
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

AB 524 (Wicks) - Discrimination: family caregiver status

Version: June 29, 2023

Urgency: No

Hearing Date: August 14, 2023

Policy Vote: JUD. 7 - 2, L., P.E. & R. 4 - 1

Mandate: No

Consultant: Robert Ingenito

Bill Summary: AB 524 would prohibit employment discrimination because of family caregiver status by including “family caregiver status,” as defined, in the protected characteristics listed in the anti-discrimination provisions of the Fair Employment and Housing Act (FEHA).

Fiscal Impact:

- The Civil Rights Department (CRD) would incur General Fund costs of \$482,000 in 2024-25, and \$478,000 annually thereafter, to implement the provisions of the bill.
- Unknown court workload cost pressures to the extent this bill creates a new protection under FEHA subject to a cause of action. (Trial Court Trust Fund, General Fund). See Staff Comments for additional details.
- To the extent this bill increases the administrative workload of human resources administration, this bill could result in unknown, potentially significant costs to state agencies (General Fund and special funds).

Background: FEHA protects the right and opportunity of all persons to seek, obtain, and hold employment without discrimination, abridgment, or harassment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. FEHA also makes it an unlawful employment practice for an employer to refuse to hire, discharge from employment, or otherwise discriminate against a person in compensation or in the terms, conditions, or privileges of employment, on account of these specified characteristics.

Proposed Law: This bill would do the following:

- Expand the protected characteristics under FEHA’s anti-discrimination provisions in employment to include family caregiver status.
- Define “family caregiver status” to mean a person who contributes to the care of one or more family members.

- Define “family member” to mean a spouse, child, parent, sibling, grandparent, grandchild, domestic partner, or any individual previously identified as a “designated person” under Government Code Section 12945.2.
- Provide that nothing in these provisions relating to discrimination on account of family caregiver status shall be interpreted as creating any new obligation for an employer to provide special accommodations because of family caregiver status. Specify that this shall not be construed to diminish any right that is otherwise provided under this part or any other local, state, or federal law.

Related Legislation:

- AB 2182 (Wicks, 2022) was similar to this bill in that it would have expanded the list of protected characteristics under FEHA to include “family responsibilities,” as defined, but also would have required an employer to make accommodations for persons with “family responsibilities” to tend to obligations arising from specified circumstances involving those responsibilities. The bill was held under submission on the Suspense File of the Assembly Appropriations Committee.
- AB 1041 (Wicks, Chapter 748, Statutes of 2022) expanded the list of individuals for whom an employee can take leave under the CFRA and the Healthy Workplaces, Healthy Families Act of 2014 to include a “designated person” by the employee.
- AB 1119 (Wicks, 2021) was substantially similar to AB 2182 and included both the FEHA anti-discrimination provisions to include an applicant or employee’s family responsibilities and would have required an employer to engage in an interactive process to reasonably accommodate such responsibilities that are known to the employer. The bill was held under submission on the Suspense File of the Assembly Appropriations Committee.
- SB 404 (Jackson, 2013) would have added “familial status” to the protected categories of the employment provisions of the Fair Employment and Housing Act (FEHA). The bill was held under submission on the Suspense File of the Assembly Appropriations Committee.

Staff Comments: CRD notes that it would require three positions to investigate an estimated 310 complaints for investigation per year involving an allegation of “family caregiver status.” CRD notes some of these anticipated complaints would have been filed under existing bases, such as sex or disability, but this new additional basis for a complaint will make the investigation more complex, leading to increased workload. CRD must also update its complaint system, intake forms, regulations, educational materials, and webpages. The department anticipates that the additional work for its Dispute Resolution Division would be absorbable.

It is unknown how many additional actions would be brought as a result of the implementation of this bill. However, it generally costs about \$8,000 to operate a courtroom for one eight-hour day. Although courts are not funded on the basis of workload, increased pressure on the trial courts and staff may create a need for increased funding for courts from the General Fund to perform existing duties.

Numerous trial court operations are funded through the imposition and collection of criminal fines and fees. However, the Legislature has reduced and eliminated criminal fines and fees over the past decade. As a result, the 2023-24 budget includes an ongoing annual allocation of \$105 million backfill from the General Fund in order to address declining revenue to the Trial Court Trust Fund.

Finally, this bill could result in increased employment litigation against state agencies. The magnitude of such costs is unknown.

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