

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

2004 LEGISLATIVE SUMMARY

The following bills, affecting California's civil rights statutes were signed and chaptered into law by Governor Schwarzenegger in 2004. The changes become effective January 1, 2005. They are organized by subject matter.

EMPLOYMENT

Sexual Harassment Training and Education for Supervisory Employees

This new law requires public and private employers with 50 or more employees to provide at least two hours sexual harassment training and education to all of its supervisory employees by January 1, 2006, and once every two years thereafter commencing January 1, 2006. New supervisors are required to receive sexual harassment training and education within six months of assuming a new supervisory position. The State is now required to incorporate sexual harassment training and education into the mandatory 80-hour training provided to all new supervisory employees. An employer that fails to comply with these requirements would be in violation of the Fair Employment and Housing Act (FEHA) and subject to an order to comply from the Fair Employment and Housing Commission (FEHC).

Bill Number: AB 1825 (Reyes), Chapter 933

Code Sections Added: Government Code section 12950.1

Fair Employment and Housing Commission

This bill makes clarifying changes in the FEHA pregnancy disability leave provisions and expands the functions, powers and duties of the Fair Employment and Housing Commission and its "hearing officers" in procedure and enforcement of the FEHA. Specifically, this law:

1. authorizes the FEHC to conduct mediations at the request of the Department of Fair Employment and Housing (DFEH), with DFEH maintaining the right to withdraw the request at any time;
2. converts the FEHC's "hearing officers" to administrative law judges;
3. requires the FEHC to follow the Administrative Procedure Act when there is no procedural regulation on a particular issue;
4. amends provisions of the FEHA related to pregnancy disability leave and reconciles them with the general sex discrimination provisions of the FEHA;
5. permits a monetary offset by a state department when the FEHC imposes a judgment against a respondent;
6. creates one standard for the imposition of a civil penalty in both employment and housing discrimination cases; and

7. Makes technical and conforming changes to obsolete provisions.

Bill Number: AB 2870 (Mullin), Chapter 647

Code Sections Affected: Government Code sections 12903, 12928, 12935, 12942, 12945, 12963.3, 12972, 12973, 12987, 12987.1 and 12989.2

HOUSING

Tenancy

SB 1145 repeals sunset housing laws, thereby extending the following affected provisions indefinitely. The first sunset provision, Government Code section 12955, contains the following provisions of the Fair Employment and Housing Act: 1) the prohibition against housing discrimination based on source of income; 2) the prohibition against a landlord for failing to account for the aggregate income of unmarried co-residents on the same basis as married residents when determining financial eligibility; and 3) the prohibition against a landlord failing to exclude a government rent subsidy from that portion of the rent to be paid by the tenant when determining financial eligibility for rental housing. The second sunset provision, Civil Code section 827, requires that a landlord provide an additional 30-day notice, for a total of 60-days notice, when increasing the rent of a month-to-month tenancy in excess of 10% of the amount charged annually.

Bill Number: SB 1145 (Burton), Chapter 568

Code Section Amended: Civil Code sections 1950.5, 1954.52 and 1954.53; amends and repeals Civil Code section 827; amends and repeals Government Code section 12955; Code of Civil Procedure sections 1161.2 and 7060.4

RELATED STATUTES

Discrimination in Athletic Programs

This law prohibits sex and gender discrimination in the operation and administration of community youth athletic programs and subjects cities, counties, cities and counties, or special districts to civil liability for equitable or monetary relief for such discrimination.

Bill Number: AB 2404 (Steinberg), Chapter 852

Code Sections Added: Government Code section 53080

Domestic Partnerships

Technical changes were made to the California Domestic Partner Rights and Responsibilities Act of 2003 to clarify that its provisions apply to domestic partners “registered” with the State of California. This law also designates the “date of

registration of the domestic partnership” as the equivalent to the “date of marriage” as it relates to the rights or duties of the partners, and requires the enforcement of premarital agreements between state-registered domestic partners that are executed pursuant to the provisions of this law. The State is also required to revise all public-use state forms to incorporate “state-registered domestic partner.”

Bill Number: AB 2580 (Goldberg), Chapter 947

Code Sections Amended: Code of Civil Procedure sections 377; Family Code sections 297.5, 299, and 299.3; Government Code section 14771

Conformity of State Anti-Discrimination Statutes with the Fair Employment and Housing Act

Employment discrimination-related provisions in various codes are harmonized with the FEHA. Also various anti-discrimination laws are conformed to the language of the FEHA and protected bases and classes of the FEHA are incorporated into the Education Code, Government Code, Labor Code, Military and Veterans Code, Public Utilities Code, Unemployment Insurance Code, and Welfare and Institutions Code. DFEH does not enforce these provisions.

Bill Number: AB 2900 (Laird), Chapter 788

Code Sections Amended: Education Code sections 44100, 44101, 44858, 45293, 69958, 87100 and 88112; Government Code sections 19572, 19572.1, 19702, 19704 and 19793; Labor Code sections 1156.3, 1735, 1777.6 and 3095; Military and Veterans Code section 130; Public Utilities Code sections 25051, 28850, 30750, 50120, 70121, 90300, 95650, 98161, 100303, 101343, 102402, 103403, 120504 and 125523; Unemployment Insurance Code section 1256.2; Welfare and Institutions Code sections 11320.31, 11322.62, and 14087.28

Hate Crimes

This law redrafts, reorganizes and expands the laws relating to “hate crimes.” This bill: 1) establishes a uniform “hate crime” definition to be applied by all state and local agencies; 2) amends the definition of gender in the Penal Code; 3) expands “hate crime” protections to include additional categories of persons or groups not currently protected under existing “hate crime” statutes; 4) amends the requirements for law enforcement training; and 5) amends the sentencing and enhancement guidelines. This bill impacts the FEHA only to the extent that the FEHA incorporates the definition of gender contained in Penal Code section 422.56.

Bill Number: SB 1234 (Kuehl), Chapter 700

Code Sections Amended: Civil Code section 52.1; Government Code section 12926; Penal Code section 13873; renumbered to Penal Code Section 422.92; and added Penal Code section 422.56