

AMENDED IN ASSEMBLY APRIL 30, 2013

AMENDED IN ASSEMBLY APRIL 8, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 5

Introduced by Assembly Member Ammiano

December 3, 2012

An act to add Part 2.2 (commencing with Section 53.1) to Division 1 of the Civil Code, and to amend Section 11135 of the Government Code, relating to homelessness.

LEGISLATIVE COUNSEL'S DIGEST

AB 5, as amended, Ammiano. Homelessness.

Existing law provides that no person in the state shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.

This bill would enact the Homeless Person's Bill of Rights and Fairness Act, which would provide that no person's rights, privileges, or access to public services may be denied or abridged because he or she is ~~homeless, has a low income, or suffers from a mental illness or physical disability~~ *homeless*. The bill would provide that every person in the state, regardless of actual or perceived housing status, low income, sexual orientation, gender identity, citizenship, or immigration status, shall be free from specified forms of discrimination and shall be entitled to certain basic human rights, including the right to be free from

discrimination by law enforcement, in the workplace, and while seeking services. The bill would provide that every *homeless* person has the right, *among others*, to access public property, possess personal property, access public restrooms, clean water, educational supplies *move freely, rest, eat, share, accept, or give food or water, and solicit donations in public spaces, as defined, and the right to lawful self-employment*, as specified, ~~emergency and nonemergency health care~~, confidentiality of ~~medical~~ *specified* records, assistance of legal counsel in specified proceedings, and restitution, under specified circumstances. *By requiring a county to pay the cost of providing legal counsel, as specified, the bill would increase the duties of local agencies, thereby imposing a state-mandated local program.* The bill would provide immunity from employer ~~retaliation~~, *retaliation* to a public employee who provides *specified* assistance to a homeless person. The bill would require local law enforcement agencies to make specified information available to the public and report to the Attorney General on an annual basis with regard to enforcement of local ordinances against homeless persons and compliance with the act, as specified, thereby imposing a state-mandated local program. The bill would provide for judicial relief and impose civil penalties for a violation of the act.

This bill would require the State Department of Public Health to fund the provision of health and hygiene centers, as specified, for use by homeless persons in designated areas.

This bill would provide that its provisions address a matter of statewide concern. The bill would provide that its provisions are severable.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Homeless Person's Bill of Rights and Fairness Act.

1 SEC. 2. The Legislature finds and declares all of the following:

2 (a) In the State of California, there has been a long history of
3 discriminatory laws and ordinances that have disproportionately
4 affected people with low incomes and who are without homes,
5 including, but not limited to, all of the following:

6 (1) Jim Crow laws: After the Civil War, many states, especially
7 in the south, passed laws denying African Americans basic human
8 rights. In California, these laws also targeted Chinese immigrants.
9 In San Francisco, Chinese residents were forced to live in one area
10 of the city. The same segregation laws also prohibited interracial
11 marriage between Chinese and non-Chinese persons.

12 (2) Ugly laws: In 1867, San Francisco was the first city in the
13 country to pass a law making it illegal for people with “unsightly
14 or disgusting” disabilities to appear in public. In many cities, these
15 laws persisted until the 1970s.

16 (3) Anti-Okie laws: In 1937, California passed an Anti-Okie
17 law that criminalized “bringing or assisting in bringing” extremely
18 poor people into the state. The United States Supreme Court struck
19 down the law in 1941, when it declared that these laws are in
20 violation of the commerce clause, and therefore unconstitutional.

21 (4) Sundown town ordinances: Town policies and real estate
22 covenants were aimed at preventing minorities, homeless persons,
23 and other persons considered to be socially undesirable from
24 remaining within city limits after sunset. Thousands of these towns
25 existed prior to the federal Civil Rights Act of 1968, which made
26 these ordinances and covenants illegal.

27 (5) Vagrancy laws: Vagrancy laws have been held to be
28 discriminatory on their face because they criminalize a person’s
29 status rather than a behavior. Nevertheless, these laws existed in
30 California until the Legislature revised them in 1961.

31 (b) Act of living ordinances, often known as “quality of life
32 ordinances” and other similar ordinances, are the modern
33 reincarnations of laws of this kind. They are designed to force
34 homeless people to flee local jurisdictions. These local ordinances
35 result in de facto segregation as homeless people are forced out of
36 specific jurisdictions or out of specific neighborhoods within
37 jurisdictions. These practices tend to condemn large groups of
38 inhabitants to dwell in segregated districts or under depressed
39 living conditions that result in crowded, unsanitary, substandard,
40 and unhealthful accommodations. Furthermore, these policies

1 result in criminalization of homeless persons who do not choose,
2 or are unable, to migrate.

3 (c) Today, in the state, many people are denied the following:

4 (1) Housing due to their status of being homeless, living in a
5 shelter, a vehicle, the street, or the public domain.

6 (2) Employment due to their current status of being homeless
7 or living in a shelter or a vehicle on the street.

8 (3) Housing and employment as a result of not having a fixed
9 or residential mailing address or having a post office box as a
10 mailing address.

11 (4) Equal protection of the laws and due process by law
12 enforcement and prosecuting agencies.

13 (5) The ability to make certain purchases or enter certain contests
14 as a result of not having a fixed or residential mailing address or
15 having a post office box as a mailing address.

16 (6) Access to safe, clean restrooms, water, and hygienic supplies
17 necessary to maintain health, safety, and dignity, especially with
18 the proliferation of closures of public restrooms.

19 (d) Homeless persons are unfairly targeted by law enforcement,
20 often resulting in the violation of homeless persons' constitutional
21 rights. Lacking the resources necessary to obtain adequate legal
22 representation, homeless persons are often denied relief or damages
23 through the courts.

24 (e) Homeless persons rarely have access to shelters, and when
25 shelter is available, its conditions can be so poor as to jeopardize
26 their health and physical and mental safety.

27 (f) Homeless persons are often forced to separate from loved
28 ones, give up their personal property, abandon pets, and make
29 other inhumane choices in order to access even minimal shelter.

30 (g) Lesbian, gay, bisexual, transgender, gender nonconforming,
31 and queer individuals often are forced to accept inappropriate or
32 unsafe accommodations to access publicly funded emergency
33 shelters.

34 (h) Children in homeless families are denied the ability to
35 continue receiving education in their preferred school if their
36 family's shelter lies outside the boundaries of their former district.

37 (i) At the present time, many persons have been rendered
38 homeless as a result of a deep and prolonged economic recession,
39 a severe shortage of safe and affordable housing, a failed mental
40 health system, and a shrinking social safety net.

1 (j) Section 1 of Article I of the California Constitution provides
2 that “[a]ll people are by nature free and independent and have
3 inalienable rights. Among these are enjoying and defending life
4 and liberty, acquiring, possessing, and protecting property, and
5 pursuing and obtaining safety, happiness, and privacy.”

6 (k) Subdivision (a) of Section 7 of Article I of the California
7 Constitution provides, in part, that “[a] person may not be deprived
8 of life, liberty, or property without due process of law or denied
9 equal protection of the laws... .”

10 (l) Concordant with this fundamental belief, a person should
11 not be subject to discrimination based on his or her housing status,
12 income level, mental or physical disability, sexual orientation,
13 gender identity, citizenship, or immigration status. Therefore, it is
14 the intent of the Legislature in enacting this act to protect the rights
15 of all Californians, regardless of their housing status, and to
16 ameliorate the adverse effects of homelessness on *people who have*
17 *no home and on our communities.*

18 (m) *It is the intent of the Legislature to enact legislation that*
19 *would require all state agencies to use the same definition for*
20 *“homeless persons or people” as follows:*

21 (1) *“Homeless” means those individuals or families who lack*
22 *or are perceived to lack a fixed, regular, and adequate nighttime*
23 *residence, or who have a primary nighttime residence in a shelter,*
24 *on the street, in a vehicle, in an enclosure or structure that is not*
25 *authorized or fit for human habitation.*

26 (2) *“Homeless” also means a person whose only residence is*
27 *a residential hotel or who is residing anywhere without tenancy*
28 *rights, and families with children staying in a residential hotel*
29 *whether or not they have tenancy rights.*

30 (n) *It is the intent of the Legislature that publicly funded social*
31 *and health care services be offered in a sufficient quantity to meet*
32 *the population’s needs, without barriers, including geographical*
33 *barriers, such as making locations inconvenient or creating*
34 *screen-out barriers, or prohibiting access due to a person’s*
35 *inability to provide identification or criminal justice history, or*
36 *disability, in order that persons are reasonably able to reach and*
37 *use that service.*

38 ~~SEC. 3. (a) It is the intent of the Legislature to enact legislation~~
39 ~~that would, except when otherwise not permitted by federal law,~~

1 ensure that everyone in the state has the right to all of the
2 following:

3 (1) Access to income sufficient for survival, regardless of
4 employment status or criminal justice background, including, but
5 not limited to, the right to receive funds through public welfare
6 programs, private donations, collecting recyclable goods, or
7 soliciting donations in public spaces.

8 (2) Safe, decent, permanent, and affordable housing, as soon as
9 possible, and the right to be free from further dislocation, unless
10 and until safe, decent, permanent, and affordable housing is
11 available.

12 (3) Access to clean and safe facilities 24 hours a day, seven
13 days a week, with clearly identifiable staff able to react to safety
14 concerns, including, but not limited to, shelters and drop-in centers
15 that meet basic health, hygiene, and dignity needs, including any
16 special needs of lesbian, gay, bisexual, or transgender individuals,
17 youths, families, or those with mental illness or physical
18 disabilities. This includes the right of all individuals to secure
19 shelter without being required to state their gender or to share
20 confidential health information protected by the federal Health
21 Insurance Portability and Accountability Act of 1996 (Public Law
22 104-191).

23 (4) As a child enrolled in a publicly funded school, be provided
24 by his or her school with the supplies necessary to promote
25 academic success, including, but not limited to, backpacks,
26 textbooks, notebooks, pencils, pens, and appropriate academic
27 technology.

28 (5) Nonemergency health care and access to medical facilities
29 that provide quality care for both physical and mental needs.

30 (6) Access to emergency services, including, but not limited to,
31 emergency rooms at hospitals, shelters, drop-in centers,
32 rehabilitation centers, education, and special training, without the
33 possibility of being denied based on race, color, sex, language,
34 religion, political or other opinion, national or social origin, sexual
35 orientation, gender identity, mental or physical disability, income
36 level, housing status, citizenship, or immigration status.

37 (b) It is the intent of the Legislature to enact legislation that
38 would require all state agencies to use the same definition for
39 “homeless persons or people” as follows: “Homeless” means those
40 individuals or families who lack a fixed, regular, and adequate

1 ~~nighttime residence or who have primary nighttime residence in~~
 2 ~~a shelter, on the street, in a vehicle, in an enclosure or structure~~
 3 ~~that is not authorized or fit for human habitation, substandard~~
 4 ~~apartments, dwellings, doubled up temporarily with friends or~~
 5 ~~families, or staying in transitional housing programs. “Homeless”~~
 6 ~~also means any person residing anywhere without tenancy rights,~~
 7 ~~and families with children staying in a residential hotel whether~~
 8 ~~or not they have tenancy rights.~~

9 ~~(e) It is the intent of the Legislature that publicly funded social~~
 10 ~~and health care services be offered in a sufficient quantity to meet~~
 11 ~~the population’s needs, without barriers, including geographical~~
 12 ~~barriers, such as making locations inconvenient or creating~~
 13 ~~screen-out barriers, or prohibiting access due to a person’s inability~~
 14 ~~to provide identification or criminal justice history, or disability,~~
 15 ~~in order that persons are reasonably able to reach and use that~~
 16 ~~service.~~

17 ~~SEC. 4.~~

18 ~~SEC. 3.~~ Part 2.2 (commencing with Section 53.1) is added to
 19 Division 1 of the Civil Code, to read:

20
 21 **PART 2.2. HOMELESS PERSONS**

22
 23 53.1. For purposes of this part, the following definitions shall
 24 apply:

25 ~~(a) “Access,” as applied to an existing facility, service, or public~~
 26 ~~space means the ability and permission to enter and make use of~~
 27 ~~the facility, service, or public space. Otherwise, “access” means~~
 28 ~~the offering or availability of a facility or service.~~

29 ~~(b)~~

30 ~~(a) “BID” means a business improvement district, as established~~
 31 ~~under Chapter 2 (commencing with Section 36520) of Part 6 of~~
 32 ~~Division 18 of, or Chapter 2 (commencing with Section 36620)~~
 33 ~~of Part 7 of Division 18 of, the Streets and Highways Code, or any~~
 34 ~~public-private partnership established under any municipal or~~
 35 ~~county law authorized under Chapter 1 (commencing with Section~~
 36 ~~36500) of Part 6 of Division 18 of, or Chapter 1 (commencing~~
 37 ~~with Section 36600) of Part 7 of Division 18 of, the Streets and~~
 38 ~~Highways Code, whether or not the phrase “business improvement~~
 39 ~~district” is part of the public-private partnership’s name.~~

40 ~~(e)~~

1 (b) “BID agent” means any person hired by a BID or any other
2 public-private partnership similar to a business improvement
3 district.

4 (d) “Damages” means, but is not limited to, losses.

5 (e)

6 (c) “Harassment” means any behavior that is meant to intimidate
7 or otherwise persuade an individual to alter his or her behavior,
8 whether or not otherwise lawful. *a knowing and willful course of*
9 *conduct by law enforcement, public or private security personnel,*
10 *or a BID agent directed at a specific person that a reasonable*
11 *person would consider as seriously alarming, seriously annoying,*
12 *seriously tormenting, or seriously terrorizing a person.*

13 (f)

14 (d) “Homeless persons” or “homeless people” means those
15 individuals or families ~~lacking~~ *who lack or are perceived to lack*
16 *a fixed, regular, and adequate nighttime residence, or having who*
17 *have a primary nighttime residence in a shelter, on the street, in a*
18 *vehicle, in an enclosure or structure that is not authorized or fit for*
19 *human habitation, in a substandard apartment, dwelling, staying*
20 *temporarily with friends or families, or staying in transitional*
21 *housing programs or habitation. “Homeless” also means a person*
22 *whose only residence is a residential hotel or who is residing*
23 *anywhere without tenancy rights, and families with children staying*
24 *in a residential hotel whether or not they have tenancy rights.*

25 (g) “Housing status” means the status of having or not having
26 a fixed or regular residence, including the status of living outdoors,
27 in a vehicle, or in a homeless shelter, or similar temporary
28 residence or elsewhere in the public domain.

29 (h) “Lack of permanent mailing address” means the absence of
30 an address fixed to a permanent home, and may include, but is not
31 limited to, post office boxes, addresses of friends or family
32 members, and shelter addresses.

33 (i) “Lawful representative” means any person who has been
34 asked to advocate on behalf of a person or any class that a person
35 identifies with, including, but not limited to, a homeless person’s
36 retained attorney, a nonprofit organization that advocates on behalf
37 of homeless persons, or a prosecuting attorney upon the request
38 of a homeless person.

1 (j) ~~“Losses” means, but is not limited to, any deprivation of~~
2 ~~constitutionally held rights as well as the loss of property or~~
3 ~~physical and mental wellbeing.~~

4 (k) ~~“Low income” is defined as income at or lower than twice~~
5 ~~the federal poverty level as established by the poverty guidelines~~
6 ~~updated periodically in the Federal Register by the United States~~
7 ~~Department of Health and Human Services under the authority of~~
8 ~~Section 9902(2) of Title 42 of the United States Code.~~

9 (l) ~~“Public service” means any program or activity that is~~
10 ~~conducted, operated, or administered by the state, any state agency,~~
11 ~~or local government agency, is funded directly by the state or any~~
12 ~~local government, or received any financial assistance from the~~
13 ~~state or any local government.~~

14 (m)
15 (e) ~~“Public space” means any—space property that is~~
16 ~~predominantly within the public domain or owned by any state or~~
17 ~~local government entity or upon which there is an easement for~~
18 ~~public use and that is held open to the public, including, but not~~
19 ~~limited to, plazas, courtyards, parking lots, sidewalks, public~~
20 ~~transportation, public buildings and parks. “Public space” may~~
21 ~~also refer to those places that receive additional services through~~
22 ~~BIDs or other, similar public-private partnerships. does not include~~
23 ~~a private business establishment.~~

24 (n)
25 (f) ~~“Rest” means the state of not moving, holding certain~~
26 ~~postures that include, but are not limited to, sitting, standing,~~
27 ~~leaning, kneeling, squatting, sleeping, or lying.~~

28 (o)
29 (g) ~~“Soliciting donations” means asking for food, water, or~~
30 ~~money, which includes panhandling.~~

31 53.2. (a) ~~The existence of homelessness requires that~~
32 ~~fundamental rights that are amply protected in the home and in~~
33 ~~private places be extended to the public domain to ensure the equal~~
34 ~~rights of all Californians, homeless and housed. Every homeless~~
35 ~~person in the state, regardless of actual or perceived housing status,~~
36 ~~low income, sexual orientation, gender identity, citizenship, or~~
37 ~~immigration status, state shall have the right to all of the following~~
38 ~~basic human rights and legal and civil protections, except when~~
39 ~~prohibited by federal law:~~

1 (1) The right to move freely in the same manner as any other
2 person in public spaces, including, but not limited to, plazas,
3 parking lots, public sidewalks, public parks, public transportation,
4 public streets, and public buildings, in the same manner as any
5 other person, and without discrimination *spaces without being*
6 *subject to criminal or civil sanctions, harassment or arrest by law*
7 *enforcement, public or private security personnel, or BID agents*
8 *because he or she is homeless.*

9 (2) The right to rest and sleep in a public spaces *space in the*
10 *same manner as any other person* without being subject to criminal
11 or civil sanctions, harassment, or arrest by law enforcement, public
12 or private security personnel, or BID agents *because he or she is*
13 *homeless, as long as such that rest does not maliciously or*
14 *substantially obstruct a passageway.*

15 (3) ~~The right to set down or leave at rest personal property in~~
16 ~~public spaces without being subject to criminal or civil sanctions,~~
17 ~~harassment, or arrest by law enforcement, public or private security~~
18 ~~personnel, or BID agents, as long as that personal property does~~
19 ~~not maliciously or substantially obstruct a passageway, or the~~
20 ~~possession or placement of that personal property does not deny~~
21 ~~another of the right to property. This includes the right to restitution~~
22 ~~for loss of property or personal effects and belongings if the~~
23 ~~property or personal effects are confiscated, removed, damaged,~~
24 ~~or destroyed by law enforcement, public or private security~~
25 ~~personnel, or BID agents in violation of this paragraph or any other~~
26 ~~protections of property provided under state or federal law.~~

27 (4)

28 (3) The right to *eat, share, accept, or give food or water* in public
29 *spaces in the same manner as any other person* without being
30 subject to criminal or civil sanctions, harassment, or arrest by law
31 enforcement, public or private security personnel, or BID agents
32 *because he or she is homeless.*

33 (4) *The right to solicit donations in public spaces in the same*
34 *manner as any other person without being subject to criminal or*
35 *civil sanctions, harassment, or arrest by law enforcement, public*
36 *or private security personnel, or BID agents because he or she is*
37 *homeless.*

38 (5) The right to the same protections that law enforcement
39 agencies afford to the general public *any other person, including,*

1 but not limited to, the right to reasonable protection from assault,
2 domestic violence, sexual assault, or robberies.

3 (6) The right to ~~sleep, sit, lie down, stand, eat, solicit donations,~~
4 ~~or share food in a public place or in a vehicle~~ *rest* in a public place
5 *space*, without being subject to criminal or civil sanctions,
6 *harassment*, or arrest by law enforcement, public or private security
7 personnel, or BID agents, except that law enforcement may enforce
8 existing local laws if all of the following are true: (1) the person's
9 county of residence maintains 12 months per year of nonmedical
10 assistance provided for in Section 17000 of the Welfare and
11 Institutions Code for employable, able-bodied adults without
12 dependents who are compliant with program rules established by
13 the county, including work requirements; (2) the locality is not a
14 geographical area identified by the United States Department of
15 Labor in accordance with Subpart A of Part 654 of Section 20 of
16 the Code of Federal Regulations as an area of concentrated
17 unemployment or underemployment or an area of labor surplus;
18 and (3) the public housing waiting list maintained by the county
19 contains fewer than 50 persons.

20 (7) The right to ~~be self-employed~~ *engage in lawful*
21 *self-employment in the same manner as any other person*,
22 including, but not limited to, the right to seek self-employment in
23 junk removal and recycling that requires the collection, possession,
24 redemption, and storage of goods for reuse and recycling, without
25 being subject to criminal or civil sanctions, harassment, or arrest
26 by law enforcement, public or private security personnel, or BID
27 agents *because he or she is homeless*.

28 (8) The right to pray, meditate, or practice religion in public
29 spaces *in the same manner as any other person*, without being
30 subject to criminal or civil sanctions, harassment, or arrest by law
31 enforcement, public or private security personnel, or BID agents
32 *because he or she is homeless*.

33 (9) The right to decline admittance to a public or private shelter
34 or any other accommodation, including social services programs,
35 for any reason he or she sees fit, without ~~facing~~ *being subject to*
36 *criminal or civil sanctions, harassment, or arrest, or threats of these*
37 ~~actions~~, *arrest* from law enforcement, public or private security
38 personnel, or BID agents.

39 (10) The right to occupy a motor vehicle, as defined in Section
40 415 of the Vehicle Code, or recreational vehicle, as defined in

1 Section 18010 of the Health and Safety Code, either to rest, sleep,
2 or use for the purposes of shelter, provided that the vehicle is
3 legally parked on public property, without ~~facing~~ *being subject to*
4 criminal or civil sanctions, harassment, or ~~arrest, or threats of these~~
5 ~~actions, arrest~~ from law enforcement, public or private security
6 personnel, or BID agents.

7 ~~(11) If the person is a child or youth, the right to state~~
8 ~~enforcement of the educational protections under the federal~~
9 ~~McKinney-Vento Act (42 U.S.C. Sec. 11432), particularly with~~
10 ~~regard to Sections 11432(e)(3)(C)(ii)(I) and 11432(e)(3)(C)(ii)(II)~~
11 ~~of Title 42 of the United States Code, which provide that a school~~
12 ~~shall provide assistance to the parent or guardian of each homeless~~
13 ~~child or youth (or, in the case of an unaccompanied youth, the~~
14 ~~youth) to exercise the right to attend the parent's or guardian's (or~~
15 ~~youth's) choice of school, and a school shall coordinate with the~~
16 ~~local educational agency with jurisdiction for the school selected~~
17 ~~by the parent or guardian (or youth), to provide transportation and~~
18 ~~other necessary services.~~

19 ~~(12)~~

20 ~~(11) The right to be protected from disclosure confidentiality~~
21 ~~of his or her records and information from by homeless shelters,~~
22 ~~medical centers, schools, or any other publicly funded human~~
23 ~~service provider to law enforcement agencies without appropriate~~
24 ~~legal authority, and the right to confidentiality of personal records~~
25 ~~and information in accordance with all limitations on disclosure~~
26 ~~established by the federal Homeless Management Information~~
27 ~~Systems, the federal Health Insurance Portability and~~
28 ~~Accountability Act of 1996 (Public Law 104-191), and the federal~~
29 ~~Violence Against Women Act (Public Law 103-322), employers,~~
30 ~~or landlords, except that the records or information may be~~
31 ~~disclosed if the disclosure is based on appropriate legal authority.~~
32 ~~Disclosure of an individual's records or information shall not be~~
33 ~~allowed unless the individual received oral and written notice of~~
34 ~~the legal authority to disclose this information and the individual's~~
35 ~~right to opt out of having the records or information disclosed.~~

36 ~~(13) The right to confidentiality of personal records regarding~~
37 ~~housing status, income level, mental illness, physical disability,~~
38 ~~sexual orientation, gender identity, citizenship, or immigration~~
39 ~~status, and to protection from disclosure of the information and~~
40 ~~records to landlords and employers.~~

1 ~~(14)~~

2 ~~(12) (A) If~~ *The right to assistance of counsel, if a county*
3 *chooses to initiate judicial proceedings subject to Section 40508*
4 *of the Vehicle Code, Section 853.6, 853.7, or 853.8 of the Penal*
5 *Code, or any similar law authorizing arrest for failure to appear*
6 *or pay bail of the amount listed on the notice to appear, the*
7 *defendant shall be guaranteed the right to assistance of counsel*
8 *under any law set forth in Section 53.5. The accused shall be*
9 *advised of this right to counsel before entering a plea, and any*
10 *waiver of this right shall be explicit. If the district attorney's office*
11 *or its agent is representing the state in any part of an infraction*
12 *proceeding, the accused shall have the right to assistance of counsel*
13 *with regard to that infraction.*

14 ~~(B)~~ *The county where the citation was issued shall pay the cost*
15 *of providing counsel under this section paragraph.*

16 ~~(C)~~ *A county shall not use penalties under Section 1214.1 of*
17 *the Penal Code or any other civil assessment scheme in the*
18 *prosecution of municipal infractions unless the defendant was the*
19 *driver of a vehicle.*

20 ~~(15)~~ *The right to assistance of counsel in any civil or criminal*
21 *proceeding that may result in commitment to a public health*
22 *institution.*

23 ~~(16)~~ *The right to be free from arbitrary arrest, detention, or*
24 *deportation, handed over to another law enforcement agency, or*
25 *deported, without guarantees necessary for his or her timely*
26 *defense.*

27 ~~(b)~~

28 ~~(C)~~ *This section paragraph shall not be construed to eliminate*
29 *any protection or right to representation available under Sections*
30 *5365 and 6500 of the Welfare and Institutions Code or any other*
31 *provision of law.*

32 53.3. (a) *A public employee shall not be retaliated against by*
33 *his or her employer, for offering available public resources to a*
34 *homeless person in order to protect that person from harm,*
35 *including, but not limited to, for offering or providing food,*
36 *blankets, first-aid supplies, or water.*

37 (b) *Any person or organization or water offering food or water*
38 *in a public spaces space to any homeless person pursuant to this*
39 *part shall not be subject to criminal or civil sanctions, arrest, or*

1 harassment by law enforcement, public or private security
2 personnel, or BID agents.

3 53.4. (a) Every local government and disadvantaged
4 unincorporated community within the state shall have sufficient
5 health and hygiene centers available 24 hours a day, seven days a
6 week, for use by homeless people. These facilities may be part of
7 the Neighborhood Health Center Program.

8 (b) For purposes of subdivision (a), the health and hygiene
9 centers shall be funded by the State Department of Public Health
10 through those county agencies that oversee public health programs,
11 and, at a minimum, shall contain public bathroom and shower
12 facilities.

13 (c) The State Department of Public Health shall distribute public
14 bulletins and notices identifying the facilities to be used as health
15 and hygiene centers.

16 (d) For purposes of this section, “disadvantaged unincorporated
17 community” ~~means a fringe, island, or legacy community in which~~
18 ~~the median household income is 80 percent less than the statewide~~
19 ~~median household income shall be defined as in Section 65302.10~~
20 *of the Government Code.*

21 53.5. (a) To ensure equitable and cost-effective enforcement
22 of the Homeless Person’s Bill of Rights and Fairness Act (Ch.____,
23 Stats. 2013), every local law enforcement agency shall annually
24 compile and review the number of citations, arrests, and other
25 enforcement activities made pursuant to laws prohibiting the
26 following:

27 (1) Obstructing a sidewalk, whether by a person or personal
28 property.

29 (2) Loitering.

30 (3) Sitting.

31 (4) Lying down.

32 (5) Camping.

33 (6) Public lodging, including the prohibition specified in
34 subdivision (e) of Section 647 of the Penal Code.

35 (7) Sleeping in a public place.

36 (8) Soliciting donations.

37 (9) Soliciting donations at certain restricted locations, including
38 citing people for panhandling under Section 22520.5 of the Vehicle
39 Code.

40 (10) Bathing in public places.

1 (11) Sharing or receiving food.

2 (12) Inhabiting or sleeping in a vehicle.

3 (13) Violating public park closure laws.

4 (14) Crossing streets or highways at particular locations,
5 including subdivisions (c) and (d) of Section 21451 of, subdivision
6 (d) of Section 21453 of, subdivision (b) of Section 21456 of,
7 Section 21461.5 of, subdivision (b) of Section 21950 of, Section
8 21954 of, Section 21955 of, and subdivision (a) of Section 21956
9 of, the Vehicle Code.

10 (15) Trespassing, unless the trespassing charge is coupled with
11 any misdemeanor or felony, except those misdemeanors that are
12 included in Section 372 of, and subdivisions (h) to (j), inclusive,
13 and subdivisions (l) and (m), of Section 602 of, the Penal Code.

14 (16) *Failing to appear, pay a fine, post bail, or comply with a*
15 *condition of a court order, as described in Section 40508 of the*
16 *Vehicle Code or Section 853.6, 853.7, or 853.8 of the Penal Code.*

17 ~~(16)~~

18 (17) Any other local or state law enforced against homeless
19 persons and identified by the Attorney General's office, *or a city*
20 *attorney's office, or any nonprofit organization whose work or*
21 *mission includes assistance to research about, or advocate for, poor*
22 *and homeless people office.*

23 (b) A local law enforcement agency shall make this information
24 publicly available under the terms set forth in the California Public
25 Records Act (Chapter 3.5 (commencing with Section 6250) of
26 Division 7 of Title 1 of the Government Code).

27 (c) A local law enforcement agency shall report the information
28 specified in this section to the Attorney General's office on an
29 annual basis.

30 53.6. (a) Any person whose rights have been violated under
31 this part may enforce those rights ~~and he or she, or his or her lawful~~
32 ~~representative, may file a motion for relief in any trial or appellate~~
33 ~~court with jurisdiction over the case as a matter of right. The court~~
34 ~~shall act promptly on any motion for relief under this part~~ *in a civil*
35 *action.*

36 (b) ~~Any civil action alleging a violation of this part may be~~
37 ~~brought against any person, entity, public entity, or public~~
38 ~~employee. The court may award punitive damages, if applicable,~~
39 ~~appropriate injunctive and declaratory relief, restitution for loss~~
40 ~~of property or personal effects and belongings, actual damages,~~

1 compensatory damages, ~~general damages, special damages,~~
2 exemplary damages, statutory damages of one thousand dollars
3 (\$1,000) per violation, ~~if applicable,~~ and reasonable attorneys' fees
4 and costs to a prevailing plaintiff.

5 ~~SEC. 5.~~

6 *SEC. 4.* Section 11135 of the Government Code is amended
7 to read:

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

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

27 (c) (1) As used in this section, "disability" means any mental
28 or physical disability, as defined in Section 12926.

29 (2) The Legislature finds and declares that the amendments
30 made to this act are declarative of existing law. The Legislature
31 further finds and declares that in enacting Senate Bill 105 of the
32 2001–02 Regular Session (Chapter 1102 of the Statutes of 2002),
33 it was the intention of the Legislature to apply subdivision (d) to
34 the California State University in the same manner that
35 subdivisions (a), (b), and (c) already applied to the California State
36 University, notwithstanding Section 11000. In clarifying that the
37 California State University is subject to paragraph (2) of
38 subdivision (d), it is not the intention of the Legislature to increase
39 the cost of developing or procuring electronic and information
40 technology. The California State University shall, however, in

1 determining the cost of developing or procuring electronic or
2 information technology, consider whether technology that meets
3 the standards applicable pursuant to paragraph (2) of subdivision
4 (d) will reduce the long-term cost incurred by the California State
5 University in providing access or accommodations to future users
6 of this technology who are persons with disabilities, as required
7 by existing law, including this section, Title II of the federal
8 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
9 et seq.), and Section 504 of the Rehabilitation Act of 1973 (29
10 U.S.C. Sec. 794).

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

14 (2) In order to improve accessibility of existing technology, and
15 therefore increase the successful employment of individuals with
16 disabilities, particularly blind and visually impaired and deaf and
17 hard-of-hearing persons, state governmental entities, in developing,
18 procuring, maintaining, or using electronic or information
19 technology, either indirectly or through the use of state funds by
20 other entities, shall comply with the accessibility requirements of
21 Section 508 of the federal Rehabilitation Act of 1973, as amended
22 (29 U.S.C. Sec. 794d), and regulations implementing that act as
23 set forth in Part 1194 of Title 36 of the Federal Code of
24 Regulations.

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

30 (e) As used in this section, “sex” and “sexual orientation” have
31 the same meanings as those terms are defined in subdivisions (q)
32 and (r) of Section 12926.

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

38 (g) As used in this section, “genetic information” has the same
39 definition as in paragraph (2) of subdivision (e) of Section 51 of
40 the Civil Code.

1 (h) For purposes of this ~~section~~ *section*, “housing status” ~~has~~
 2 ~~the same meaning as that term is~~ *means status as a “homeless*
 3 *person” as defined in subdivision (g) of Section 53.1 of the Civil*
 4 *Code.*

5 ~~SEC. 6.~~

6 *SEC. 5.* The Legislature finds and declares that the need to
 7 address discriminatory practices is a matter of statewide concern
 8 and is not a municipal affair, as that term is used in Section 5 of
 9 Article XI of the California Constitution. Therefore, this act shall
 10 apply to all cities, including charter cities.

11 ~~SEC. 7.~~

12 *SEC. 6.* The provisions of this act are severable. If any
 13 provision of this act or its application is held invalid, that invalidity
 14 shall not affect other provisions or applications that can be given
 15 effect without the invalid provision or application.

16 ~~SEC. 8.~~

17 *SEC. 7.* If the Commission on State Mandates determines that
 18 this act contains costs mandated by the state, reimbursement to
 19 local agencies and school districts for those costs shall be made
 20 pursuant to Part 7 (commencing with Section 17500) of Division
 21 4 of Title 2 of the Government Code.