

AMENDED IN ASSEMBLY AUGUST 18, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1001

Introduced by Senator Mitchell

(Principal coauthor: Assembly Member Chiu)

(Coauthor: Senator Vidak)

(Coauthors: Assembly Members Eggman and Thurmond)

February 10, 2016

An act to add Section 1019.1 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1001, as amended, Mitchell. Employment: unfair practices.

Existing law prohibits an employer or any other person from engaging in, or directing another person to engage in, an unfair immigration-related practice against a person for the purpose of or intent to retaliate against any person for exercising a protected right, as specified. Existing law defines requesting more or different documents than are required under federal law, or refusing to honor documents tendered that on their face reasonably appear to be genuine, as an unfair immigration-related practice.

This bill would make it unlawful for an employer ~~or any other person or entity to engage in, or to direct another person or entity to engage in, an unfair immigration-related practice against either an applicant for employment or an employee.~~ The bill would prohibit an employer ~~or any other person or entity from attempting to request more or different documents than are required under federal law, to refuse to honor documents tendered that on their face reasonably appear to be genuine, to refuse to honor documents or work authorization based upon the~~

specific status or term of status that accompanies the authorization to work, or to reinvestigate or reverify an incumbent employee's authorization to work using an unfair immigration-related practice, and prohibit an employer or any other person or entity from discriminating or directing another person to discriminate, against an applicant for employment or an employee with authorization to work based upon the specific status, or term of status, that accompanies the authorization to work. work, as specified. The bill would authorize an applicant for employment or an employee who is subject to an unfair immigration-related practice to bring a civil action for equitable relief and any applicable damages or penalties, and provide that, if he or she prevails in that action, he or she shall recover reasonable attorney's fees and costs, including any expert witness costs. unlawful act that is prohibited by these provisions, or a representative of that applicant for employment or employee, to file a complaint with the Division of Labor Standards Enforcement. The bill would specify that any person who violates these provisions shall be subject to a penalty imposed by the Labor Commissioner not exceeding \$10,000, and be liable for equitable relief.

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 1019.1 is added to the Labor Code, to
2 read:
3 1019.1. (a) It is unlawful for an employer or any other person
4 or entity to engage in, or to direct another person or entity to engage
5 in, an unfair immigration-related practice against an applicant for
6 employment or an employee. *employer, in the course of satisfying*
7 *the requirements of Section 1324a(b) of Title 8 of the United States*
8 *Code, to do any of the following:*
9 (b) ~~It is unlawful for an employer or any other person or entity~~
10 ~~to attempt, or to direct another person or entity to attempt,~~
11 (1) *Request more or different documents than are required under*
12 *Section 1324a(b) of Title 8 of the United States Code.*
13 (2) *Refuse to honor documents tendered that on their face*
14 *reasonably appear to be genuine.*

1 (3) Refuse to honor documents or work authorization based
2 upon the specific status or term of status that accompanies the
3 authorization to work.

4 (4) Attempt to reinvestigate or reverify an incumbent employee's
5 authorization to work using an unfair immigration-related practice.

6 ~~(e) It is unlawful and an unfair immigration-related practice for~~
7 ~~an employer or any other person or entity to, or to direct another~~
8 ~~person to, discriminate against an applicant for employment or an~~
9 ~~employee with authorization to work based upon the specific status,~~
10 ~~or term of status, that accompanies the authorization to work.~~

11 ~~(d) (1) An applicant for employment or an employee who is~~
12 ~~subject to an unfair immigration-related practice that is prohibited~~
13 ~~by this section, or a representative of that applicant for employment~~
14 ~~or employee, may bring a civil action for equitable relief and any~~
15 ~~applicable damages or penalties.~~

16 ~~(2) An applicant for employment or an employee who is subject~~
17 ~~to any unfair immigration-related practice that is prohibited by~~
18 ~~this section, and who prevails in an action authorized by this~~
19 ~~section, shall recover his or her reasonable attorney's fees and~~
20 ~~costs, including any expert witness costs.~~

21 (b) (1) Any person who violates this section shall be subject to
22 a penalty imposed by the Labor Commissioner and liability for
23 equitable relief.

24 (2) An applicant for employment or an employee who is subject
25 to an unlawful act that is prohibited by this section, or a
26 representative of that applicant for employment or employee, may
27 file a complaint with the Division of Labor Standards Enforcement
28 pursuant to Section 98.7.

29 (3) The penalty recoverable by the applicant or employee, or
30 by the Labor Commissioner, for a violation of this section shall
31 not exceed ten thousand dollars (\$10,000) per violation.