
SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2025 - 2026 Regular

Bill No: AB 1940 **Hearing Date:** July 1, 2026
Author: Calderon
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Urgency: No **Fiscal:** Yes
Consultant: Alma Perez-Schwab

SUBJECT: Unlawful practices: discrimination: menopause

KEY ISSUES

This bill 1) expands the definition of “sex,” as a protected category under the Fair Employment and Housing Act (FEHA), to include perimenopause, menopause, or postmenopause or related medical conditions; and 2) requires the California Commission on the Status of Women and Girls and the Civil Rights Department (CRD) to take specified steps raise awareness of the employment rights of women experiencing perimenopause, menopause, or postmenopause.

ANALYSIS

Existing law:

- 1) Establishes the Commission on the Status of Women and Girls, which was created to develop recommendations which will enable women to make the maximum contribution to society. (Government Code §8240 et seq.)
- 2) Establishes the Civil Rights Department (CRD) to, among other things, enforce California’s civil rights laws and protect Californians from discrimination in employment, housing, businesses, state-funded programs, and from bias-motivated violence, and from human trafficking. (Government Code §12930 et seq.)
- 3) Establishes the Fair Employment and Housing Act (FEHA), which makes it an unlawful employment practice for an employer, on the basis of a person’s protected characteristics, to refuse to hire, employ, bar or discharge the person or refuse to select the person for a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment. [Government Code §12940(a)]
- 4) Under FEHA, prohibits an employer, labor organization, employment agency, apprenticeship training program or any training program leading to employment, or any other person from harassing an employee, an applicant, an unpaid intern or volunteer, or a person providing services pursuant to a contract based on a person’s protected characteristic. Additionally, makes it unlawful for an employer to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring or fail to make a reasonable accommodation for the known physical or mental disability of an applicant or employee, as specified. [Government Code §12940(j), (k) and (m)]
- 5) Provides that the protected characteristics under FEHA are: race, religious creed, color, national origin, ancestry, physical disability, mental disability, reproductive health decisionmaking, medical condition, genetic information, marital status, sex, gender, gender

identity, gender expression, age, sexual orientation, or veteran or military status.
(Government Code §12940)

- 6) Defines, among others, the following terms for purposes of FEHA:
- a) “Age” refers to the chronological age of any individual who has reached a 40th birthday.
 - b) “Employer” includes any person regularly employing five or more persons, with specified exceptions for religious associations and nonprofit organizations.
 - c) “Medical condition” means either of the following:
 - i. Any health impairment related to, or associated with, a diagnosis of cancer or a record or history of cancer, or
 - ii. Genetic characteristics, as defined.
 - d) “Physical disability” includes, but is not limited to, all of the following:
 - i. Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that either affects one or more specified body systems or limits a major life activity, as specified.
 - ii. Any other health impairment not described in (i) that requires special education or related services.
 - iii. Having a record or history of a condition or impairment described in (i) or (ii), which is known to the employer or other covered entity.
 - iv. Being regarded or treated by the employer or other covered entity as having, or having had, any physical condition that makes achievement of a major life activity difficult, or as having a condition or impairment described in (i) or (ii).
 - e) “Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, reproductive health decisionmaking, or veteran or military status” includes any of the following:
 - i. Any combination of those characteristics.
 - ii. A perception that the person has any of those characteristics or any combination of those characteristics.
 - iii. A perception that the person is associated with a person who has, or is perceived to have, any of those characteristics or any combination of those characteristics.
 - f) “Reasonable accommodation” may include either of the following:
 - i. Making existing facilities used by employees readily accessible to, and useable by, individuals with disabilities.
 - ii. Job-restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials, or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.
 - g) “Sex” includes, but is not limited to, the following:
 - i. Pregnancy or medical conditions related to pregnancy.
 - ii. Childbirth or medical conditions related to childbirth.
 - iii. Breastfeeding or medical conditions related to breastfeeding.
 - iv. A person’s gender, which means sex, and includes a person’s gender identity and gender expression; “gender expression” means a person’s gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth.
- (Government Code §12926)

- 7) Requires the CRD to develop a poster on discrimination in employment to include information relating to the illegality of sexual harassment. One copy of the poster shall be provided by the department to an employer or a member of the public upon request. (Government Code §12950)
- 8) Requires every employer to ensure a workplace free of sexual harassment by, among other things, posting a poster developed by CRD in a prominent and accessible location in the workplace and providing sexual harassment training. (Government Code §12950 and §12950.1)
- 9) Provides, pursuant to the Unruh Civil Rights Act, that all persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever. Defines “sex” as including, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. “Sex” also includes, but is not limited to, a person’s gender. (Civil Code §51)

This bill:

- 1) Expands the definition of “sex” within the FEHA to include perimenopause, menopause, or postmenopause or medical conditions related to perimenopause, menopause, and postmenopause.
- 2) Provides that within FEHA, the definition of “medical condition” does not apply to the definition of “sex,” as specified.
- 3) Requires the CRD, on or before July 1, 2027, to update its employment discrimination and sexual harassment poster to notify people of their rights and protections in regard to perimenopause, menopause, or postmenopause or medical conditions related to perimenopause, menopause, or postmenopause.
- 4) Requires the Commission on the Status of Women and Girls, beginning July 1, 2027, to raise awareness of the employment rights of women experiencing perimenopause, menopause, and postmenopause by doing all of the following:
 - a) Developing and distributing public education materials that clearly explain employment rights and workplace protections applicable to employees experiencing menopause-related symptoms, including, but not limited to, rights related to reasonable accommodations and retaliation under state and federal law.
 - b) Ensuring culturally competent and linguistically appropriate outreach by making all public education materials available in the languages required by state law, as defined, and tailoring messaging to reach diverse communities, including women of color, low-income workers, immigrant workers, older workers, and workers in industries with historically limited access to workplace protections information.
 - c) Coordinating with relevant state agencies, including the CRD, the Department of Industrial Relations, the Employment Development Department, and the State

Department of Public Health, to ensure accuracy, consistency, and clarity of information regarding menopause-related employment rights and resources.

- d) Partnering with community-based organizations, labor organizations, employer associations, and health advocacy organizations to expand the reach of outreach efforts and ensure materials are distributed through trusted messengers and accessible community channels.
- e) Conducting statewide public awareness campaigns, including digital, print, and media outreach, to educate both employees and employers about menopause in the workplace, with an emphasis on reducing stigma, promoting understanding, and encouraging compliance with existing employment laws.
- f) Providing referrals to enforcement and support resources, including information on how employees may file complaints, seek accommodations, or access legal, medical, or workplace support related to menopause-related employment issues.
- g) Periodically evaluating the effectiveness of outreach efforts, using available data and community feedback, and updating strategies and materials as necessary to address identified gaps and emerging needs.

COMMENTS

1. Background:

The Fair Employment and Housing Act:

FEHA provides protection from harassment or discrimination in employment because of the following protected characteristics: age (40 and over) race, religious creed, color, national origin, ancestry, disability (mental and physical), reproductive health decisionmaking, medical condition (cancer and genetic characteristics), genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, or veteran or military status. FEHA applies to public and private employers, labor organizations and employment agencies with 5 or more employees.

FEHA's provisions barring discrimination apply to all business practices, including advertisements; applications, screening, and interviews; hiring, transferring, promoting, terminating, or separating employees; working conditions, including compensation; and participation in a training or apprenticeship program, employee organization or union.

Victims of discrimination, harassment or retaliation can file a complaint with the CRD for possible investigation. Once a claim is filed, CRD will then evaluate the facts and decide whether to accept the case for investigation. CRD attempts to resolve the dispute in appropriate cases and, if necessary, may decide to take legal action by filing a civil action in court on behalf of the worker, either individually or as a class complaint. Alternatively, if the CRD is unable to determine that a violation took place, or if the worker requests it at any time, then the department will provide the worker with a right-to-sue letter. Only upon receipt of the right-to-sue letter from the CRD may the worker proceed to file a civil action in court. The worker has one year from the date of the right-to-sue letter to do so.

State law provides a variety of remedies for victims of employment discrimination, including, among others: back pay (past lost earnings) and front pay (future lost earnings); hiring or reinstatement; promotion; policy changes; reasonable accommodation(s); damages for emotional distress; punitive damages; attorney's fees and costs.

Menopause, Perimenopause and Postmenopause:

Menopause is generally defined as the cessation of menstruation for at least 12 months in a person who previously menstruated. For some women, menopause can last for up to a decade. Common menopause symptoms include “hot flashes, night sweats, trouble sleeping, joint and muscle discomfort, pain during sex, moodiness and irritability, forgetfulness, difficulty concentrating, or a combination of these,” which can vary in frequency and severity.¹ Perimenopause is the stage that precedes menopause, when estrogen levels start to rise and fall and periods become more irregular; persons in perimenopause can also experience hot flashes, sleep problems, mood changes, and other symptoms of menopause.²

According to a 2025 analysis by the California Health Benefits Review Program at the University of California Berkeley, there are approximately 5 million women aged 40 to 64 years in California, many of whom experience mild, moderate, or severe menopause symptoms for a few months to more than 12 years.³

As noted by the Senate Judiciary Committee analysis of this bill:

“Menopause “is especially stigmatized because of its intersection with age and a perception that a woman’s value ends with her reproductive ability.”⁴ There is significant cultural discomfort around menopause, which has contributed to a (now-lessening) reluctance to discuss the topic, as well as dramatically disparaging portrayals, such as “[menopause is] a time in a woman’s life when she goes batty for a few years, subject to wild rage and deep depression, and after it she mourns her lost youth and fades into the woodwork.”⁵ In the workplace, stigma around menopause can lead to discrimination in two main forms: comments and employment actions based on stereotypes about how menopausal women, or “women of a certain age,” act and/or should act; and employer refusals to accommodate menopausal employees’ symptoms.”

FEHA and Reasonable Accommodations:

FEHA provisions require employers to provide reasonable accommodation for individuals with a physical or mental disability to apply for jobs and to perform the essential functions of their jobs unless it would cause an undue hardship. Reasonable accommodation can include, but is not limited to, changing job duties, providing leave for medical care, or changing work schedules. Employers must initiate an “interactive process” when an applicant or employee requests reasonable accommodations or when the employer becomes aware of the possible need for an accommodation. This awareness might come through a third party, by observation, or because the employee has exhausted leave benefits but still needs reasonable accommodation.

¹ National Institute on Aging, What is Menopause? (last reviewed Oct. 16, 2024)

<https://www.nia.nih.gov/health/menopause/what-menopause>

² Mayo Clinic Staff, Perimenopause Overview (Dec. 18, 2025) Mayo Clinic, <https://www.mayoclinic.org/diseases-conditions/perimenopause/symptoms-causes/syc-20354666>.

³ “A report to the 2025-2026 California Legislature: Analysis of California Assembly Bill 432: Menopause,” April 22, 2025. California Health Benefits Review Program, University of California Berkeley. <https://www.chbrp.org/sites/default/files/bill-documents/AB432/AB%20432%20Menopause%20-%20FINAL%20Apr%202022%2025.pdf>

⁴ Mullins, *Is it Hot in Here or Is It Just Me?: A Call for Menopause Equity in the Workplace* (Spr. 2022) 25 U. DC. L. Rev. 34, 34.

⁵ *Id.* at p. 38 (internal quotation marks omitted).

Under FEHA, it is possible for a person suffering from menopause related symptoms to request a reasonable accommodation from their employer if the symptoms rise to the level of a medical condition or disability. When the disability and/or the need for accommodation is not obvious, the employer may ask the individual for reasonable documentation about their disability and functional limitations.⁶ Reasonable documentation means that the employer may require only the documentation necessary to establish that a person has a disability which necessitates a reasonable accommodation.⁷

Unfortunately, this means that a person whose menopause symptoms do not rise to the level and severity of a disability or medical condition, for which they can get medical documentation, may not be able to access the relief of a reasonable accommodation to fulfill their work duties.

This bill:

As noted under existing law, FEHA provides definitions for the various protected characteristics. Under FEHA, “sex” includes a range of traits traditionally associated with one gender, such as pregnancy, gender expression, and gender identity. This bill proposes to include perimenopause, menopause, or postmenopause or other related medical conditions within the above definition of sex. The bill additionally requires the CRD and the Commission on the Status of Women and Girls to raise awareness of the employment rights of women experiencing perimenopause, menopause, or postmenopause by taking specified actions.

The many symptoms of menopause can make participating in the workforce difficult for some women. By adding menopause and the related before and after stages of menopause to protection under FEHA, this bill provides an avenue for women experiencing these transitions to receive accommodations at work without fear of discrimination.

A couple other states have already taken steps to protect against menopause discrimination. In 2025, Rhode Island became the first state in the nation to mandate workplace accommodations for menopausal women and explicitly prohibits menopause discrimination.⁸ This year, on June 1, 2026, the Governor of Washington signed an executive order recognizing that menopause is linked to premature departure from the workforce and that employees experiencing perimenopause or menopause may experience symptoms that may require reasonable accommodation. The EO instructs state agencies to, among other things, have appropriate workplace reasonable accommodation policies that apply to, and account for the needs of, employees experiencing menopause and/or perimenopause.⁹

2. Need for this bill?

According to the author:

“Currently, 39 million women in the US workforce are experiencing menopause or will soon experience menopause or menopausal symptoms. Despite the scale of this population, current

⁶ Savage, Ellen. “Medical Documentation Requirements for Disability Leaves,” Labor Law Corner. (June 17, 2022) CalChamber. <https://calchamberalert.com/2022/06/17/medical-documentation-requirements-for-disability-leaves/>

⁷ Ibid.

⁸ R.I. Gen. Laws § 28-5-7.4.

⁹ Wash. Governor’s Exec. Order No. 26-01 (June 1, 2026) p. 1.

laws do not clearly define workplace rights or protections for women or others experiencing menopause. Many women fear bias and discrimination, making them reluctant to disclose their menopausal status or discuss symptoms and concerns with managers or supervisors. They often feel both fear and a personal responsibility to manage their symptoms independently while at work. This reluctance and lack of support have been shown to negatively impact workforce participation and engagement. As a result, menopause-related challenges contribute to an estimated \$1.8 billion in lost work productivity annually.

No worker should experience discrimination, harassment, or bullying based on biological conditions that are largely outside their control. Providing clear legal protections and accessible information will help ensure that employees experiencing menopause feel supported and able to continue thriving in the workplace. Increased consideration and retention of experienced workers will also strengthen the workforce by reducing unnecessary job loss, reduced hours, or premature retirement.”

3. Proponent Arguments:

The California Commission on the Status of Women and Girls is sponsoring and write:

“According to the Center for Human Capital Innovation, 39 million women in the U.S. workforce currently experience or will soon experience menopause and related conditions. While current law prohibits discrimination on the basis of sex, the lack of specific protections for women experiencing these conditions can leave women in the workforce inadequately informed about their workplace rights. This can keep them from disclosing and discussing symptoms with employers, as well as, keep them from requesting reasonable accommodations. Research further shows that menopause-related challenges have contributed to an estimated \$1.8 billion loss in annual work productivity and may lead women to leave jobs and reduce their work hours. AB 1940 will help ensure that women have fair and equal access to employment to which menopausal conditions are not a barrier.”

The American College of Obstetricians and Gynecologists, District IX write in support:

“AB 1940 does two important things. First, it provides legal clarity so that workers experiencing menopause-related conditions are protected from discrimination and have access to reasonable accommodations, just as California law already recognizes protections for pregnancy and related conditions. Second, it promotes education and awareness so employers better understand both their obligations and the practical, low-cost accommodations that can make a meaningful difference, such as flexible scheduling, temperature control, or access to breaks.

Supporting menopausal women in the workplace is not burdensome; it is sound workforce policy. It improves retention, productivity, and equity for a substantial portion of California’s workforce.”

4. Opponent Arguments:

A coalition of employer organizations, including the California Chamber of Commerce, are opposed to the measure arguing:

“By adding perimenopause, menopause, and post menopause to the definition of “sex” in FEHA, our concern is that this creates a new, automatic basis on which to challenge any adverse employment action rather than keeping those conditions under the accommodation framework as described above. Women ages 35-54 represent roughly 40% of all women participating in California’s workforce, making this one of the largest demographic segments of the California labor market according to Employment Development Department’s 2025 Labor Market Report. Because employers are prohibited from asking employees to disclose any medical conditions, employers would effectively have to *assume* that 40% of the workforce falls in this new protected category. That would make it difficult for employers to ever take any disciplinary action against an employee who falls in this group out of concern for litigation.

Any misstep could subject employers to compensatory damages, emotional distress damages, punitive damages, and attorneys’ fees. California already has the highest litigation rate for employment claims in the country. A 2017 study by insurance provider Hiscox regarding the cost of employee lawsuits estimated that the cost for a small to mid-size employer to defend and settle a single plaintiff discrimination claim was approximately \$160,000, which was a \$35,000 increase from Hiscox’s study just two years earlier. This amount, especially for a small employer, reflects the financial risk associated with defending a lawsuit under FEHA. In 2016, Hiscox found that U.S. companies had a 10.5% chance of having an employment charge filed against them. For California, that percentage was 56.5%. According to the Civil Rights Department (CRD) annual reports, thousands of complaints are filed each year, with more than 50% of those employees choosing to immediately pursue civil litigation instead of having the CRD investigate their claim. According to the CRD’s 2024 Annual Report there were 16,924 cases with an immediate right to sue. This demonstrates the increased litigation exposure that businesses, including small businesses, face litigating employment claims.

In summary, while we appreciate the intent of AB 1940, we believe that the reasonable accommodation framework is the best solution for addressing symptoms arising from perimenopause, menopause, and post menopause.”

5. Double Referral:

This bill has been double referred and prior to our hearing today, was heard and passed by Senate Judiciary Committee.

6. Prior/Related Legislation:

AB 360 (Papan, 2025) would have required the Department of Health Care Access and Information to work with the Medical Board of California, the Osteopathic Medical Board of California, and state higher education entities to assess, among other things, physicians and surgeons’ education and training, as specified, relating to menopause diagnosis and treatment. *AB 360 was held under submission in the Assembly Appropriations Committee.*

AB 432 (Bauer- Kahan, 2025) would have required, among other things, a health care service plan contract or health insurance policy that covers outpatient prescription drugs, except as specified, that is issued, amended, or renewed on or after January 1, 2026, to include coverage for evaluation and treatment options for symptoms of perimenopause and menopause. *This bill was vetoed by Governor Newsom.*

AB 2270 (Maienschein, Chapter 636, Statutes of 2024) requires a number of medical boards, in determining their continuing education requirements, to consider including a course in menopausal mental or physical health.

SB 1137 (Smallwood-Cuevas, Ch. 779, Stats. 2024) clarified that the FEHA and other antidiscrimination laws protect against discrimination on the basis of an intersection of protected traits.

AB 524 (Wicks, 2023) would have added “family caregiver status” to the list of protected characteristics under the FEHA. *AB 524 was vetoed by Governor Newsom* who stated in his veto message that, “[a]lthough the bill does not require employers to provide ‘special accommodations’ based on ‘family caregiver status,’ it is not clear what types of acts would constitute unlawful discrimination and what types of acts would be lawful denials of ‘special accommodations.’ Given this ambiguity, this bill would be difficult to implement and lead to costly litigation for employers in California.”

AB 2467 (Bauer- Kahan, 2023) was virtually identical to AB 432 of 2025 and was *vetoed by Governor Newsom*.

SUPPORT

CA Commission on the Status of Women and Girls (Co-Sponsor)
American College of Obstetricians & Gynecologists - District IX
California Employment Lawyers Association
California Teachers Association
CFT – a Union of Educators & Classified Professionals, AFT, AFL-CIO
Delta Dental of California
Menopause Education Center
Menowar LLC
Wisepause Wellness

OPPOSITION

California Apartment Association
California Chamber of Commerce
California Restaurant Association
National Federation of Independent Business (NFIB)

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