

Introduced by Senator KuehlFebruary 24, 2006

An act to amend Section 1941.3 of, and to add Section 1946.7 to, the Civil Code, and to amend Sections 12920, 12921, 12926, 12927, 12940, 12955, and 12955.8 of the Government Code, relating to employment and housing discrimination.

LEGISLATIVE COUNSEL'S DIGEST

SB 1745, as introduced, Kuehl. Employment and housing discrimination.

(1) Existing law requires a landlord of a building intended for human habitation to install and maintain locks on doors and security or locking devices on windows, as specified, and to install specified locks on doors to common areas.

This bill would require a landlord of a building, if requested, to replace or reconfigure household locks upon the request of a tenant or household member who has obtained a valid protective order against a person who is also a tenant, if the requesting tenant or household member provides the landlord with a copy of the order. This bill would prohibit the landlord from providing copies of new keys to the tenant against whom the order of protection was issued.

This bill would provide that the tenant against whom the protective order was issued would not be released from liability or obligations under the rental agreement under these circumstances.

(2) Existing law governs the renewal and termination of lease of real property based on the terms of the lease, or on the behavior of the parties.

This bill would provide that a tenant or household member who was a victim of an act of domestic violence, sexual assault, or stalking, as defined, may terminate the rental agreement and quit the premises and

will be discharged from payment of rent for any period following the last day of the month of the quitting date, if the tenant or household member provides the landlord written proof that the tenant or household member has a valid protective order, as defined, or that the tenant or household member has reported the domestic violence, sexual assault, or stalking to a qualified 3rd party acting in his or her official capacity and the qualified 3rd party has provided the tenant or the household member written documentation that the person is a victim of the act. The bill would provide that the request to terminate the rental agreement must occur within 90 days of the act or circumstance that gave rise to the protective order, and the written request must meet specific criteria. The bill would provide that a tenant who terminates a rental agreement in this manner is entitled to return of the full deposit notwithstanding lease provisions that allow forfeiture of a deposit for early termination and subject to Section 19505.5.

The bill would provide that other tenants who are parties to the rental agreement, except household members who are victims of domestic violence, sexual assault, or stalking and members of that person's family, other than the person alleged to have committed the act, are not released from their obligations under the rental agreement.

(3) Under the California Fair Employment and Housing Act, it is unlawful to engage in specified discriminatory employment practices, including hiring, promotion, and termination on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age. The act also makes it unlawful to engage in specified discriminatory practices in housing accommodations on the basis of race, color, religion, sex, marital status, national origin, ancestry, familial status, disability, or sexual orientation.

This bill would amend the act to include a person's status as a victim of domestic violence, sexual assault, or stalking, as defined, within the unlawful bases for discrimination in employment and housing accommodations.

(4) Under the act, the opportunity to seek, obtain and hold employment and housing without discrimination because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation is a civil right.

This bill would extend the protection to include a person's status as a victim of domestic violence, sexual assault, or stalking.

(5) Existing law prohibits various types of discrimination and harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation, as defined, in housing and employment.

This bill would expand the prohibition to include a person's status as a victim of domestic violence, sexual assault, or stalking, as defined.

(6) Existing law authorizes the Department of Fair Employment and Housing to engage in affirmative actions, as defined, to prevent, and provide for effective remedies against, housing discrimination because of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability.

This bill would expand the definition of affirmative actions to include a person's status as a victim of domestic violence, sexual assault, or stalking.

(7) Under the act, it is an unlawful employment practice, subject to specific limited exceptions, for an employer to refuse to hire or employ, select for a training program leading to employment, or to bar or discharge a person from employment or a training program or to discriminate against a person in compensation, terms, conditions or privileges of employment based on the person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. Employers and employment agencies are prohibited from printing, circulating or causing to be printed or circulated any publication, or to make any nonjob related inquiry of an employee or applicant that expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. The act also provides that a labor organization may not exclude, expel or restrict from its membership, or to provide only 2nd-class or segregated membership or to discriminate against any person in the election of officers or appointment of staff of the labor organization, or to discriminate in any way against any of its members or against any employer or their employees based on a person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical

condition, marital status, sex, age, or sexual orientation. The act also prohibits employers, labor organizations, employment agencies, apprenticeship training program and any training program leading to employment, or any other person to harass an employee, an applicant or a person providing services pursuant to a contract because of that person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

This bill would expand these provisions to prohibit discrimination and harassment against a person based on that person's status as a victim of domestic violence, sexual assault, or stalking.

(8) Under the act, housing discrimination is prohibited on the basis of race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability. The act also prohibits discrimination on the basis of a person's source of income, the failure to account for the aggregate income of coresidents, or the failure to exclude a government rent subsidy from that portion of the rent to be paid by the tenant in assessing his or her eligibility for rental housing.

This bill would extend the protection to a person's status as a victim of domestic violence, sexual assault, or stalking, and would permit an owner of any housing accommodation to include a preference, benefit, or service for those individuals. The bill would permit inquiry into an individual's status as a victim of domestic violence, sexual assault, or stalking for housing programs that include a preference, benefit, or service for those individuals. The bill would also permit a person to make, print, publish, or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a housing accommodation that indicates any preference, benefit, or service based on an individual's status as a victim of domestic violence, sexual assault, or stalking for housing programs that include a preference, benefit, or service for those individuals.

(9) Under the act, proof of an intentional violation of the act includes, but is not limited to, an act or failure to act that is covered by the act or that demonstrates an intent to discriminate, if a person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation is a motivating factor in committing a discriminatory housing practice. The act provides that proof of a violation causing a discriminatory effect is shown if an act or failure to act has the effect, regardless of intent, of unlawfully discriminating

on the basis of a person’s race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

This bill would include a person’s status as a victim of domestic violence, sexual assault, or stalking as the basis of an act of discrimination, or an act or failure to act that has a discriminatory effect.

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 1941.3 of the Civil Code is amended to
2 read:

3 1941.3. (a) On and after July 1, 1998, the landlord, or his or
4 her agent, of a building intended for human habitation shall do all
5 of the following:

6 (1) Install and maintain an operable dead bolt lock on each
7 main swinging entry door of a dwelling unit. The dead bolt lock
8 shall be installed in conformance with the manufacturer’s
9 specifications and shall comply with applicable state and local
10 codes including, but not limited to, those provisions relating to
11 fire and life safety and accessibility for the disabled. When in the
12 locked position, the bolt shall extend a minimum of $\frac{13}{16}$ of an inch
13 in length beyond the strike edge of the door and protrude into the
14 doorjamb.

15 This section shall not apply to horizontal sliding doors.
16 Existing dead bolts of at least one-half inch in length shall satisfy
17 the requirements of this section. Existing locks with a thumb-turn
18 deadlock that have a strike plate attached to the doorjamb and a
19 latch bolt that is held in a vertical position by a guard bolt, a
20 plunger, or an auxiliary mechanism shall also satisfy the
21 requirements of this section. These locks, however, shall be
22 replaced with a dead bolt at least $\frac{13}{16}$ of an inch in length the first
23 time after July 1, 1998, that the lock requires repair or
24 replacement.

25 Existing doors which cannot be equipped with dead bolt locks
26 shall satisfy the requirements of this section if the door is
27 equipped with a metal strap affixed horizontally across the
28 midsection of the door with a dead bolt which extends $\frac{13}{16}$ of an

1 inch in length beyond the strike edge of the door and protrudes
2 into the doorjamb. Locks and security devices other than those
3 described herein which are inspected and approved by an
4 appropriate state or local government agency as providing
5 adequate security shall satisfy the requirements of this section.

6 (2) Install and maintain operable window security or locking
7 devices for windows that are designed to be opened. Louvered
8 windows, casement windows, and all windows more than 12 feet
9 vertically or six feet horizontally from the ground, a roof, or any
10 other platform are excluded from this subdivision.

11 (3) Install locking mechanisms that comply with applicable
12 fire and safety codes on the exterior doors that provide ingress or
13 egress to common areas with access to dwelling units in
14 multifamily developments. This paragraph does not require the
15 installation of a door or gate where none exists on January 1,
16 1998.

17 (b) The tenant shall be responsible for notifying the owner or
18 his or her authorized agent when the tenant becomes aware of an
19 inoperable dead bolt lock or window security or locking device
20 in the dwelling unit. The landlord, or his or her authorized agent,
21 shall not be liable for a violation of subdivision (a) unless he or
22 she fails to correct the violation within a reasonable time after he
23 or she either has actual notice of a deficiency or receives notice
24 of a deficiency.

25 (c) On and after July 1, 1998, the rights and remedies of tenant
26 for a violation of this section by the landlord shall include those
27 available pursuant to Sections 1942, 1942.4, and 1942.5, an
28 action for breach of contract, and an action for injunctive relief
29 pursuant to Section 526 of the Code of Civil Procedure.
30 Additionally, in an unlawful detainer action, after a default in the
31 payment of rent, a tenant may raise the violation of this section as
32 an affirmative defense and shall have a right to the remedies
33 provided by Section 1174.2 of the Code of Civil Procedure.

34 (d) A violation of this section shall not broaden, limit, or
35 otherwise affect the duty of care owed by a landlord pursuant to
36 existing law, including any duty that may exist pursuant to
37 Section 1714. The delayed applicability of the requirements of
38 subdivision (a) shall not affect a landlord's duty to maintain the
39 premises in safe condition.

1 (e) Nothing in this section shall be construed to affect any
2 authority of any public entity that may otherwise exist to impose
3 any additional security requirements upon a landlord.

4 (f) This section shall not apply to any building which has been
5 designated as historically significant by an appropriate local,
6 state, or federal governmental jurisdiction.

7 (g) Subdivisions (a) and (b) shall not apply to any building
8 intended for human habitation which is managed, directly or
9 indirectly, and controlled by the Department of Transportation.
10 This exemption shall not be construed to affect the duty of the
11 Department of Transportation to maintain the premises of these
12 buildings in a safe condition or abrogate any express or implied
13 statement or promise of the Department of Transportation to
14 provide secure premises. Additionally, this exemption shall not
15 apply to residential dwellings acquired prior to July 1, 1997, by
16 the Department of Transportation to complete construction of
17 state highway routes 710 and 238 and related interchanges.

18 (h) *A tenant or household member who has obtained a valid
19 protective order under Section 6320 or 6321 of the Family Code,
20 Section 136.2 of the Penal Code, Section 527.6 of the Code of
21 Civil Procedure, or Section 213.7 of the Welfare and Institutions
22 Code against a person who is also a tenant may request that
23 household locks be replaced or reconfigured. The landlord shall,
24 if provided with a copy of the order, comply with the request and
25 shall not provide copies of the new keys to the tenant against
26 whom the order of protection was issued. This subdivision does
27 not release the tenant against whom the protective order was
28 issued from liability or obligations under the rental agreement.*

29 SEC. 2. Section 1946.7 is added to the Civil Code, to read:

30 1946.7. (a) (1) If a tenant notifies the landlord in writing that
31 he or she or a household member was a victim of an act that
32 constitutes an act of domestic violence as defined in Section
33 6211 of the Family Code, sexual assault under paragraph (1) of
34 subdivision (b) of Section 264.2 of the Penal Code, or stalking
35 under Section 6320 of the Family Code and either subparagraph
36 (A) or (B) applies, then paragraph (2) applies:

37 (A) The tenant or the household member has a valid protective
38 order after hearing issued pursuant to Section 6340 of the Family
39 Code, Sections 136.2 and 1203.097 of the Penal Code, Section

1 527.6 of the Code of Civil Procedure, or Section 213.7 of the
2 Welfare and Institutions Code.

3 (B) The tenant or household member has reported the
4 domestic violence, sexual assault, or stalking to a qualified third
5 party acting in his or her official capacity and the qualified third
6 party has provided the tenant or the household member written
7 documentation that the person is a victim of an act or acts
8 constituting domestic violence, sexual assault, or stalking.

9 (2) When a tenant provides a landlord with either the
10 protective order or the written documentation specified in
11 subparagraph (A) or (B) of paragraph (1), the tenant may
12 terminate the rental agreement and quit the premises and will be
13 discharged from the payment of rent for any period following the
14 last day of the month of the quitting date without further
15 obligation under the rental agreement or under section 1946,
16 provided the following procedures are met:

17 (A) The request to terminate the rental agreement must occur
18 within 90 days of the act or circumstance that gave rise to the
19 protective order or written documentation provided by the
20 qualified third party.

21 (B) (i) Written documentation provided by a qualified third
22 party shall consist of a document signed and dated by the
23 qualified third party stating all of the following:

24 (I) That the tenant or household member notified him or her
25 that she was a victim of an act or acts that constitute the crime of
26 domestic violence, sexual assault, or stalking.

27 (II) The time and date the act or acts occurred.

28 (III) The location where the act or acts occurred.

29 (IV) A brief description of the act or acts of domestic violence,
30 sexual assault, or stalking.

31 (V) That the tenant or household member informed him or her
32 of the name of the alleged perpetrator of the act or acts.

33 (ii) For the purposes of this section, “qualified third party”
34 means a peace officer employed by a state or local law
35 enforcement agency; an employee of an organization that
36 provides social or legal services to victims of domestic violence,
37 sexual assault, or stalking; a health care practitioner as specified
38 under Division 2 of the Business and Professions Code; or a
39 member of the clergy as defined in Section 1030 of the Evidence
40 Code.

1 (iii) A tenant who terminates a rental agreement under this
2 section is discharged from the payment of rent for any period
3 following the last day of the month of the quitting date.
4 Notwithstanding lease provisions that allow for forfeiture of a
5 deposit for early termination, a tenant who terminates under this
6 section is entitled to the return of the full deposit, subject to
7 Section 1950.5.

8 (b) Other tenants who are parties to the rental agreement,
9 except household members who are victims of domestic
10 violence, sexual assault, or stalking and members of that person's
11 family, other than the person alleged to have committed the acts
12 of domestic violence, sexual assault, or stalking, are not released
13 from their obligations under the rental agreement.

14 (c) The provision of written documentation provided by a
15 qualified third party under subparagraph (B) of paragraph (1) of
16 subdivision (a) does not waive the confidential or privileged
17 nature of the communication between a victim of domestic
18 violence, sexual assault, or stalking and a qualified third party
19 under Section 994 (physician-patient privilege), Section 1014
20 (psychotherapist-patient privilege), Section 1033 (privilege of a
21 penitent), Section 1034 (privilege of a clergyman), Section
22 1035.8 (sexual assault counselor-victim privilege), or Section
23 1037.5 (domestic violence counselor-victim privilege) of the
24 Evidence Code. No record or evidence obtained from this
25 disclosure may be used in any civil, administrative, or criminal
26 proceeding against the victim unless a written waiver of
27 applicable evidential privilege is obtained, except that the
28 documentation itself, and no other privileged information, under
29 paragraph (1) of subdivision (a) may be used in civil proceedings
30 brought under this section.

31 SEC. 3. Section 12920 of the Government Code is amended
32 to read:

33 12920. It is hereby declared as the public policy of this state
34 that it is necessary to protect and safeguard the right and
35 opportunity of all persons to seek, obtain, and hold employment
36 without discrimination or abridgment on account of race,
37 religious creed, color, national origin, ancestry, physical
38 disability, mental disability, medical condition, marital status,
39 sex, age, ~~or~~ sexual orientation, *or status as a victim of domestic*
40 *violence, sexual assault, or stalking.*

1 It is recognized that the practice of denying employment
2 opportunity and discriminating in the terms of employment for
3 these reasons foments domestic strife and unrest, deprives the
4 state of the fullest utilization of its capacities for development
5 and advancement, and substantially and adversely affects the
6 interest of employees, employers, and the public in general.

7 Further, the practice of discrimination because of race, color,
8 religion, sex, marital status, national origin, ancestry, familial
9 status, disability, ~~or~~ sexual orientation, *or status as a victim of*
10 *domestic violence, sexual assault, or stalking* in housing
11 accommodations is declared to be against public policy.

12 It is the purpose of this part to provide effective remedies that
13 will eliminate these discriminatory practices.

14 This part shall be deemed an exercise of the police power of
15 the state for the protection of the welfare, health, and peace of the
16 people of this state.

17 SEC. 4. Section 12921 of the Government Code is amended
18 to read:

19 12921. (a) The opportunity to seek, obtain and hold
20 employment without discrimination because of race, religious
21 creed, color, national origin, ancestry, physical disability, mental
22 disability, medical condition, marital status, sex, age, ~~or~~ sexual
23 orientation, *or status as a victim of domestic violence, sexual*
24 *assault, or stalking* is hereby recognized as and declared to be a
25 civil right.

26 (b) The opportunity to seek, obtain, and hold housing without
27 discrimination because of race, color, religion, sex, sexual
28 orientation, marital status, national origin, ancestry, familial
29 status, disability, *status as a victim of domestic violence, sexual*
30 *assault, or stalking*, or any other basis prohibited by Section 51
31 of the Civil Code is hereby recognized as and declared to be a
32 civil right.

33 SEC. 5. Section 12926 of the Government Code is amended
34 to read:

35 12926. As used in this part in connection with unlawful
36 practices, unless a different meaning clearly appears from the
37 context:

38 (a) “Affirmative relief” or “prospective relief” includes the
39 authority to order reinstatement of an employee, awards of
40 backpay, reimbursement of out-of-pocket expenses, hiring,

1 transfers, reassignments, grants of tenure, promotions, cease and
2 desist orders, posting of notices, training of personnel, testing,
3 expunging of records, reporting of records, and any other similar
4 relief that is intended to correct unlawful practices under this
5 part.

6 (b) “Age” refers to the chronological age of any individual
7 who has reached his or her 40th birthday.

8 (c) “Employee” does not include any individual employed by
9 his or her parents, spouse, or child, or any individual employed
10 under a special license in a nonprofit sheltered workshop or
11 rehabilitation facility.

12 (d) “Employer” includes any person regularly employing five
13 or more persons, or any person acting as an agent of an
14 employer, directly or indirectly, the state or any political or civil
15 subdivision of the state, and cities, except as follows:

16 “Employer” does not include a religious association or
17 corporation not organized for private profit.

18 (e) “Employment agency” includes any person undertaking for
19 compensation to procure employees or opportunities to work.

20 (f) “Essential functions” means the fundamental job duties of
21 the employment position the individual with a disability holds or
22 desires. “Essential functions” does not include the marginal
23 functions of the position.

24 (1) A job function may be considered essential for any of
25 several reasons, including, but not limited to, any one or more of
26 the following:

27 (A) The function may be essential because the reason the
28 position exists is to perform that function.

29 (B) The function may be essential because of the limited
30 number of employees available among whom the performance of
31 that job function can be distributed.

32 (C) The function may be highly specialized, so that the
33 incumbent in the position is hired for his or her expertise or
34 ability to perform the particular function.

35 (2) Evidence of whether a particular function is essential
36 includes, but is not limited to, the following:

37 (A) The employer’s judgment as to which functions are
38 essential.

39 (B) Written job descriptions prepared before advertising or
40 interviewing applicants for the job.

1 (C) The amount of time spent on the job performing the
2 function.

3 (D) The consequences of not requiring the incumbent to
4 perform the function.

5 (E) The terms of a collective bargaining agreement.

6 (F) The work experiences of past incumbents in the job.

7 (G) The current work experience of incumbents in similar
8 jobs.

9 (g) “Labor organization” includes any organization that exists
10 and is constituted for the purpose, in whole or in part, of
11 collective bargaining or of dealing with employers concerning
12 grievances, terms or conditions of employment, or of other
13 mutual aid or protection.

14 (h) “Medical condition” means either of the following:

15 (1) Any health impairment related to or associated with a
16 diagnosis of cancer or a record or history of cancer.

17 (2) Genetic characteristics. For purposes of this section,
18 “genetic characteristics” means either of the following:

19 (A) Any scientifically or medically identifiable gene or
20 chromosome, or combination or alteration thereof, that is known
21 to be a cause of a disease or disorder in a person or his or her
22 offspring, or that is determined to be associated with a
23 statistically increased risk of development of a disease or
24 disorder, and that is presently not associated with any symptoms
25 of any disease or disorder.

26 (B) Inherited characteristics that may derive from the
27 individual or family member, that are known to be a cause of a
28 disease or disorder in a person or his or her offspring, or that are
29 determined to be associated with a statistically increased risk of
30 development of a disease or disorder, and that are presently not
31 associated with any symptoms of any disease or disorder.

32 (i) “Mental disability” includes, but is not limited to, all of the
33 following:

34 (1) Having any mental or psychological disorder or condition,
35 such as mental retardation, organic brain syndrome, emotional or
36 mental illness, or specific learning disabilities, that limits a major
37 life activity. For purposes of this section:

38 (A) “Limits” shall be determined without regard to mitigating
39 measures, such as medications, assistive devices, or reasonable

1 accommodations, unless the mitigating measure itself limits a
2 major life activity.

3 (B) A mental or psychological disorder or condition limits a
4 major life activity if it makes the achievement of the major life
5 activity difficult.

6 (C) “Major life activities” shall be broadly construed and shall
7 include physical, mental, and social activities and working.

8 (2) Any other mental or psychological disorder or condition
9 not described in paragraph (1) that requires special education or
10 related services.

11 (3) Having a record or history of a mental or psychological
12 disorder or condition described in paragraph (1) or (2), which is
13 known to the employer or other entity covered by this part.

14 (4) Being regarded or treated by the employer or other entity
15 covered by this part as having, or having had, any mental
16 condition that makes achievement of a major life activity
17 difficult.

18 (5) Being regarded or treated by the employer or other entity
19 covered by this part as having, or having had, a mental or
20 psychological disorder or condition that has no present disabling
21 effect, but that may become a mental disability as described in
22 paragraph (1) or (2).

23 “Mental disability” does not include sexual behavior disorders,
24 compulsive gambling, kleptomania, pyromania, or psychoactive
25 substance use disorders resulting from the current unlawful use
26 of controlled substances or other drugs.

27 (j) “On the bases enumerated in this part” means or refers to
28 discrimination on the basis of one or more of the following: race,
29 religious creed, color, national origin, ancestry, physical
30 disability, mental disability, medical condition, marital status,
31 sex, age, ~~or~~ sexual orientation, *or status as a victim of domestic*
32 *violence, sexual assault, or stalking.*

33 (k) “Physical disability” includes, but is not limited to, all of
34 the following:

35 (1) Having any physiological disease, disorder, condition,
36 cosmetic disfigurement, or anatomical loss that does both of the
37 following:

38 (A) Affects one or more of the following body systems:
39 neurological, immunological, musculoskeletal, special sense
40 organs, respiratory, including speech organs, cardiovascular,

1 reproductive, digestive, genitourinary, hemic and lymphatic,
2 skin, and endocrine.

3 (B) Limits a major life activity. For purposes of this section:

4 (i) “Limits” shall be determined without regard to mitigating
5 measures such as medications, assistive devices, prosthetics, or
6 reasonable accommodations, unless the mitigating measure itself
7 limits a major life activity.

8 (ii) A physiological disease, disorder, condition, cosmetic
9 disfigurement, or anatomical loss limits a major life activity if it
10 makes the achievement of the major life activity difficult.

11 (iii) “Major life activities” shall be broadly construed and
12 includes physical, mental, and social activities and working.

13 (2) Any other health impairment not described in paragraph
14 (1) that requires special education or related services.

15 (3) Having a record or history of a disease, disorder, condition,
16 cosmetic disfigurement, anatomical loss, or health impairment
17 described in paragraph (1) or (2), which is known to the
18 employer or other entity covered by this part.

19 (4) Being regarded or treated by the employer or other entity
20 covered by this part as having, or having had, any physical
21 condition that makes achievement of a major life activity
22 difficult.

23 (5) Being regarded or treated by the employer or other entity
24 covered by this part as having, or having had, a disease, disorder,
25 condition, cosmetic disfigurement, anatomical loss, or health
26 impairment that has no present disabling effect but may become
27 a physical disability as described in paragraph (1) or (2).

28 (6) “Physical disability” does not include sexual behavior
29 disorders, compulsive gambling, kleptomania, pyromania, or
30 psychoactive substance use disorders resulting from the current
31 unlawful use of controlled substances or other drugs.

32 (l) Notwithstanding subdivisions (i) and (k), if the definition of
33 “disability” used in the Americans with Disabilities Act of 1990
34 (Public Law 101-336) would result in broader protection of the
35 civil rights of individuals with a mental disability or physical
36 disability, as defined in subdivision (i) or (k), or would include
37 any medical condition not included within those definitions, then
38 that broader protection or coverage shall be deemed incorporated
39 by reference into, and shall prevail over conflicting provisions of,
40 the definitions in subdivisions (i) and (k).

1 (m) “Race, religious creed, color, national origin, ancestry,
2 physical disability, mental disability, medical condition, marital
3 status, sex, age, or sexual orientation” includes a perception that
4 the person has any of those characteristics or that the person is
5 associated with a person who has, or is perceived to have, any of
6 those characteristics.

7 (n) “Reasonable accommodation” may include either of the
8 following:

9 (1) Making existing facilities used by employees readily
10 accessible to, and usable by, individuals with disabilities.

11 (2) Job restructuring, part-time or modified work schedules,
12 reassignment to a vacant position, acquisition or modification of
13 equipment or devices, adjustment or modifications of
14 examinations, training materials or policies, the provision of
15 qualified readers or interpreters, and other similar
16 accommodations for individuals with disabilities.

17 (o) “Religious creed,” “religion,” “religious observance,”
18 “religious belief,” and “creed” include all aspects of religious
19 belief, observance, and practice.

20 (p) “Sex” includes, but is not limited to, pregnancy, childbirth,
21 or medical conditions related to pregnancy or childbirth. “Sex”
22 also includes, but is not limited to, a person’s gender, as defined
23 in Section 422.56 of the Penal Code.

24 (q) “Sexual orientation” means heterosexuality,
25 homosexuality, and bisexuality.

26 (r) “*Domestic violence*” means any of the types of abuse set
27 forth in Section 6211 of the Family Code.

28 (s) “*Sexual assault*” means any of the crimes set forth in
29 Section 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j,
30 267, 269, 273.4, 285, 286, 288, 288a, 288.5, 289, or 311.4 of the
31 Penal Code.

32 (t) “*Stalking*” means any of the crimes set forth in Section
33 646.9 of the Penal Code.

34 (u) “Supervisor” means any individual having the authority, in
35 the interest of the employer, to hire, transfer, suspend, lay off,
36 recall, promote, discharge, assign, reward, or discipline other
37 employees, or the responsibility to direct them, or to adjust their
38 grievances, or effectively to recommend that action, if, in
39 connection with the foregoing, the exercise of that authority is

1 not of a merely routine or clerical nature, but requires the use of
2 independent judgment.

3 (s)

4 (v) “Undue hardship” means an action requiring significant
5 difficulty or expense, when considered in light of the following
6 factors:

7 (1) The nature and cost of the accommodation needed.

8 (2) The overall financial resources of the facilities involved in
9 the provision of the reasonable accommodations, the number of
10 persons employed at the facility, and the effect on expenses and
11 resources or the impact otherwise of these accommodations upon
12 the operation of the facility.

13 (3) The overall financial resources of the covered entity, the
14 overall size of the business of a covered entity with respect to the
15 number of employees, and the number, type, and location of its
16 facilities.

17 (4) The type of operations, including the composition,
18 structure, and functions of the workforce of the entity.

19 (5) The geographic separateness, administrative, or fiscal
20 relationship of the facility or facilities.

21 SEC. 6. Section 12927 of the Government Code is amended
22 to read:

23 12927. As used in this part in connection with housing
24 accommodations, unless a different meaning clearly appears
25 from the context:

26 (a) “Affirmative actions” means any activity for the purpose of
27 eliminating discrimination in housing accommodations because
28 of race, color, religion, sex, marital status, national origin,
29 ancestry, familial status, ~~or~~ disability, *or status as a victim of*
30 *domestic violence, sexual assault, or stalking.*

31 (b) “Conciliation council” means a nonprofit organization, or
32 a city or county human relations commission, which provides
33 education, factfinding, and mediation or conciliation services in
34 resolution of complaints of housing discrimination.

35 (c) (1) “Discrimination” includes refusal to sell, rent, or lease
36 housing accommodations; includes refusal to negotiate for the
37 sale, rental, or lease of housing accommodations; includes
38 representation that a housing accommodation is not available for
39 inspection, sale, or rental when that housing accommodation is in
40 fact so available; includes any other denial or withholding of

1 housing accommodations; includes provision of inferior terms,
2 conditions, privileges, facilities, or services in connection with
3 those housing accommodations; includes harassment in
4 connection with those housing accommodations; includes the
5 cancellation or termination of a sale or rental agreement; includes
6 the provision of segregated or separated housing
7 accommodations; includes the refusal to permit, at the expense of
8 the disabled person, reasonable modifications of existing
9 premises occupied or to be occupied by the disabled person, if
10 the modifications may be necessary to afford the disabled person
11 full enjoyment of the premises, except that, in the case of a
12 rental, the landlord may, where it is reasonable to do so condition
13 permission for a modification on the renter's agreeing to restore
14 the interior of the premises to the condition that existed before
15 the modification (other than for reasonable wear and tear), and
16 includes refusal to make reasonable accommodations in rules,
17 policies, practices, or services when these accommodations may
18 be necessary to afford a disabled person equal opportunity to use
19 and enjoy a dwelling.

20 (2) "Discrimination" does not include either of the following:

21 (A) Refusal to rent or lease a portion of an owner-occupied
22 single-family house to a person as a roomer or boarder living
23 within the household, provided that no more than one roomer or
24 boarder is to live within the household, and the owner complies
25 with subdivision (c) of Section 12955, which prohibits
26 discriminatory notices, statements, and advertisements.

27 (B) Where the sharing of living areas in a single dwelling unit
28 is involved, the use of words stating or tending to imply that the
29 housing being advertised is available only to persons of one sex.

30 (d) "Housing accommodation" means any building, structure,
31 or portion thereof that is occupied as, or intended for occupancy
32 as, a residence by one or more families and any vacant land that
33 is offered for sale or lease for the construction thereon of any
34 building, structure, or portion thereof intended to be so occupied.

35 (e) "Owner" includes the lessee, sublessee, assignee,
36 managing agent, real estate broker or salesperson, or any person
37 having any legal or equitable right of ownership or possession or
38 the right to rent or lease housing accommodations, and includes
39 the state and any of its political subdivisions and any agency
40 thereof.

1 (f) “Person” includes all individuals and entities that are
2 described in Section 3602(d) of Title 42 of the United States
3 Code, and in the definition of “owner” in subdivision (e) of this
4 section, and all institutional third parties, including the Federal
5 Home Loan Mortgage Corporation.

6 (g) “Aggrieved person” includes any person who claims to
7 have been injured by a discriminatory housing practice or
8 believes that the person will be injured by a discriminatory
9 housing practice that is about to occur.

10 (h) “Real estate-related transactions” include any of the
11 following:

12 (1) The making or purchasing of loans or providing other
13 financial assistance that is for the purpose of purchasing,
14 constructing, improving, repairing, or maintaining a dwelling, or
15 that is secured by residential real estate.

16 (2) The selling, brokering, or appraising of residential real
17 property.

18 (3) The use of territorial underwriting requirements, for the
19 purpose of requiring a borrower in a specific geographic area to
20 obtain earthquake insurance, required by an institutional third
21 party on a loan secured by residential real property.

22 SEC. 7. Section 12940 of the Government Code is amended
23 to read:

24 12940. It shall be an unlawful employment practice, unless
25 based upon a bona fide occupational qualification, or, except
26 where based upon applicable security regulations established by
27 the United States or the State of California:

28 (a) For an employer, because of the race, religious creed,
29 color, national origin, ancestry, physical disability, mental
30 disability, medical condition, marital status, sex, age, ~~or~~ sexual
31 orientation, *or status as a victim of domestic violence, sexual*
32 *assault, or stalking* of any person, to refuse to hire or employ the
33 person or to refuse to select the person for a training program
34 leading to employment, or to bar or to discharge the person from
35 employment or from a training program leading to employment,
36 or to discriminate against the person in compensation or in terms,
37 conditions, or privileges of employment.

38 (1) This part does not prohibit an employer from refusing to
39 hire or discharging an employee with a physical or mental
40 disability, or subject an employer to any legal liability resulting

1 from the refusal to employ or the discharge of an employee with
2 a physical or mental disability, where the employee, because of
3 his or her physical or mental disability, is unable to perform his
4 or her essential duties even with reasonable accommodations, or
5 cannot perform those duties in a manner that would not endanger
6 his or her health or safety or the health or safety of others even
7 with reasonable accommodations.

8 (2) This part does not prohibit an employer from refusing to
9 hire or discharging an employee who, because of the employee's
10 medical condition, is unable to perform his or her essential duties
11 even with reasonable accommodations, or cannot perform those
12 duties in a manner that would not endanger the employee's
13 health or safety or the health or safety of others even with
14 reasonable accommodations. Nothing in this part shall subject an
15 employer to any legal liability resulting from the refusal to
16 employ or the discharge of an employee who, because of the
17 employee's medical condition, is unable to perform his or her
18 essential duties, or cannot perform those duties in a manner that
19 would not endanger the employee's health or safety or the health
20 or safety of others even with reasonable accommodations.

21 (3) Nothing in this part relating to discrimination on account
22 of marital status shall do either of the following:

23 (A) Affect the right of an employer to reasonably regulate, for
24 reasons of supervision, safety, security, or morale, the working of
25 spouses in the same department, division, or facility, consistent
26 with the rules and regulations adopted by the commission.

27 (B) Prohibit bona fide health plans from providing additional
28 or greater benefits to employees with dependents than to those
29 employees without or with fewer dependents.

30 (4) Nothing in this part relating to discrimination on account
31 of sex shall affect the right of an employer to use veteran status
32 as a factor in employee selection or to give special consideration
33 to Vietnam era veterans.

34 (5) Nothing in this part prohibits an employer from refusing to
35 employ an individual because of his or her age if the law compels
36 or provides for that refusal. Promotions within the existing staff,
37 hiring or promotion on the basis of experience and training,
38 rehiring on the basis of seniority and prior service with the
39 employer, or hiring under an established recruiting program from

1 high schools, colleges, universities, or trade schools do not, in
2 and of themselves, constitute unlawful employment practices.

3 (b) For a labor organization, because of the race, religious
4 creed, color, national origin, ancestry, physical disability, mental
5 disability, medical condition, marital status, sex, age, ~~or~~ sexual
6 orientation, *or status as a victim of domestic violence, sexual*
7 *assault, or stalking* of any person, to exclude, expel or restrict
8 from its membership the person, or to provide only second-class
9 or segregated membership or to discriminate against any person
10 because of the race, religious creed, color, national origin,
11 ancestry, physical disability, mental disability, medical condition,
12 marital status, sex, age, ~~or~~ sexual orientation, *or status as a*
13 *victim of domestic violence, sexual assault, or stalking* of the
14 person in the election of officers of the labor organization or in
15 the selection of the labor organization's staff or to discriminate in
16 any way against any of its members or against any employer or
17 against any person employed by an employer.

18 (c) For any person to discriminate against any person in the
19 selection or training of that person in any apprenticeship training
20 program or any other training program leading to employment
21 because of the race, religious creed, color, national origin,
22 ancestry, physical disability, mental disability, medical condition,
23 marital status, sex, age, ~~or~~ sexual orientation, *or status as a*
24 *victim of domestic violence, sexual assault, or stalking* of the
25 person discriminated against.

26 (d) For any employer or employment agency to print or
27 circulate or cause to be printed or circulated any publication, or
28 to make any non-job-related inquiry of an employee or applicant,
29 either verbal or through use of an application form, that
30 expresses, directly or indirectly, any limitation, specification, or
31 discrimination as to race, religious creed, color, national origin,
32 ancestry, physical disability, mental disability, medical condition,
33 marital status, sex, age, ~~or~~ sexual orientation, *status as a victim of*
34 *domestic violence, sexual assault, or stalking* or any intent to
35 make any such limitation, specification or discrimination.
36 Nothing in this part prohibits an employer or employment agency
37 from inquiring into the age of an applicant, or from specifying
38 age limitations, where the law compels or provides for that
39 action.

1 (e) (1) Except as provided in paragraph (2) or (3), for any
2 employer or employment agency to require any medical or
3 psychological examination of an applicant, to make any medical
4 or psychological inquiry of an applicant, to make any inquiry
5 whether an applicant has a mental disability or physical disability
6 or medical condition, or to make any inquiry regarding the nature
7 or severity of a physical disability, mental disability, or medical
8 condition.

9 (2) Notwithstanding paragraph (1), an employer or
10 employment agency may inquire into the ability of an applicant
11 to perform job-related functions and may respond to an
12 applicant's request for reasonable accommodation.

13 (3) Notwithstanding paragraph (1), an employer or
14 employment agency may require a medical or psychological
15 examination or make a medical or psychological inquiry of a job
16 applicant after an employment offer has been made but prior to
17 the commencement of employment duties, provided that the
18 examination or inquiry is job-related and consistent with business
19 necessity and that all entering employees in the same job
20 classification are subject to the same examination or inquiry.

21 (f) (1) Except as provided in paragraph (2), for any employer
22 or employment agency to require any medical or psychological
23 examination of an employee, to make any medical or
24 psychological inquiry of an employee, to make any inquiry
25 whether an employee has a mental disability, physical disability,
26 or medical condition, or to make any inquiry regarding the nature
27 or severity of a physical disability, mental disability, or medical
28 condition.

29 (2) Notwithstanding paragraph (1), an employer or
30 employment agency may require any examinations or inquiries
31 that it can show to be job-related and consistent with business
32 necessity. An employer or employment agency may conduct
33 voluntary medical examinations, including voluntary medical
34 histories, which are part of an employee health program available
35 to employees at that worksite.

36 (g) For any employer, labor organization, or employment
37 agency to harass, discharge, expel, or otherwise discriminate
38 against any person because the person has made a report pursuant
39 to Section 11161.8 of the Penal Code that prohibits retaliation

1 against hospital employees who report suspected patient abuse by
2 health facilities or community care facilities.

3 (h) For any employer, labor organization, employment agency,
4 or person to discharge, expel, or otherwise discriminate against
5 any person because the person has opposed any practices
6 forbidden under this part or because the person has filed a
7 complaint, testified, or assisted in any proceeding under this part.

8 (i) For any person to aid, abet, incite, compel, or coerce the
9 doing of any of the acts forbidden under this part, or to attempt to
10 do so.

11 (j) (1) For an employer, labor organization, employment
12 agency, apprenticeship training program or any training program
13 leading to employment, or any other person, because of race,
14 religious creed, color, national origin, ancestry, physical
15 disability, mental disability, medical condition, marital status,
16 sex, age, ~~or~~ sexual orientation, *status as a victim of domestic*
17 *violence, sexual assault, or stalking*, to harass an employee, an
18 applicant, or a person providing services pursuant to a contract.
19 Harassment of an employee, an applicant, or a person providing
20 services pursuant to a contract by an employee, other than an
21 agent or supervisor, shall be unlawful if the entity, or its agents
22 or supervisors, knows or should have known of this conduct and
23 fails to take immediate and appropriate corrective action. An
24 employer may also be responsible for the acts of nonemployees,
25 with respect to sexual harassment of employees, applicants, or
26 persons providing services pursuant to a contract in the
27 workplace, where the employer, or its agents or supervisors,
28 knows or should have known of the conduct and fails to take
29 immediate and appropriate corrective action. In reviewing cases
30 involving the acts of nonemployees, the extent of the employer's
31 control and any other legal responsibility which the employer
32 may have with respect to the conduct of those nonemployees
33 shall be considered. An entity shall take all reasonable steps to
34 prevent harassment from occurring. Loss of tangible job benefits
35 shall not be necessary in order to establish harassment.

36 (2) The provisions of this subdivision are declaratory of
37 existing law, except for the new duties imposed on employers
38 with regard to harassment.

39 (3) An employee of an entity subject to this subdivision is
40 personally liable for any harassment prohibited by this section

1 that is perpetrated by the employee, regardless of whether the
2 employer or covered entity knows or should have known of the
3 conduct and fails to take immediate and appropriate corrective
4 action.

5 (4) (A) For purposes of this subdivision only, “employer”
6 means any person regularly employing one or more persons or
7 regularly receiving the services of one or more persons providing
8 services pursuant to a contract, or any person acting as an agent
9 of an employer, directly or indirectly, the state, or any political or
10 civil subdivision of the state, and cities. The definition of
11 “employer” in subdivision (d) of Section 12926 applies to all
12 provisions of this section other than this subdivision.

13 (B) Notwithstanding subparagraph (A), for purposes of this
14 subdivision, “employer” does not include a religious association
15 or corporation not organized for private profit, except as
16 provided in Section 12926.2.

17 (C) For purposes of this subdivision, “harassment” because of
18 sex includes sexual harassment, gender harassment, and
19 harassment based on pregnancy, childbirth, or related medical
20 conditions.

21 (5) For purposes of this subdivision, “a person providing
22 services pursuant to a contract” means a person who meets all of
23 the following criteria:

24 (A) The person has the right to control the performance of the
25 contract for services and discretion as to the manner of
26 performance.

27 (B) The person is customarily engaged in an independently
28 established business.

29 (C) The person has control over the time and place the work is
30 performed, supplies the tools and instruments used in the work,
31 and performs work that requires a particular skill not ordinarily
32 used in the course of the employer’s work.

33 (k) For an employer, labor organization, employment agency,
34 apprenticeship training program, or any training program leading
35 to employment, to fail to take all reasonable steps necessary to
36 prevent discrimination and harassment from occurring.

37 (l) For an employer or other entity covered by this part to
38 refuse to hire or employ a person or to refuse to select a person
39 for a training program leading to employment or to bar or to
40 discharge a person from employment or from a training program

1 leading to employment, or to discriminate against a person in
2 compensation or in terms, conditions, or privileges of
3 employment because of a conflict between the person's religious
4 belief or observance and any employment requirement, unless the
5 employer or other entity covered by this part demonstrates that it
6 has explored any available reasonable alternative means of
7 accommodating the religious belief or observance, including the
8 possibilities of excusing the person from those duties that conflict
9 with his or her religious belief or observance or permitting those
10 duties to be performed at another time or by another person, but
11 is unable to reasonably accommodate the religious belief or
12 observance without undue hardship on the conduct of the
13 business of the employer or other entity covered by this part.
14 Religious belief or observance, as used in this section, includes,
15 but is not limited to, observance of a Sabbath or other religious
16 holy day or days, and reasonable time necessary for travel prior
17 and subsequent to a religious observance.

18 (m) For an employer or other entity covered by this part to fail
19 to make reasonable accommodation for the known physical or
20 mental disability of an applicant or employee. Nothing in this
21 subdivision or in paragraph (1) or (2) of subdivision (a) shall be
22 construed to require an accommodation that is demonstrated by
23 the employer or other covered entity to produce undue hardship
24 to its operation.

25 (n) For an employer or other entity covered by this part to fail
26 to engage in a timely, good faith, interactive process with the
27 employee or applicant to determine effective reasonable
28 accommodations, if any, in response to a request for reasonable
29 accommodation by an employee or applicant with a known
30 physical or mental disability or known medical condition.

31 (o) For an employer or other entity covered by this part, to
32 subject, directly or indirectly, any employee, applicant, or other
33 person to a test for the presence of a genetic characteristic.

34 SEC. 8. Section 12955 of the Government Code is amended
35 to read:

36 12955. It shall be unlawful:

37 (a) For the owner of any housing accommodation to
38 discriminate against or harass any person because of the race,
39 color, religion, sex, sexual orientation, marital status, national
40 origin, ancestry, familial status, source of income, or disability of

1 ~~that person~~, or that person's status as a victim of domestic
2 violence, sexual assault, or stalking. It is permissible for the
3 owner of any housing accommodation to include a preference,
4 benefit, or service for individuals who are victims of domestic
5 violence, sexual assault, or stalking.

6 (b) For the owner of any housing accommodation to make or
7 to cause to be made any written or oral inquiry concerning the
8 race, color, religion, sex, sexual orientation, marital status,
9 national origin, ancestry, familial status, ~~or~~ disability, or status as
10 a victim of domestic violence, sexual assault, or stalking of any
11 person seeking to purchase, rent or lease any housing
12 accommodation. *Inquiry into an individual's status as a victim of*
13 *domestic violence, sexual assault, or stalking is permissible for*
14 *housing programs that include a preference, benefit, or service*
15 *for those individuals.*

16 (c) For any person to make, print, or publish, or cause to be
17 made, printed, or published any notice, statement, or
18 advertisement, with respect to the sale or rental of a housing
19 accommodation that indicates any preference, limitation, or
20 discrimination based on race, color, religion, sex, sexual
21 orientation, marital status, national origin, ancestry, familial
22 status, source of income, ~~or~~ disability, or status as a victim of
23 domestic violence, sexual assault, or stalking or an intention to
24 make that preference, limitation, or discrimination. *A person may*
25 *make, print, or publish, or cause to be made, printed, or*
26 *published any notice, statement, or advertisement, with respect to*
27 *the sale or rental of a housing accommodation that indicates any*
28 *preference, benefit, or service based on an individual's status as*
29 *a victim of domestic violence, sexual assault, or stalking where*
30 *housing programs include a preference, benefit, or service for*
31 *those people.*

32 (d) For any person subject to the provisions of Section 51 of
33 the Civil Code, as that section applies to housing
34 accommodations, to discriminate against any person on the basis
35 of sex, sexual orientation, color, race, religion, ancestry, national
36 origin, familial status, marital status, disability, source of income,
37 *status as a victim of domestic violence, sexual assault, or*
38 *stalking*, or on any other basis prohibited by that section.

39 (e) For any person, bank, mortgage company or other financial
40 institution that provides financial assistance for the purchase,

1 organization, or construction of any housing accommodation to
2 discriminate against any person or group of persons because of
3 the race, color, religion, sex, sexual orientation, marital status,
4 national origin, ancestry, familial status, source of income, ~~or~~
5 disability, *or status as a victim of domestic violence, sexual*
6 *assault, or stalking* in the terms, conditions, or privileges relating
7 to the obtaining or use of that financial assistance.

8 (f) For any owner of housing accommodations to harass, evict,
9 or otherwise discriminate against any person in the sale or rental
10 of housing accommodations when the owner's dominant purpose
11 is retaliation against a person who has opposed practices
12 unlawful under this section, informed law enforcement agencies
13 of practices believed unlawful under this section, has testified or
14 assisted in any proceeding under this part, or has aided or
15 encouraged a person to exercise or enjoy the rights secured by
16 this part. Nothing herein is intended to cause or permit the delay
17 of an unlawful detainer action.

18 (g) For any person to aid, abet, incite, compel, or coerce the
19 doing of any of the acts or practices declared unlawful in this
20 section, or to attempt to do so.

21 (h) For any person, for profit, to induce any person to sell or
22 rent any dwelling by representations regarding the entry or
23 prospective entry into the neighborhood of a person or persons of
24 a particular race, color, religion, sex, sexual orientation, marital
25 status, ancestry, disability, source of income, familial status, ~~or~~
26 national origin, *or status as a victim of domestic violence, sexual*
27 *assault, or stalking*.

28 (i) For any person or other organization or entity whose
29 business involves real estate-related transactions to discriminate
30 against any person in making available a transaction, or in the
31 terms and conditions of a transaction, because of race, color,
32 religion, sex, sexual orientation, marital status, national origin,
33 ancestry, source of income, familial status, ~~or~~ disability, *status as*
34 *a victim of domestic violence, sexual assault, or stalking*.

35 (j) To deny a person access to, or membership or participation
36 in, a multiple listing service, real estate brokerage organization,
37 or other service because of race, color, religion, sex, sexual
38 orientation, marital status, ancestry, disability, familial status,
39 source of income, ~~or~~ national origin, *or status as a victim of*
40 *domestic violence, sexual assault, or stalking*.

1 (k) To otherwise make unavailable or deny a dwelling based
2 on discrimination because of race, color, religion, sex, sexual
3 orientation, familial status, source of income, disability,~~or~~
4 national origin, *or status as a victim of domestic violence, sexual*
5 *assault, or stalking.*

6 (l) To discriminate through public or private land use
7 practices, decisions, and authorizations because of race, color,
8 religion, sex, sexual orientation, familial status, marital status,
9 disability, national origin, source of income,~~or~~ ancestry, *or*
10 *status as a victim of domestic violence, sexual assault, or*
11 *stalking.* Discrimination includes, but is not limited to, restrictive
12 covenants, zoning laws, denials of use permits, and other actions
13 authorized under the Planning and Zoning Law (Title 7
14 (commencing with Section 65000)), that make housing
15 opportunities unavailable.

16 Discrimination under this subdivision also includes the
17 existence of a restrictive covenant, regardless of whether
18 accompanied by a statement that the restrictive covenant is
19 repealed or void. This paragraph shall become operative on
20 January 1, 2001.

21 (m) As used in this section, “race, color, religion, sex, sexual
22 orientation, marital status, national origin, ancestry, familial
23 status, source of income,~~or disability~~” *disability, or status as a*
24 *victim of domestic violence, sexual assault, or stalking*” includes
25 a perception that the person has any of those characteristics or
26 that the person is associated with a person who has, or is
27 perceived to have, any of those characteristics.

28 (n) To use a financial or income standard in the rental of
29 housing that fails to account for the aggregate income of persons
30 residing together or proposing to reside together on the same
31 basis as the aggregate income of married persons residing
32 together or proposing to reside together.

33 (o) In instances where there is a government rent subsidy, to
34 use a financial or income standard in assessing eligibility for the
35 rental of housing that is not based on the portion of the rent to be
36 paid by the tenant.

37 (p) (1) For the purposes of this section, “source of income”
38 means lawful, verifiable income paid directly to a tenant or paid
39 to a representative of a tenant. For the purposes of this section, a
40 landlord is not considered a representative of a tenant.

1 (2) For the purposes of this section, it shall not constitute
2 discrimination based on source of income to make a written or
3 oral inquiry concerning the level or source of income.

4 SEC. 9. Section 12955.8 of the Government Code is amended
5 to read:

6 12955.8. For purposes of this article, in connection with
7 unlawful practices:

8 (a) Proof of an intentional violation of this article includes, but
9 is not limited to, an act or failure to act that is otherwise covered
10 by this part, that demonstrates an intent to discriminate in any
11 manner in violation of this part. A person intends to discriminate
12 if race, color, religion, sex, sexual orientation, familial status,
13 marital status, disability, national origin, ~~or~~ ancestry, *or status as*
14 *a victim of domestic violence, sexual assault, or stalking* is a
15 motivating factor in committing a discriminatory housing
16 practice even though other factors may have also motivated the
17 practice. An intent to discriminate may be established by direct
18 or circumstantial evidence.

19 (b) Proof of a violation causing a discriminatory effect is
20 shown if an act or failure to act that is otherwise covered by this
21 part, and that has the effect, regardless of intent, of unlawfully
22 discriminating on the basis of race, color, religion, sex, sexual
23 orientation, familial status, marital status, disability, national
24 origin, ~~or~~ ancestry, *or status as a victim of domestic violence,*
25 *sexual assault, or stalking.* A business establishment whose
26 action or inaction has an unintended discriminatory effect shall
27 not be considered to have committed an unlawful housing
28 practice in violation of this part if the business establishment can
29 establish that the action or inaction is necessary to the operation
30 of the business and effectively carries out the significant business
31 need it is alleged to serve. In cases that do not involve a business
32 establishment, the person whose action or inaction has an
33 unintended discriminatory effect shall not be considered to have
34 committed an unlawful housing practice in violation of this part
35 if the person can establish that the action or inaction is necessary
36 to achieve an important purpose sufficiently compelling to
37 override the discriminatory effect and effectively carries out the
38 purpose it is alleged to serve.

39 (1) Any determination of a violation pursuant to this
40 subdivision shall consider whether or not there are feasible

1 alternatives that would equally well or better accomplish the
2 purpose advanced with a less discriminatory effect.
3 (2) For purposes of this subdivision, the term “business
4 establishment” shall have the same meaning as in Section 51 of
5 the Civil Code.

O