

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

2005 LEGISLATIVE SUMMARY

The following bills, affecting California's civil rights statutes, were signed and chaptered into law by Governor Schwarzenegger in 2005. The changes become effective January 1, 2006. They are organized by subject matter.

EMPLOYMENT

One Year Period to File A Department of Fair Employment and Housing Complaint of Discrimination Extended for Minors

This bill extends the period of time for filing a Complaint of Discrimination with the Department of Fair Employment and Housing for persons under the age of 18. A Complaint of Discrimination alleging unlawful employment practices may be filed up to one year from the date the victim turns 18 years old.

Bill Number: AB 1669 (Chu), Chapter 642

Code Section Amended: Government Code section 12960

HOUSING

Procedure Regarding Unlawful Restrictive Covenants

This bill makes it easier for property owners to strike an unlawful restrictive covenant affecting real property. Unlawful restrictive covenants contain discriminatory language based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income, or ancestry. This bill deletes the provisions authorizing a person to file an application with the Department of Fair Employment and Housing to seek a determination whether a restrictive covenant is unlawful. Instead, a property owner records a document titled "Restrictive Covenant Modification" with the county recorder. The county recorder sends the document to the county counsel's office for a determination of whether the restrictive covenant is unlawful. Upon approval, the county recorder will then record the document.

Bill Number: AB 394 (Niello), Chapter 297

Code Section Amended: Government Code section 12956.1

Code Section Added: Government Code section 12956.2

RELATED STATUTES

Unruh Civil Rights Act and Related Civil Code Provisions

This bill clarifies that Civil Code sections 51, 51.5, 51.7, 51.8, and 53 include the same protected classifications throughout and extends the prohibited bases (sex, race, color, religion, ancestry, national origin, disability, or medical condition) under the Unruh Civil Rights Act, the Ralph Act, and related statutes to include marital status and sexual orientation. This bill further ensures conformity among these sections by incorporating the definitions stated under Civil Code section 51.

1. The Unruh Civil Rights Act, Civil Code section 51, subdivision (b) now includes marital status and sexual orientation as protected bases.
2. This bill amends Civil Code section 51, subdivision (e), to include definitions for the following:
 - “religion” includes all aspects of religious belief, observance, and practice;
 - “sex” has the same meaning as defined in Government Code section 12926, subdivision (p);
 - “sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation” includes a perception that the person has any particular characteristic or characteristics within the listed categories or that the person is associated with a person who has, or is perceived to have, any particular characteristic or characteristics within the listed categories; and
 - “sexual orientation” has the same meaning as defined in Government Code section 12926, subdivision (q).
3. Civil Code section 51.5 states that a business establishment cannot discriminate against, boycott, or blacklist, or refuse to buy from, contract with, sell to, or trade with any person because of any listed characteristic. This bill now incorporates by reference Civil Code section 51, subdivisions (b) and (e), to include the same protected characteristics and definitions, including marital status and sexual orientation.
4. The Ralph Act, Civil Code section 51.7, provides that all persons have the right to be free from violence, or intimidation by threat of violence, committed against their persons or property because of political affiliation, or any listed characteristic. This bill now incorporates by reference Civil Code section 51, subdivisions (b) and (e), to include the same protected characteristics and definitions, including marital status.
5. Civil Code section 51.8 states that no franchisor shall discriminate in the granting of franchises solely because of any listed characteristic of the franchisee, and the composition of a neighborhood or geographic area reflecting any listed characteristic in which the franchise is located. This bill now incorporates by reference Civil Code section 51, subdivisions (b) and (e), to include the same protected characteristics and definitions, including marital status and sexual orientation.

6. Civil Code section 53 states that a provision in a written instrument relating to real property that forbids or restricts the conveyance, encumbrance, leasing, or mortgaging of that real property to any person because of any listed characteristic is void. Every restriction or prohibition as to the use or occupation of real property because of any listed characteristic is void. Every restriction or prohibition by way of covenant, condition upon use or occupation, or upon transfer of title to real property that directly or indirectly limits the acquisition, use, or occupation of that property because of any listed characteristic is void. This bill now incorporates by reference Civil Code section 51, subdivisions (b) and (e), to include the same protected characteristics and definitions, including marital status and sexual orientation.

Bill Number: AB 1400 (Laird), Chapter 420

Code Sections Amended: Civil Code sections 51, 51.5, 51.7, 51.8, and 53

Statute of Limitations for Ralph Act

This bill provides for a 3-year statute of limitations for the commencement of a civil action brought under the Ralph Act. The Ralph Act ensures that individuals have the right to be free from violence or intimidation by threat of violence against their person or property because of race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability or position in a labor dispute.

Bill Number: AB 378 (Chu), Chapter 123

Code Sections Amended: Civil Code section 52; Code of Civil Procedure section 338

Civil Discovery

This bill made technical changes to the Civil Discovery Act including that a deposition of an organization shall be treated as a single deposition for civil discovery purposes, even though more than one person may be designated or required to testify. In addition, this bill makes conforming changes to the Fair Employment and Housing Act such that outdated provisions of the Code of Civil Procedure were corrected. Specifically, AB 333 provides:

1. A deposition may be taken before any office of the Department of Fair Employment and Housing authorized by the director to administer oaths and take testimony, or before any other person before who a deposition may be taken in a civil action pursuant to Code of Civil Procedure sections 2025.320 and 2026.010, subdivision (d).
2. The Department of Fair Employment and Housing and the respondent may each take a single deposition to be taken as prescribed by law for depositions in civil actions in the superior court under Code of Civil Procedure section 2016.010 et seq.

Bill Number: AB 333 (Harman), Chapter 294

Code Sections Amended: Government Code sections 12963.3, 12972, and 68097.6; Business and Professions Code section 25009; Code of Civil Procedure sections 92, 1005, 1283, 1985.6, 1991.2, 2025.250, 2025.330, 2032.510, 2032.530, 2033.280, 2035.010, 2035.030, 2035.050, and 2035.060; Education Code section 44944; Evidence Code section 1560; Health and Safety Code 1424.1; Insurance Code section 11580.2, and Penal Code section 1524

Public Contracts

This bill exempts credit card purchases of goods totaling \$2,500 or less from the requirement that every state contract and subcontract will contain a nondiscrimination clause and provide appropriate written notice of such.

Bill Number: SB 828 (Maldonado), Chapter 381

Code Sections Amended: Government Code sections 8355 and 12990; Public Contract Code sections 6108, 10286.1, 10295.1, 10296; Public Resources Code sections 42480, 42498

Code Section Amended and Repealed: Government Code section 14851