

Assembly Bill No. 1928

CHAPTER 842

An act to add Section 52.4 to the Civil Code, relating to gender violence.

[Approved by Governor September 24, 2002. Filed with Secretary of State September 24, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1928, Jackson. Civil actions: gender-related violence.

Existing law sets forth various personal rights and provides that all persons within California have the right to be free from violence, or intimidation by the threat of violence because of, among other characteristics, their race, color, religion, ancestry, national origin, political affiliation, or sex. Existing law further permits an individual whose exercise or enjoyment of specified personal rights has been interfered with to bring a civil action for damages, including actual damages, exemplary damages, attorney's fees, injunctive relief, and other appropriate relief.

This bill would permit a person injured by a crime of violence motivated by gender to bring a civil action for damages against the responsible person or persons. The bill would provide that damages may include actual damages, compensatory damages, punitive damages, injunctive relief, or a combination of those damages, including any other appropriate relief, in addition to attorney's fees and costs. The bill would require the action to be commenced within a specified time period. The bill would specify that it does not establish any civil liability of a person because of his or her status as an employer, unless the employer personally committed an act of gender violence. The bill would include a statement of legislative findings and declarations regarding gender-related violence.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Existing state and federal laws do not adequately prevent and remedy gender-related violence, such as domestic violence, which disproportionately occurs against women.

(b) Sexual abuse harms many women, children, and families, and is often not reported to the authorities or prosecuted.



(c) Acts of domestic violence and sexual abuse on the basis of gender constitute a form of sexual discrimination.

(d) All persons within California have the right to be free from crimes of violence motivated by gender.

(e) It is the purpose of this act to protect the civil rights of victims of gender-motivated violence and thereby to promote the public safety, health, and well-being of all persons within California.

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

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

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

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

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

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

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

