 51.7 of the Civil Code, a civil action shall be brought, if at all, within two years after the filing of the complaint.

(C) For a complaint other than those specified in subparagraphs (A) and (B), a civil action shall be brought, if at all, within one year after the filing of a complaint.

(D) The deadlines specified in subparagraphs (A), (B), and (C), shall be tolled, as follows:

(i) During a mandatory or voluntary dispute resolution proceeding commencing on the date the department refers the case to its dispute resolution division and ending on the date the department's dispute resolution division closes its mediation record and returns the case to the division that referred it.

(ii) For the amount of time specified in any written agreement between the department and a respondent executed before the expiration of the applicable deadline.

(iii) For the length of time for which the department's investigation is extended due to the pendency of a petition to compel as provided in subdivision (g) of Section 12963.5.

(iv) During a timely appeal within the department of the closure of the complaint by the department.

(b) For purposes of this section, filing a complaint means filing a verified complaint.

(c) (1) (A) Except as specified in subparagraph (B), if a civil action is not brought by the department pursuant to subdivision (a) within 150 days after the filing of a complaint, or if the department earlier determines that no civil action will be brought pursuant to subdivision (a), the department shall promptly notify, in writing, the person claiming to be aggrieved that the department shall issue, on request, the right-to-sue notice. If the person claiming to be aggrieved does not request a right-to-sue notice, the department shall issue the notice upon completion of its investigation, and not later than one year after the filing of the complaint. However, if the department determines, in its discretion, that the aggrieved person's complaint relates in whole or in part to a complaint filed in the name of the director or a group or class complaint for purposes of investigation, conciliation, mediation, or civil action pursuant to Section 12961, the department shall issue any right-to-sue notice upon request by the person claiming to be aggrieved or after the director's or group or class complaint has been fully and finally disposed of and all administrative proceedings, civil actions, appeals, or related proceedings have terminated.

(B) For a complaint treated as a group or class complaint for purposes of investigation, conciliation, mediation, or civil action pursuant to subdivision (b) of Section 12961, the department shall issue a right-to-sue notice upon completion of its

investigation, and not later than two years after the filing of the complaint.

(C) The notices specified in subparagraphs (A) and (B) shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person, employer, labor organization, or employment agency named in the verified complaint within one year from the date of that notice.

(D) This paragraph applies only to complaints alleging unlawful employment practices under Article 1 (commencing with Section 12940) of Chapter 6.

(E) The deadlines specified in subparagraphs (A) and (B) shall be tolled, as follows:

(i) During a mandatory or voluntary dispute resolution proceeding commencing on the date the department refers the case to its dispute resolution division and ending on the date the department's dispute resolution division closes its mediation record and returns the case to the division that referred it.

(ii) For the amount of time specified in any written agreement between the department and a respondent executed before the expiration of the applicable deadline.

(iii) For the length of time for which the department's investigation is extended due to the pendency of a petition to compel, as provided in subdivision (g) of Section 12963.5.

(iv) During a timely appeal within the department of the closure of the complaint by the department.

(2) A city, county, or district attorney in a location having an enforcement unit established on or before March 1, 1991, pursuant to a local ordinance enacted for the purpose of prosecuting HIV/AIDS discrimination claims, acting on behalf of any person claiming to be aggrieved due to HIV/AIDS discrimination, may also bring a civil action under this part against the person, employer, labor organization, or employment agency named in the notice.

(3) The superior courts of the State of California shall have jurisdiction of actions brought pursuant to this section, and the aggrieved person may file in these courts. An action may be brought in any county in the state in which the unlawful practice is alleged to have been committed, in the county in which the records relevant to the practice are maintained and administered, or in the county in which the aggrieved person would have worked or would have had access to the public accommodation but for the alleged unlawful practice, but if the defendant is not found within any of these counties, an action may be brought within the county of the defendant's residence or principal office.

(4) A copy of any complaint filed pursuant to this part shall be served on the principal offices of the department. The remedy for failure to send a copy of a complaint is an order to do so.

(5) A civil action brought pursuant to this section shall not be filed as class actions and shall not be maintained as class actions by the person or persons claiming to be aggrieved if those persons have filed a civil class action in the federal courts alleging a comparable claim of employment discrimination against the same defendant or defendants.

(6) In civil actions brought under this section, the court, in its discretion, may award to the prevailing party, including the department, reasonable attorney's fees and costs, including expert witness fees, except that, notwithstanding Section 998 of the Code of Civil Procedure, a prevailing defendant shall not be awarded fees and costs unless the court finds the action was frivolous, unreasonable, or groundless when brought, or the plaintiff continued to litigate after it clearly became so.

(d) A court may grant as relief in any action filed pursuant to subdivision (a) any relief a court is empowered to grant in a civil action brought pursuant to subdivision (c), in addition to any other relief that, in the judgment of the court, will effectuate the purpose of this part. This relief may include a requirement that the employer conduct training for all employees, supervisors, and management on the requirements of this part, the rights and remedies of those who allege a violation of this part, and the employer's internal grievance procedures. This relief may also include any relief available under any law enforced by the department pursuant to Section 12930. In addition, in order to vindicate the purposes and policies of this part, a court may assess against the defendant, if the civil complaint or amended civil complaint so prays, a civil penalty of up to twenty-five thousand dollars (\$25,000) to be awarded to a person denied any right provided for by Section 51.7 of the Civil Code, as an unlawful practice prohibited under this part.

(e) (1) Notwithstanding subdivision (c), the one-year statute of limitations, commencing from the date of the right-to-sue notice by the department to the person claiming to be aggrieved, shall be tolled when all of the following requirements have been met:

(A) A charge of discrimination or harassment is timely filed concurrently with the Equal Employment Opportunity Commission and the department.

(B) The investigation of the charge is deferred by the department to the Equal Employment Opportunity Commission.

(C) A right-to-sue notice is issued to the person claiming to be aggrieved upon deferral of the charge by the department to the Equal Employment Opportunity Commission.

(2) The time for commencing an action for which the statute of limitations is tolled under paragraph (1) expires when the federal right-to-sue period to commence a civil action expires, or one year from the date of the right-to-sue notice by the department, whichever is later.

(3) This subdivision is intended to codify the holding in *Downs v. Department of Water and Power of City of Los Angeles* (1997) 58 Cal.App.4th 1093.

(f) (1) Notwithstanding subdivision (c), the one-year statute of limitations, commencing from the date of the right-to-sue notice by the department, to the person claiming to be aggrieved, shall be tolled when all of the following requirements have been met:

(A) A charge of discrimination or harassment is timely filed concurrently with the Equal Employment Opportunity Commission and the department.

(B) The investigation of the charge is deferred by the Equal Employment Opportunity Commission to the Civil Rights Department.

(C) After investigation and determination by the department, the Equal Employment Opportunity Commission agrees to perform a substantial weight review of the determination of the department or conducts its own investigation of the claim filed by the aggrieved person.

(2) The time for commencing an action for which the statute of limitations is tolled under paragraph (1) shall expire when the federal right-to-sue period to commence a civil action expires, or one year from the date of the right-to-sue notice by the department, whichever is later.

SEC. 4. Section 12980 of the Government Code is amended to read:

12980. This article governs the procedure for the prevention and elimination of discrimination in housing made unlawful pursuant to Article 2 (commencing with Section 12955) of Chapter 6.

(a) Any person claiming to be aggrieved by an alleged violation of Section 12955, 12955.1, or 12955.7 may file with the department a verified complaint in writing that shall state the name and address of the person alleged to have committed the violation complained of, and that shall set forth the particulars of the alleged violation and contain any other information required by the department.

The filing of a complaint and pursuit of conciliation or remedy under this part shall not prejudice the complainant's right to pursue effective judicial relief under other applicable laws, but if a civil action has been filed under Section 52 of the Civil Code, the department shall terminate proceedings upon notification of the entry of final judgment unless the judgment is a dismissal entered at the complainant's request.

No complaint may be filed after the expiration of one year from the date upon which the alleged violation occurred or terminated.

(b) The Attorney General or the director may, in a like manner, make, sign, and file complaints citing practices that appear to violate the purpose of this part or any specific provisions of this part relating to housing discrimination.

(c) The department may thereupon proceed upon the complaint in the same manner and with the same powers as provided in this part in the case of an unlawful practice, except that where the provisions of this article provide greater rights and remedies to an aggrieved person than the provisions of Article 1 (commencing with Section 12960), the provisions of this article shall prevail.

(d) Upon the filing of a complaint, the department shall serve notice upon the complainant of the time limits, rights of the parties, and choice of forums provided for under the law.

(e) The department shall commence proceedings with respect to a complaint within 30 days of filing of the complaint.

(f) An investigation of allegations contained in any complaint filed with the department shall be completed within 100 days after receipt of the complaint, unless it is impracticable to do so. If the investigation is not completed within 100 days, the complainant and respondent shall be notified, in writing, of the department's reasons for not doing so.

(g) Upon the conclusion of each investigation, the department shall prepare a final investigative report containing all of the following:

(1) The names of any witnesses and the dates of any contacts with those witnesses.

(2) A summary of the dates of any correspondence or other contacts with the aggrieved persons or the respondent.

(3) A summary of witness statements.

(4) Answers to interrogatories.

(5) A summary description of other pertinent records.

A final investigative report may be amended if additional evidence is later discovered.

(h) If a civil action is not brought by the department within 100 days after the filing of a complaint, or if the department earlier determines that no civil action will be brought, the department shall promptly notify the person claiming to be aggrieved. This notice shall, in any event, be issued no more than 30 days after the date of the determination or 30 days after the date of the expiration of the 100-day period, whichever date first occurs. The notice shall indicate that the person claiming to be aggrieved may bring a civil action under this part against the person named in the verified complaint within the time period specified in Section 12989.1. The notice shall also indicate, unless the department has determined that no civil action will be brought, that the person claiming to be aggrieved has the option of continuing to seek redress for the alleged discrimination through the procedures of the department if the person does not desire to file a civil action. The superior courts of the State of California shall have jurisdiction of these actions, and the aggrieved person may file in these courts. The action may be brought in any county in the state in which the violation is alleged to have been committed, or in the county in which the records relevant to the alleged violation are maintained and administered, but if the defendant is not found within that county, the action may be brought within the county of the defendant's residence or principal office. A copy of any complaint filed pursuant to this part shall be served on the principal offices of the department. The remedy for failure to send a copy of a complaint is an order to do so. In a civil action brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney's fees.

(i) All agreements reached in settlement of any housing discrimination complaint filed pursuant to this section shall be made public, unless otherwise agreed by the complainant and respondent, and the department determines that the disclosure is not required to further the purposes of the act.

(j) All agreements reached in settlement of any housing discrimination complaint filed pursuant to this section shall be agreements between the respondent and complainant, and shall be subject to approval by the department.

SEC. 5. Section 12981 of the Government Code is amended to read:

12981. (a) (1) In the case of failure to eliminate a violation of Section 12955, 12955.1, or 12955.7 that has occurred, or is about to occur, through conference, conciliation, mediation, or persuasion, or in advance thereof if circumstances warrant, the director shall bring a civil action in the name of the department, acting in the public interest, on behalf of the aggrieved person as a real party in interest, notwithstanding Section 12971, in the same manner and with the same powers as provided in Section 12965, except that where the provisions of this article provide greater rights and remedies to an aggrieved person than Section 12965, the provisions of this article shall prevail.

(2) Prior to filing a civil action pursuant to paragraph (1), the department shall require all parties to participate in the department's mandatory dispute resolution division free of charge to the parties in an effort to resolve the dispute without litigation.

(3) A civil action brought pursuant to paragraph (1) shall be filed within 100 days after the filing of a complaint unless it is impracticable to do so. This deadline to file a civil action pursuant to paragraph (1) shall be tolled during a mandatory or voluntary dispute resolution proceeding commencing on the date the department refers the case to its dispute resolution division and ending on the date the department's dispute resolution division closes its mediation record and returns the case to the division that referred it.

(4) Any aggrieved person may intervene as a matter of right in the proceeding, and the appeal or other judicial review of that proceeding.

(b) If the department determines that an allegation concerns the legality of any zoning or other land use law or ordinance, the department or the Attorney General shall take appropriate action with respect to the complaint according to the procedures established in this part for other complaints of housing discrimination.

(c) Within one year of the effective date of every final order or decision issued pursuant to this part, the department shall conduct a compliance review to determine whether the order or decision has been fully obeyed and implemented.

(d) Whenever the department has reasonable cause to believe that a respondent has breached a conciliation agreement signed by the department, the department shall initiate a civil action to enforce the agreement.

SEC. 6. (a) Section 1.1 of this bill incorporates amendments to Section 12926 of the Government Code proposed by both this bill and Senate Bill 1137. That section of this bill shall only become operative if (1) both bills are enacted and become effective on

or before January 1, 2025, (2) each bill amends Section 12926 of the Government Code, and (3) Assembly Bill 1815 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 1137, in which case Sections 1, 1.2, and 1.3 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 12926 of the Government Code proposed by both this bill and Assembly Bill 1815. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 12926 of the Government Code, (3) Senate Bill 1137 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 1815 in which case Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 12926 of the Government Code proposed by this bill, Senate Bill 1137, and Assembly Bill 1815. That section of this bill shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2025, (2) all three bills amend Section 12926 of the Government Code, and (3) this bill is enacted after Senate Bill 1137 and Assembly Bill 1815, in which case Sections 1, 1.1, and 1.2 of this bill shall not become operative.