

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

2017 LEGISLATIVE SUMMARY

The following bills were signed and chaptered into law by Governor Edmund G. Brown, Jr., in 2017 and become effective January 1, 2018, unless noted otherwise.

EMPLOYMENT

Conviction History

AB 1008 amended the Fair Employment and Housing Act (FEHA) to make it an unlawful employment practice for all employers – public and private – to seek conviction history information until a conditional offer of employment is made, or to include any question seeking disclosure of an applicant’s conviction history on a job application. It further set forth rules and procedures regarding how employers may consider conviction history, how employers must notify applicants who are being rejected because of conviction history, and how job applicants may conduct an appeal of the employment denial.

Bill Number: AB 1008 (McCarty) (Stats. 2017, ch. 789.)

Code Section Amended: None.

Code Section Added: Government Code section 12952.

Code Section Repealed: Labor Code section 432.9.

Pregnancy Discrimination & Gender-Neutral Language

AB 1556 amended the FEHA to replace gender-specific pronouns with gender-neutral language, thereby clarifying that all Californians are protected against employment discrimination, including pregnancy discrimination, regardless of their sex/gender, gender identity, or gender expression.

Bill Number: AB 1556 (Stone) (Stats. 2017, ch. 799.)

Code Section Amended: Government Code sections 12904, 12905, 12926, 12930, 12932, 12940, 12940.1, 12942, 12943, 12945, 12945.2, 12956.2, 12960, 12962, 12965, 12980, and 12986.

Code Section Added: None.

New Parent Leave Act

SB 63 established the New Parent Leave Act under the FEHA. Existing law, the California Family Rights Act (CFRA), requires private employers of at least 50 employees and all public employers in California to provide employees up to 12 weeks of unpaid leave in a 12-month period for the employee’s own serious health condition, the serious health condition of certain family members, or for baby bonding after the birth or placement of a child for adoption or foster care.

SB 63 partially expanded the baby bonding component of this entitlement by making it an unlawful employment practice for an employer of 20 or more employees within 75 miles of the worksite to refuse to allow an eligible employee, who has at least 1,250 hours of service with the employer during the previous 12-month period, to take up to 12 weeks of job-protected parental leave to bond with a new child within one year of the child's birth, adoption, or foster care placement. This bill also prohibited subject employers from refusing to maintain and pay for coverage under a group health plan during the duration of the leave or retaliating against an employee for exercising their SB 63 rights. Finally, the bill established a mediation pilot program to provide for the Department to mediate claims arising under SB 63.

Bill Number: SB 63 (Jackson) (Stats. 2017, ch. 686.)

Code Section Amended: None.

Code Section Added: Government Code section 12945.6.

Gender Identity, Gender Expression, and Sexual Orientation – Poster and Sexual Harassment Prevention Training

As it relates to the Department's work, SB 396 amended the FEHA to require employers to post a poster developed by the Department regarding the rights of transgender individuals and to add a component regarding gender identity, gender expression, and sexual orientation to the existing sexual harassment prevention training that some employers must provide.

Bill Number: SB 396 (Lara) (Stats. 2017, ch. 858.)

Code Section Amended: Government Code sections 12950 and 12950.1; Unemployment Insurance Code sections 14005 and 14012.

Code Section Added: None.

STATE GOVERNMENT

Lesbian, Gay, Bisexual, and Transgender Disparities Reduction Act

As it relates to the Department's work, AB 677 would incorporate the Department into the Lesbian, Gay, Bisexual, and Transgender Disparities Reduction Act and thus would require the Department to collect and report demographic data on the sexual orientation and gender identity of complainants in the course of collecting other demographic data.

Bill Number: AB 677 (Chiu) (Stats. 2017, ch. 744.)

Code Section Amended: Government Code section 8310.8.

Code Section Added: Education Code section 51514.

RELATED STATUTES

Immigrant Tenant Protection Act of 2017

AB 291 amended the Business and Professions Code, Civil Code, and Code of Civil Procedure to protect tenants from deportation threats. The bill specifically did the following:

- prohibit attorneys from reporting or threatening to report the suspected immigration status of individuals involved in housing cases;
- prohibit landlords from influencing a tenant to vacate a dwelling by threatening to disclose information regarding or relating to the immigration or citizenship status of a tenant;
- prohibit landlords from disclosing immigration or citizenship status of any tenant, prospective tenant, occupant, prospective occupant, or other person known to the landlord to be associated with a tenant or occupant of the rental property for the purpose of harassment, intimidation, retaliation, influencing a tenant or occupant to vacate a dwelling, or recovering possession of the dwelling;
- provide tenants, occupants, or other persons known to the landlord to be associated with a tenant or occupant a cause of action against landlords who disclose information regarding or relating to immigration or citizenship status; and
- prohibit inquiries into a person's immigration or citizenship status during discovery or in any civil action involving a tenant's housing rights.

Bill Number: AB 291 (Chiu) (Stats. 2017, ch. 489.)

Code Section Amended: Business and Professions Code section 6103.7; Civil Code sections 1940.2, 1940.3, and 1942.5.

Code Section Added: Civil Code sections 1940.05, 1940.35, and 3339.10; Code of Civil Procedure section 1161.4.

Salary History

AB 168 amended the Labor Code to prohibit employers from seeking or relying on the salary history information of an applicant for employment as a factor in determining employment offers or salaries. The bill also required employers, upon reasonable request, to provide the pay scale for a position to an applicant for employment. This law is enforced by the Department of Industrial Relations, not the Department of Fair Employment and Housing.

Bill Number: AB 168 (Eggman) (Stats. 2017, ch. 688.)

Code Section Amended: None.

Code Section Added: Labor Code section 432.3.

California Religious Freedom Act

SB 31 prohibited state and local agencies, and public employees, from providing or disclosing to the federal government personal information regarding a person's religion, when the information is sought for the purpose of compiling a database of individuals based on their religion, national origin, or ethnicity for law enforcement or immigration purposes. The bill also prohibited using state agency resources to assist with the compilation of such a database, or making state agency databases available to the federal government under such a program. The bill terminated, to the extent of any conflict, any existing agreements that make any agency or department information or database available in conflict with the bill's provisions. The bill also made it impermissible to collect information on an individual's religion except where necessary to investigate a crime or to make a reasonable accommodation. SB 31 was an urgency statute effective immediately upon enactment.

Bill Number: SB 31 (Lara) (Stats. 2017, ch. 826.)

Code Section Amended: None.

Code Section Added: Government Code section 8310.3.