

ASSEMBLY BILL

No. 1586

**Introduced by Assembly Members Koretz, Goldberg, Laird,
Leno, and Lieber**

(Principal coauthor: Senator Kuehl)
(Coauthor: Senator Kehoe)

February 22, 2005

An act to amend Section 1365.5 of the Health and Safety Code, and to amend Section 679.71 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1586, as introduced, Koretz. Insurers: health care service plans: discrimination.

Existing law provides for licensing and regulation of health care service plans by the Department of Managed Health Care. Existing law provides for licensing and regulation of insurers by the Department of Insurance.

Existing law prohibits certain discriminatory acts by health care service plans and insurers, including discrimination based on the sex of an enrollee or insured.

This bill, for purposes of these provisions, would provide that "sex" includes, but is not limited to, a person's gender, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

- 1 SECTION 1. Section 1365.5 of the Health and Safety Code is
- 2 amended to read:

1 1365.5. (a) No health care service plan or specialized health
2 care service plan shall refuse to enter into any contract or shall
3 cancel or decline to renew or reinstate any contract because of
4 the race, color, national origin, ancestry, religion, sex, marital
5 status, sexual orientation, or age of any contracting party,
6 prospective contracting party, or person reasonably expected to
7 benefit from that contract as a subscriber, enrollee, member, or
8 otherwise.

9 (b) The terms of any contract shall not be modified, and the
10 benefits or coverage of any contract shall not be subject to any
11 limitations, exceptions, exclusions, reductions, copayments,
12 coinsurance, deductibles, reservations, or premium, price, or
13 charge differentials, or other modifications because of the race,
14 color, national origin, ancestry, religion, sex, marital status,
15 sexual orientation, or age of any contracting party, potential
16 contracting party, or person reasonably expected to benefit from
17 that contract as a subscriber, enrollee, member, or otherwise;
18 except that premium, price, or charge differentials because of the
19 sex or age of any individual when based on objective, valid, and
20 up-to-date statistical and actuarial data are not prohibited.
21 Nothing in this section shall be construed to permit a health care
22 service plan to charge different premium rates to individual
23 enrollees within the same group solely on the basis of the
24 enrollee's sex.

25 (c) It shall be deemed a violation of subdivision (a) for any
26 health care service plan to utilize marital status, living
27 arrangements, occupation, gender, beneficiary designation, zip
28 codes or other territorial classification, or any combination
29 thereof for the purpose of establishing sexual orientation.
30 Nothing in this section shall be construed to alter in any manner
31 the existing law prohibiting health care service plans from
32 conducting tests for the presence of human immunodeficiency
33 virus or evidence thereof.

34 (d) This section shall not be construed to limit the authority of
35 the director to adopt or enforce regulations prohibiting
36 discrimination because of sex, marital status, or sexual
37 orientation.

38 (e) *As used in this section, "sex" includes, but is not limited*
39 *to, a person's gender, as defined in Section 422.56 of the Penal*
40 *Code.*

1 SEC. 2. Section 679.71 of the Insurance Code is amended to
2 read:

3 679.71. No admitted insurer, licensed to issue any policy of
4 insurance covered by this chapter, shall fail or refuse to accept an
5 application for, or to issue a policy to an applicant for, such
6 insurance (unless such insurance is to be issued to the applicant
7 by another insurer under the same management and control), or
8 cancel such insurance, under conditions less favorable to the
9 insured than in other comparable cases, except for reasons
10 applicable alike to persons of every marital status, sex, race,
11 color, religion, national origin, or ancestry; nor shall sex, race,
12 color, religion, national origin, or ancestry of itself constitute a
13 condition or risk for which a higher rate, premium, or charge may
14 be required of the insured for such insurance.

15 *As used in this section, "sex" includes, but is not limited to, a*
16 *person's gender, as defined in Section 422.56 of the Penal Code.*