

Introduced by Senator KuehlFebruary 22, 2006

An act to amend Section 11135 of the Government Code, relating to discrimination.

LEGISLATIVE COUNSEL'S DIGEST

SB 1441, as introduced, Kuehl. Discrimination: state programs and activities: sexual orientation.

Existing law prohibits discrimination on the basis of, among other things, race, national origin, ethnic group identification, religion, age, sex, color, or disability, against any person in any program or activity conducted, operated, or administered by the state or by any state agency, or that is funded directly by the state, or that receives any financial assistance from the state. Existing law also requires, with respect to disability, that these programs and activities meet the protections and prohibitions contained in certain provisions of the federal Americans with Disabilities Act of 1990, and the federal rules and regulations implementing that act, or state law if the state protections and prohibitions are stronger.

This bill would add sexual orientation to these provisions and define for these purposes "sex" and "sexual orientation."

The bill would also expand the definition of discrimination under these provisions to include a perception that a person has any of these enumerated characteristics or that the person is associated with a person who has, or is perceived to have, any of these characteristics.

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

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

1 SECTION 1. Section 11135 of the Government Code is
2 amended to read:

3 11135. (a) No person in the State of California shall, on the
4 basis of race, national origin, ethnic group identification,
5 religion, age, sex, *sexual orientation*, color, or disability, be
6 unlawfully denied full and equal access to the benefits of, or be
7 unlawfully subjected to discrimination under, any program or
8 activity that is conducted, operated, or administered by the state
9 or by any state agency, is funded directly by the state, or receives
10 any financial assistance from the state. Notwithstanding Section
11 11000, this section applies to the California State University.

12 (b) With respect to discrimination on the basis of disability,
13 programs and activities subject to subdivision (a) shall meet the
14 protections and prohibitions contained in Section 202 of the
15 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132),
16 and the federal rules and regulations adopted in implementation
17 thereof, except that if the laws of this state prescribe stronger
18 protections and prohibitions, the programs and activities subject
19 to subdivision (a) shall be subject to the stronger protections and
20 prohibitions.

21 (c) (1) As used in this section, “disability” means any mental
22 or physical disability, as defined in Section 12926.

23 (2) The Legislature finds and declares that the amendments
24 made to this act are declarative of existing law. The Legislature
25 further finds and declares that in enacting Senate Bill 105 of the
26 2001–02 Regular Session (Chapter 1102 of the Statutes of 2002),
27 it was the intention of the Legislature to apply subdivision (d) to
28 the California State University in the same manner that
29 subdivisions (a), (b), and (c) of this section already applied to the
30 California State University, notwithstanding Section 11000. In
31 clarifying that the California State University is subject to
32 paragraph (2) of subdivision (d), it is not the intention of the
33 Legislature to increase the cost of developing or procuring
34 electronic and information technology. The California State
35 University shall, however, in determining the cost of developing
36 or procuring electronic or information technology, consider
37 whether technology that meets the standards applicable pursuant
38 to paragraph (2) of subdivision (d) will reduce the long-term cost

1 incurred by the California State University in providing access or
2 accommodations to future users of this technology who are
3 persons with disabilities, as required by existing law, including
4 this section, Title II of the Americans with Disabilities Act of
5 1990 (42 U.S.C. Sec. 12101 and following), and Section 504 of
6 the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794).

7 (d) (1) The Legislature finds and declares that the ability to
8 utilize electronic or information technology is often an essential
9 function for successful employment in the current work world.

10 (2) In order to improve accessibility of existing technology,
11 and therefore increase the successful employment of individuals
12 with disabilities, particularly blind and visually impaired and
13 deaf and hard-of-hearing persons, state governmental entities, in
14 developing, procuring, maintaining, or using electronic or
15 information technology, either indirectly or through the use of
16 state funds by other entities, shall comply with the accessibility
17 requirements of Section 508 of the Rehabilitation Act of 1973, as
18 amended (29 U.S.C. Sec. 794d), and regulations implementing
19 that act as set forth in Part 1194 of Title 36 of the Federal Code
20 of Regulations.

21 (3) Any entity that contracts with a state or local entity subject
22 to this section for the provision of electronic or information
23 technology or for the provision of related services shall agree to
24 respond to, and resolve any complaint regarding accessibility of
25 its products or services that is brought to the attention of the
26 entity.

27 (e) *As used in this section, “sex” and “sexual orientation”*
28 *have the same meanings as those terms are defined in*
29 *subdivisions (p) and (q) of Section 12926.*

30 (f) *As used in this section, “race, national origin, ethnic group*
31 *identification, religion, age, sex, sexual orientation, color, or*
32 *disability” includes a perception that a person has any of those*
33 *characteristics or that the person is associated with a person*
34 *who has, or is perceived to have, any of those characteristics.*