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THIRD READING

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Bill No: AB 524  
Author: Wicks (D)  
Amended: 6/29/23 in Senate  
Vote: 21

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SENATE JUDICIARY COMMITTEE: 7-2, 6/27/23  
AYES: Umberg, Allen, Ashby, Durazo, Laird, Stern, Wiener  
NOES: Wilk, Niello  
NO VOTE RECORDED: Caballero, Min

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 7/12/23  
AYES: Cortese, Durazo, Laird, Smallwood-Cuevas  
NOES: Wilk

SENATE APPROPRIATIONS COMMITTEE: 5-2, 9/1/23  
AYES: Portantino, Ashby, Bradford, Wahab, Wiener  
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 47-15, 6/1/23 - See last page for vote

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**SUBJECT:** Discrimination: family caregiver status

**SOURCE:** California Employment Lawyers Association  
California Work & Family Coalition  
Equal Rights Advocates  
Legal Aid at Work

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**DIGEST:** This bill prohibits employment discrimination on account of family caregiver status, as defined, and recognizes the opportunity to seek, obtain, and hold employment without discrimination because of family caregiver status as a civil right, as specified.

**ANALYSIS:**

Existing law:

- 1) Establishes the California Fair Employment and Housing Act (FEHA). (Gov. Code, tit. 2, div. 3, pt. 2.8, §§ 12900 et seq.)
- 2) Declares that:
  - a) It is the public policy of this State that it is necessary to protect and safeguard 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, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, reproductive health decisionmaking, or military and veteran status.
  - b) It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment for these reasons foments domestic strife and unrest, deprives the state of the fullest utilization of its capacities for development and advancement, and substantially and adversely affects the interests of employees, employers, and the public in general.
  - c) The practice of discrimination because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information in housing accommodations is declared to be against public policy.
  - d) It is the purpose of FEHA to provide remedies that will eliminate these discriminatory practices, and FEHA shall be deemed an exercise of the police power of the state for the protection of the welfare, health, and peace of the people of this State. (Gov. Code, § 12920.)
- 3) Provides that the opportunity to seek, obtain, and hold employment without discrimination because 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, reproductive health decisionmaking, or veteran or military status is hereby recognized as and declared to be a civil right. (Gov. Code, § 12921.)

- 4) Establishes the Civil Rights Department (CRD) and the Civil Rights Council (Council) within the CRD to effectuate and enforce FEHA, as specified. (Gov. Code, §§ 12901-12907.)
- 5) Defines terms within FEHA, including:
  - a) Except in specified circumstances, “employee” does not include any individual employed by that person’s parent, spouse, or child or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.
  - b) “Employer” includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political subdivision of the state, and cities, but does not include a religious association or corporation not organized for private profit. (Gov. Code, § 12926.)
- 6) Makes it an unlawful employment practice in California, unless based upon a bona fide occupational qualification or, except where based on applicable security regulations established by the United States or this State, for employers and labor organizations to engage in discrimination and other negative employment actions on the basis of the characteristics listed in 2)(a). (Gov. Code, § 12940.)
- 7) Establishes the California Family Rights Act (CFRA) within FEHA, which requires covered employers to provide employees who satisfy certain criteria with unpaid, job-protected leave for specified family care and medical reasons. (Gov. Code, §§ 12945.1, 12945.2, 19702.3.)

This bill:

- 1) Adds “family caregiver status” to the list of characteristics protected from employment discrimination under FEHA.
- 2) Defines “family caregiver status” as a person who contributes to the care of one or more family members; a “family member” is a spouse, child, parent, sibling, grandparent, grandchild, domestic partner, or any individual previously identified by the employee or potential employee as a “designated person” under existing family care and medical leave laws, as specified.
- 3) Aligns the prohibition on discrimination on account of family caregiver status with the existing prohibition on account of marital status by providing that nothing in FEHA (1) affects the right or an employer to reasonably regulate, for

reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the Council; or (2) prohibits bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

- 4) States that the addition of “family caregiver status” to the list of protected characteristics in FEHA shall not be interpreted to create any new obligation for an employer to provide special accommodations because of family caregiver status; this provision does not diminish any right that is otherwise provided under FEHA or other local, state, or federal law.

### **Comments**

The percentage of working adults who are caregivers—particularly to children or their parents—has increased significantly over the past decades, and will continue to as the population ages. Leaving the workforce is not an option for many, often because of the high cost of living and/or childcare and the lack of a social safety net to provide relief. The dual requirements of employment and caregivers hits women especially hard, as they disproportionately shoulder caretaking duties.

The author and sponsors report that, on top of the emotional and physical toll that can be associated with caregiving, caregivers also face discrimination in the workplace. Caregiver discrimination occurs when an employer refuses to hire or promote a person, or takes a negative employment action, because they assume the employee’s caregiving obligations will prevent the employee from doing their job. This discrimination keeps qualified applicants and employees out of jobs they deserve on the basis of stereotypes, not facts about the actual person.

To prevent employers from engaging in discrimination against caregivers, this bill adds “family caregiver status” to FEHA’s list of protected characteristics for employment. “Family caregiver status” is defined a person who contributes to the care of one or more family members, including a spouse, child, parent, sibling, grandparent, grandchild, domestic partner, or any individual who was previously identified as a “designated person” under existing family care and medical leave laws.<sup>1</sup> This bill also clarifies that the addition of “caregiver status” does not require employers to give caregiver-employees any special treatment on the basis of their caregiver status, except where already required by local, state, or federal law.

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<sup>1</sup> See Gov. Code, § 12945.2.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- CRD would incur General Fund costs of \$482,000 in 2024-25, and \$478,000 annually thereafter, to implement the provisions of this 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).
- 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).

**SUPPORT:** (Verified 9/1/23)

California Employment Lawyers Association (co-source)

California Work & Family Coalition (co-source)

Equal Rights Advocates (co-source)

Legal Aid at Work (co-source)

AARP California

ACCESS Reproductive Justice

Alzheimer's Los Angeles

Alzheimer's Orange County

Alzheimer's San Diego

Association of Regional Center Agencies

Breastfeed LA

California Breastfeeding Coalition

California Calls

California Coalition on Family Caregiving

California Commission on Aging

California Immigrant Policy Center

California Pan-Ethnic Health Network

California Partnership to End Domestic Violence

California School Employees Association, AFL-CIO

California Teachers Association

California WIC Association

California Women Lawyers

California Women's Law Center

Caring Across Generations

Center for Law and Social Policy

Child Care Law Center  
Citizens for Choice  
COLAGE  
Consumer Attorneys of California  
Family Caregiver Alliance  
Family Values @ Work  
Friends Committee on Legislation of California  
Futures Without Violence  
GRACE – End Child Poverty in CA  
Human Impact Partners  
Jewish Center for Justice  
JTMW LLC  
Justice in Aging  
LA Best Babies Network  
La Raza Centro Legal  
Lawyers’ Committee for Civil Rights of the San Francisco Bay Area  
Los Angeles Alliance for a New Economy  
Lutheran Office of Public Policy  
Mujeres Unidas y Activas  
NARAL Pro-Choice California  
National Association of Social Workers – California Chapter  
National Council of Jewish Women CA  
National Council of Jewish Women Los Angeles  
National Domestic Workers Alliance  
National Multiple Sclerosis Society  
Orange County Equality Coalition  
Our Family Coalition  
Parent Voices, California  
Public Counsel  
Rising Communities  
Santa Clara County Wage Theft Coalition  
TechEquity Collaborative  
Thai Community Development Center  
The Restaurant Opportunity Center of the Bay  
UFCW Western States Council  
Women’s Foundation California  
Worksafe

**OPPOSITION:** (Verified 9/1/23)

Acclimation Insurance Management Services

Allied Managed Care  
Associated General Contractors  
Association of California Healthcare Districts  
Auto Care Association  
Brea Chamber of Commerce  
California Apartment Association  
California Association of Joint Powers Authorities  
California Association of Sheet Metal and Air Conditioning Contractors National  
Association  
California Association of Winegrape Growers  
California Bankers Association  
California Beer and Beverage Distributors  
California Building Industry Association  
California Business and Industrial Alliance  
California Business Properties Association  
California Chamber of Commerce  
California Employment Law Council  
California Farm Bureau  
California Food Producers  
California Grocers Association  
California Hispanic Chambers of Commerce  
California Hospital Association  
California Hotel & Lodging Association  
California Landscape Contractors Association  
California Manufacturers and Technology Association  
California New Car Dealers Association  
California Railroads  
California Rental Housing Association  
California Restaurant Association  
California Retailers Association  
California State Council of the Society for Human Resource Management  
Carlsbad Chamber of Commerce  
CAWA  
Chino Valley Chamber of Commerce  
Citrus Heights Chamber of Commerce  
Civil Justice Association of California  
Clovis Chamber of Commerce  
Coalition of California Chambers  
Coalition of Small and Disabled Veteran Businesses  
Construction Employers' Association

Corona Chamber of Commerce  
Danville Area Chamber of Commerce  
El Dorado Hills Chamber of Commerce  
Encinitas Chamber of Commerce  
Exeter Chamber of Commerce  
Family Business Association of California  
Family Winemakers of California  
Flasher Barricade Association  
Folsom Chamber of Commerce  
Fontana Chamber of Commerce  
Fountain Valley Chamber of Commerce  
Fremont Chamber of Commerce  
Fresno Chamber of Commerce  
Garden Grove Chamber of Commerce  
Gilroy Chamber of Commerce  
Glendora Chamber of Commerce  
Greater Bakersfield Chamber of Commerce  
Greater Coachella Valley Chamber of Commerce  
Greater Conejo Valley Chamber of Commerce  
Greater High Desert Chamber of Commerce  
Greater Riverside Chambers of Commerce  
Greater San Fernando Valley Chamber of Commerce  
Hollywood Chamber of Commerce  
Housing Contractors of California  
Imperial Valley Regional Chamber of Commerce  
Kern County Hispanic Chamber of Commerce  
La Cañada Flintridge Chamber of Commerce  
La Verne Chamber of Commerce  
Laguna Niguel Chamber of Commerce  
Livermore Valley Chamber of Commerce  
Lodi Chamber of Commerce  
Long Beach Area Chamber of Commerce  
Los Angeles Area Chamber of Commerce  
Mission Viejo Chamber of Commerce  
Murrieta/Wildomar Chamber of Commerce  
National Federation of Independent Businesses  
Newport Beach Chamber of Commerce  
North Orange County Chamber  
North Side San Diego Business Chamber  
Oceanside Chamber of Commerce

Official Police Garages Los Angeles  
Orange County Business Council  
Palos Verdes Peninsula Chamber of Commerce  
Paso Robles Chamber of Commerce  
Pleasanton Chamber of Commerce  
Plumbing-Heating-Cooling Contractors Association of California  
Public Risk Innovation, Solutions and Management  
Rancho Cordova Area Chamber of Commerce  
Redondo Beach Chamber of Commerce  
San Diego Regional East County Chamber of Commerce  
San Gabriel Valley Economic Partnership  
San Juan Capistrano Chamber of Commerce  
Santa Ana Chamber of Commerce  
Santa Barbara South Chamber of Commerce  
Santa Clarita Valley Chamber of Commerce  
Santa Marisa Valley Chamber of Commerce  
Santa Rosa Metro Chamber of Commerce  
Santee Chamber of Commerce  
Simi Valley Chamber of Commerce  
South Bay Association of Chambers of Commerce  
South County Chambers of Commerce  
Southwest California Legislative Council  
Torrance Area Chamber of Commerce  
Tulare Chamber of Commerce  
Vista Chamber of Commerce  
Walnut Creek Chamber of Commerce  
West Ventura County Business Alliance  
Western Carwash Association  
Western Growers Association  
Wilmington Chambers of Commerce  
Wine Institute  
Yorba Linda Chamber of Commerce

**ARGUMENTS IN SUPPORT:** According to the California School Employees Association, AFL-CIO:

Family caregiver discrimination occurs when an employer takes a negative employment action against an employee based on their status as a caregiver. This can range from demoting an employee or refusing to hire someone based on their status as a family caregiver. CSEA represents 250,000 classified employees throughout the state. Most of our members are women

of color, and women are often tasked with the role of caregiver in their family. We strongly believe no one should be denied job opportunities based on their status as a family caregiver. AB 524 would address this by prohibiting an employer from discriminating against an employee based on their status as a caregiver by adding family caregiver status to the list of protected characteristics under the employment provisions of the Fair Employment and Housing Act.

**ARGUMENTS IN OPPOSITION:** According to the coalition of this bill's opponents:

AB 524 proposes to add any individual with "family caregiver status" as a new protected class under FEHA. That term is extremely broad. It is defined to include any worker who "contribut[es] to the care of one or more family members." A "family member" is not limited to an actual family member. Rather, it also includes any person who is designated by the employee. This could include a neighbor or an employee's child's friend. Every employee could arguably fall into the category of a family caregiver. Proponents of AB 524 claim that adding family caregiver status to FEHA is a simply a "clarification" of existing laws, but that is not true. AB 524 is a significant expansion of FEHA and has been rejected by this Legislature for the last two years.

Because whether an employee contributes to the care of another is a subjective determination, the employer has no ability to dispute an employee designating themselves as having family caregiver status. Any dispute would open the employer up to costly litigation. Further, adding this broad, new classification to the list under FEHA would limit an employer's ability to enforce employment policies, including attendance policies. Any action taken by the employer could be challenged as discrimination based on "family caregiver status." For example, even if the employee did not request time off as an accommodation and simply took time off, whenever they wanted, scheduled or unscheduled, the employer could not discipline or terminate the employee for the time off without risking potential litigation under FEHA for discrimination based on family caregiver status. This will significantly limit an employer's ability to address discipline issues in the workplace, maintain stability, and eradicate any issues without costly litigation.

ASSEMBLY FLOOR: 47-15, 6/1/23

AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Garcia, Gipson, Haney, Hart, Holden, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Papan, Pellerin, Reyes, Luz Rivas, Robert Rivas, Santiago, Schiavo, Ting, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

NOES: Alanis, Chen, Davies, Dixon, Flora, Vince Fong, Gallagher, Hoover, Lackey, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis

NO VOTE RECORDED: Bains, Boerner, Megan Dahle, Essayli, Gabriel, Grayson, Irwin, Mathis, Stephanie Nguyen, Pacheco, Petrie-Norris, Quirk-Silva, Ramos, Rodriguez, Blanca Rubio, Soria, Valencia, Villapudua

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113  
9/4/23 8:53:04

\*\*\*\* END \*\*\*\*