

**Introduced by Senator Kuehl**

February 23, 2007

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An act to amend Sections 12920, 12921, 12926, 12940, and 12955.2 of the Government Code, relating to fair employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 836, as introduced, Kuehl. Fair employment: familial status.

Existing law, the Fair Employment and Housing Act, protects and safeguards the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

This bill would include "familial status" as an additional basis upon which the right to seek, obtain, and hold employment cannot be denied.

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 12920 of the Government Code is
- 2 amended to read:
- 3 12920. It is hereby declared as the public policy of this state
- 4 that it is necessary to protect and safeguard the right and
- 5 opportunity of all persons to seek, obtain, and hold employment
- 6 without discrimination or abridgment on account of race, religious
- 7 creed, color, national origin, ancestry, physical disability, mental
- 8 disability, medical condition, marital status, *familial status*, sex,
- 9 age, or sexual orientation.

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 state  
4 of the fullest utilization of its capacities for development and  
5 advancement, and substantially and adversely affects the interest  
6 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 in housing accommodations  
10 is declared to be against public policy.

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

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

16 SEC. 2. Section 12921 of the Government Code is amended  
17 to read:

18 12921. (a) The opportunity to seek, obtain and hold  
19 employment without discrimination because of race, religious  
20 creed, color, national origin, ancestry, physical disability, mental  
21 disability, medical condition, marital status, *familial status*, sex,  
22 age, or sexual orientation is hereby recognized as and declared to  
23 be a civil right.

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

29 SEC. 3. Section 12926 of the Government Code is amended  
30 to read:

31 12926. As used in this part in connection with unlawful  
32 practices, unless a different meaning clearly appears from the  
33 context:

34 (a) “Affirmative relief” or “prospective relief” includes the  
35 authority to order reinstatement of an employee, awards of backpay,  
36 reimbursement of out-of-pocket expenses, hiring, transfers,  
37 reassignments, grants of tenure, promotions, cease and desist  
38 orders, posting of notices, training of personnel, testing, expunging  
39 of records, reporting of records, and any other similar relief that  
40 is intended to correct unlawful practices under this part.

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

3 (c) “Employee” does not include any individual employed by  
4 his or her parents, spouse, or child, or any individual employed  
5 under a special license in a nonprofit sheltered workshop or  
6 rehabilitation facility.

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

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

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

15 (f) “Essential functions” means the fundamental job duties of  
16 the employment position the individual with a disability holds or  
17 desires. “Essential functions” does not include the marginal  
18 functions of the position.

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

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

24 (B) The function may be essential because of the limited number  
25 of employees available among whom the performance of that job  
26 function can be distributed.

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

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

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

33 (B) Written job descriptions prepared before advertising or  
34 interviewing applicants for the job.

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

36 (D) The consequences of not requiring the incumbent to perform  
37 the function.

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

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

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

1 (g) “Labor organization” includes any organization that exists  
2 and is constituted for the purpose, in whole or in part, of collective  
3 bargaining or of dealing with employers concerning grievances,  
4 terms or conditions of employment, or of other mutual aid or  
5 protection.

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

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

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

11 (A) Any scientifically or medically identifiable gene or  
12 chromosome, or combination or alteration thereof, that is known  
13 to be a cause of a disease or disorder in a person or his or her  
14 offspring, or that is determined to be associated with a statistically  
15 increased risk of development of a disease or disorder, and that is  
16 presently not associated with any symptoms of any disease or  
17 disorder.

18 (B) Inherited characteristics that may derive from the individual  
19 or family member, that are known to be a cause of a disease or  
20 disorder in a person or his or her offspring, or that are determined  
21 to be associated with a statistically increased risk of development  
22 of a disease or disorder, and that are presently not associated with  
23 any symptoms of any disease or disorder.

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

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

30 (A) “Limits” shall be determined without regard to mitigating  
31 measures, such as medications, assistive devices, or reasonable  
32 accommodations, unless the mitigating measure itself limits a  
33 major life activity.

34 (B) A mental or psychological disorder or condition limits a  
35 major life activity if it makes the achievement of the major life  
36 activity difficult.

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

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

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

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

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

15 “Mental disability” does not include sexual behavior disorders,  
16 compulsive gambling, kleptomania, pyromania, or psychoactive  
17 substance use disorders resulting from the current unlawful use of  
18 controlled substances or other drugs.

19 (j) “On the bases enumerated in this part” means or refers to  
20 discrimination on the basis of one or more of the following: race,  
21 religious creed, color, national origin, ancestry, physical disability,  
22 mental disability, medical condition, marital status, *familial status*,  
23 sex, age, or sexual orientation.

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

26 (1) Having any physiological disease, disorder, condition,  
27 cosmetic disfigurement, or anatomical loss that does both of the  
28 following:

29 (A) Affects one or more of the following body systems:  
30 neurological, immunological, musculoskeletal, special sense  
31 organs, respiratory, including speech organs, cardiovascular,  
32 reproductive, digestive, genitourinary, hemic and lymphatic, skin,  
33 and endocrine.

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

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

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

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

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

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

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

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

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

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

33 (m) “Race, religious creed, color, national origin, ancestry,  
34 physical disability, mental disability, medical condition, marital  
35 status, *familial status*, sex, age, or sexual orientation” includes a  
36 perception that the person has any of those characteristics or that  
37 the person is associated with a person who has, or is perceived to  
38 have, any of those characteristics.

39 (n) “Reasonable accommodation” may include either of the  
40 following:

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

3 (2) Job restructuring, part-time or modified work schedules,  
4 reassignment to a vacant position, acquisition or modification of  
5 equipment or devices, adjustment or modifications of examinations,  
6 training materials or policies, the provision of qualified readers or  
7 interpreters, and other similar accommodations for individuals  
8 with disabilities.

9 (o) “Religious creed,” “religion,” “religious observance,”  
10 “religious belief,” and “creed” include all aspects of religious  
11 belief, observance, and practice.

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

16 (q) “Sexual orientation” means heterosexuality, homosexuality,  
17 and bisexuality.

18 (r) “Supervisor” means any individual having the authority, in  
19 the interest of the employer, to hire, transfer, suspend, lay off,  
20 recall, promote, discharge, assign, reward, or discipline other  
21 employees, or the responsibility to direct them, or to adjust their  
22 grievances, or effectively to recommend that action, if, in  
23 connection with the foregoing, the exercise of that authority is not  
24 of a merely routine or clerical nature, but requires the use of  
25 independent judgment.

26 (s) “Undue hardship” means an action requiring significant  
27 difficulty or expense, when considered in light of the following  
28 factors:

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

30 (2) The overall financial resources of the facilities involved in  
31 the provision of the reasonable accommodations, the number of  
32 persons employed at the facility, and the effect on expenses and  
33 resources or the impact otherwise of these accommodations upon  
34 the operation of the facility.

35 (3) The overall financial resources of the covered entity, the  
36 overall size of the business of a covered entity with respect to the  
37 number of employees, and the number, type, and location of its  
38 facilities.

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

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

3 (t) (1) *In connection with unlawful employment practices, the*  
4 *meaning of “familial status” includes being an individual who is*  
5 *or will be caring for or supporting a family member.*

6 (2) *In connection, with unlawful housing practices, “familial*  
7 *status” has the same meaning as defined in Section 12955.2.*

8 SEC. 4. Section 12940 of the Government Code is amended  
9 to read:

10 12940. It shall be an unlawful employment practice, unless  
11 based upon a bona fide occupational qualification, or, except where  
12 based upon applicable security regulations established by the  
13 United States or the State of California:

14 (a) For an employer, because of the race, religious creed, color,  
15 national origin, ancestry, physical disability, mental disability,  
16 medical condition, marital status, *familial status*, sex, age, or sexual  
17 orientation of any person, to refuse to hire or employ the person  
18 or to refuse to select the person for a training program leading to  
19 employment, or to bar or to discharge the person from employment  
20 or from a training program leading to employment, or to  
21 discriminate against the person in compensation or in terms,  
22 conditions, or privileges of employment.

23 (1) This part does not prohibit an employer from refusing to  
24 hire or discharging an employee with a physical or mental  
25 disability, or subject an employer to any legal liability resulting  
26 from the refusal to employ or the discharge of an employee with  
27 a physical or mental disability, where the employee, because of  
28 his or her physical or mental disability, is unable to perform his  
29 or her essential duties even with reasonable accommodations, or  
30 cannot perform those duties in a manner that would not endanger  
31 his or her health or safety or the health or safety of others even  
32 with reasonable accommodations.

33 (2) This part does not prohibit an employer from refusing to  
34 hire or discharging an employee who, because of the employee’s  
35 medical condition, is unable to perform his or her essential duties  
36 even with reasonable accommodations, or cannot perform those  
37 duties in a manner that would not endanger the employee’s health  
38 or safety or the health or safety of others even with reasonable  
39 accommodations. Nothing in this part shall subject an employer  
40 to any legal liability resulting from the refusal to employ or the



1 discharge of an employee who, because of the employee’s medical  
2 condition, is unable to perform his or her essential duties, or cannot  
3 perform those duties in a manner that would not endanger the  
4 employee’s health or safety or the health or safety of others even  
5 with reasonable accommodations.

6 (3) Nothing in this part relating to discrimination on account of  
7 marital status *or familial status* shall do either of the following:

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

12 (B) Prohibit bona fide health plans from providing additional  
13 or greater benefits to employees with dependents than to those  
14 employees without or with fewer dependents.

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

19 (5) Nothing in this part prohibits an employer from refusing to  
20 employ an individual because of his or her age if the law compels  
21 or provides for that refusal. Promotions within the existing staff,  
22 hiring or promotion on the basis of experience and training, rehiring  
23 on the basis of seniority and prior service with the employer, or  
24 hiring under an established recruiting program from high schools,  
25 colleges, universities, or trade schools do not, in and of themselves,  
26 constitute unlawful employment practices.

27 (b) For a labor organization, because of the race, religious creed,  
28 color, national origin, ancestry, physical disability, mental  
29 disability, medical condition, marital status, *familial status*, sex,  
30 age, or sexual orientation of any person, to exclude, expel or restrict  
31 from its membership the person, or to provide only second-class  
32 or segregated membership or to discriminate against any person  
33 because of the race, religious creed, color, national origin, ancestry,  
34 physical disability, mental disability, medical condition, marital  
35 status, *familial status*, sex, age, or sexual orientation of the person  
36 in the election of officers of the labor organization or in the  
37 selection of the labor organization’s staff or to discriminate in any  
38 way against any of its members or against any employer or against  
39 any person employed by an employer.

1 (c) For any person to discriminate against any person in the  
2 selection or training of that person in any apprenticeship training  
3 program or any other training program leading to employment  
4 because of the race, religious creed, color, national origin, ancestry,  
5 physical disability, mental disability, medical condition, marital  
6 status, *familial status*, sex, age, or sexual orientation of the person  
7 discriminated against.

8 (d) For any employer or employment agency to print or circulate  
9 or cause to be printed or circulated any publication, or to make  
10 any non-job-related inquiry of an employee or applicant, either  
11 verbal or through use of an application form, that expresses,  
12 directly or indirectly, any limitation, specification, or discrimination  
13 as to race, religious creed, color, national origin, ancestry, physical  
14 disability, mental disability, medical condition, marital status,  
15 *familial status*, sex, age, or sexual orientation, or any intent to  
16 make any such limitation, specification or discrimination. Nothing  
17 in this part prohibits an employer or employment agency from  
18 inquiring into the age of an applicant, or from specifying age  
19 limitations, where the law compels or provides for that action.

20 (e) (1) Except as provided in paragraph (2) or (3), for any  
21 employer or employment agency to require any medical or  
22 psychological examination of an applicant, to make any medical  
23 or psychological inquiry of an applicant, to make any inquiry  
24 whether an applicant has a mental disability or physical disability  
25 or medical condition, or to make any inquiry regarding the nature  
26 or severity of a physical disability, mental disability, or medical  
27 condition.

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

32 (3) Notwithstanding paragraph (1), an employer or employment  
33 agency may require a medical or psychological examination or  
34 make a medical or psychological inquiry of a job applicant after  
35 an employment offer has been made but prior to the  
36 commencement of employment duties, provided that the  
37 examination or inquiry is job-related and consistent with business  
38 necessity and that all entering employees in the same job  
39 classification are subject to the same examination or inquiry.

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

8 (2) Notwithstanding paragraph (1), an employer or employment  
9 agency may require any examinations or inquiries that it can show  
10 to be job-related and consistent with business necessity. An  
11 employer or employment agency may conduct voluntary medical  
12 examinations, including voluntary medical histories, which are  
13 part of an employee health program available to employees at that  
14 worksite.

15 (g) For any employer, labor organization, or employment agency  
16 to harass, discharge, expel, or otherwise discriminate against any  
17 person because the person has made a report pursuant to Section  
18 11161.8 of the Penal Code that prohibits retaliation against hospital  
19 employees who report suspected patient abuse by health facilities  
20 or community care facilities.

21 (h) For any employer, labor organization, employment agency,  
22 or person to discharge, expel, or otherwise discriminate against  
23 any person because the person has opposed any practices forbidden  
24 under this part or because the person has filed a complaint, testified,  
25 or assisted in any proceeding under this part.

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

29 (j) (1) For an employer, labor organization, employment agency,  
30 apprenticeship training program or any training program leading  
31 to employment, or any other person, because of race, religious  
32 creed, color, national origin, ancestry, physical disability, mental  
33 disability, medical condition, marital status, *familial status*, sex,  
34 age, or sexual orientation, to harass an employee, an applicant, or  
35 a person providing services pursuant to a contract. Harassment of  
36 an employee, an applicant, or a person providing services pursuant  
37 to a contract by an employee, other than an agent or supervisor,  
38 shall be unlawful if the entity, or its agents or supervisors, knows  
39 or should have known of this conduct and fails to take immediate  
40 and appropriate corrective action. An employer may also be

1 responsible for the acts of nonemployees, with respect to sexual  
2 harassment of employees, applicants, or persons providing services  
3 pursuant to a contract in the workplace, where the employer, or  
4 its agents or supervisors, knows or should have known of the  
5 conduct and fails to take immediate and appropriate corrective  
6 action. In reviewing cases involving the acts of nonemployees, the  
7 extent of the employer’s control and any other legal responsibility  
8 which the employer may have with respect to the conduct of those  
9 nonemployees shall be considered. An entity shall take all  
10 reasonable steps to prevent harassment from occurring. Loss of  
11 tangible job benefits shall not be necessary in order to establish  
12 harassment.

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

16 (3) An employee of an entity subject to this subdivision is  
17 personally liable for any harassment prohibited by this section that  
18 is perpetrated by the employee, regardless of whether the employer  
19 or covered entity knows or should have known of the conduct and  
20 fails to take immediate and appropriate corrective action.

21 (4) (A) For purposes of this subdivision only, “employer” means  
22 any person regularly employing one or more persons or regularly  
23 receiving the services of one or more persons providing services  
24 pursuant to a contract, or any person acting as an agent of an  
25 employer, directly or indirectly, the state, or any political or civil  
26 subdivision of the state, and cities. The definition of “employer”  
27 in subdivision (d) of Section 12926 applies to all provisions of this  
28 section other than this subdivision.

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

33 (C) For purposes of this subdivision, “harassment” because of  
34 sex includes sexual harassment, gender harassment, and harassment  
35 based on pregnancy, childbirth, or related medical conditions.

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

1 (A) The person has the right to control the performance of the  
2 contract for services and discretion as to the manner of  
3 performance.

4 (B) The person is customarily engaged in an independently  
5 established business.

6 (C) The person has control over the time and place the work is  
7 performed, supplies the tools and instruments used in the work,  
8 and performs work that requires a particular skill not ordinarily  
9 used in the course of the employer's work.

10 (k) For an employer, labor organization, employment agency,  
11 apprenticeship training program, or any training program leading  
12 to employment, to fail to take all reasonable steps necessary to  
13 prevent discrimination and harassment from occurring.

14 (l) For an employer or other entity covered by this part to refuse  
15 to hire or employ a person or to refuse to select a person for a  
16 training program leading to employment or to bar or to discharge  
17 a person from employment or from a training program leading to  
18 employment, or to discriminate against a person in compensation  
19 or in terms, conditions, or privileges of employment because of a  
20 conflict between the person's religious belief or observance and  
21 any employment requirement, unless the employer or other entity  
22 covered by this part demonstrates that it has explored any available  
23 reasonable alternative means of accommodating the religious belief  
24 or observance, including the possibilities of excusing the person  
25 from those duties that conflict with his or her religious belief or  
26 observance or permitting those duties to be performed at another  
27 time or by another person, but is unable to reasonably  
28 accommodate the religious belief or observance without undue  
29 hardship on the conduct of the business of the employer or other  
30 entity covered by this part. Religious belief or observance, as used  
31 in this section, includes, but is not limited to, observance of a  
32 Sabbath or other religious holy day or days, and reasonable time  
33 necessary for travel prior and subsequent to a religious observance.

34 (m) For an employer or other entity covered by this part to fail  
35 to make reasonable accommodation for the known physical or  
36 mental disability of an applicant or employee. Nothing in this  
37 subdivision or in paragraph (1) or (2) of subdivision (a) shall be  
38 construed to require an accommodation that is demonstrated by  
39 the employer or other covered entity to produce undue hardship  
40 to its operation.

1 (n) For an employer or other entity covered by this part to fail  
2 to engage in a timely, good faith, interactive process with the  
3 employee or applicant to determine effective reasonable  
4 accommodations, if any, in response to a request for reasonable  
5 accommodation by an employee or applicant with a known physical  
6 or mental disability or known medical condition.

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

10 SEC. 5. Section 12955.2 of the Government Code is amended  
11 to read:

12 12955.2. For purposes of this part *in connection with unlawful*  
13 *housing practices, unless a different meaning clearly appears from*  
14 *the context*, “familial status” means one or more individuals under  
15 18 years of age who reside with a parent, another person with care  
16 and legal custody of that individual, a person who has been given  
17 care and custody of that individual by a state or local governmental  
18 agency that is responsible for the welfare of children, or the  
19 designee of that parent or other person with legal custody of any  
20 individual under 18 years of age by written consent of the parent  
21 or designated custodian. The protections afforded by this part  
22 against discrimination on the basis of familial status also apply to  
23 any individual who is pregnant , who is in the process of securing  
24 legal custody of any individual under 18 years of age, or who is  
25 in the process of being given care and custody of any individual  
26 under 18 years of age by a state or local governmental agency  
27 responsible for the welfare of children.

28 SEC. 6. The Legislature intends that nothing in these  
29 amendments of Sections 12920, 12921, and 12940, and 12955.2  
30 to the Government Code supersedes, limits, or preempts any  
31 provision of federal, state, or local law that provides greater  
32 protections from employment discrimination than those provided  
33 in these sections. The Legislature further intends that these  
34 amendments are not intended to limit or preclude any claim or  
35 cause of action on the basis of familial status or family  
36 responsibilities under federal, state, or local law.

O