

Date of Hearing: April 7, 2026

ASSEMBLY COMMITTEE ON JUDICIARY
Ash Kalra, Chair
AB 2563 (Pacheco) – As Introduced February 20, 2026

As Proposed to be Amended

SUBJECT: SEX DISCRIMINATION: SCOPE

KEY ISSUE: SHOULD A CONSISTENT DEFINITION OF “SEX DISCRIMINATION” BE AMENDED OR ADDED TO SEVERAL PARTS OF THE CALIFORNIA CODE, THEREBY IMPLEMENTING THE RECOMMENDATIONS OF THE CALIFORNIA LAW REVISION COMMISSION?

SYNOPSIS

Existing state and federal law prohibit discrimination on the basis of sex in several contexts and in several statutes, including California’s Fair Employment and Housing Act (FEHA), Unruh Civil Rights Act, and provisions in the Education Code, among others. The 1972 Equal Rights Amendment – which declared that equality of rights under the law shall not be denied or abridged on account of sex – was ratified by California, but failed to win the support of enough states to become a part of the U.S. Constitution. Nonetheless, SCR 92 (Chap. 150, Stats., 2022) authorized the California Law Revision Commission to complete a study identifying the extent to which California law complies with the principles of the Equal Rights Amendment. In September 2025, the Commission completed its review and found that, while California provided strong protections for women, often going beyond protections provided by federal law, definitions of sex discrimination were not consistent across California’s many codes. This bill, consistent with those recommendations, adds new sections to the codes and amends others to create a consistent definition of sex discrimination across California’s codes.

The bill is supported by Planned Parenthood, the California Federation of Teachers, California Rural Legal Assistance Foundation, and LGBTQ+ Inclusivity, Visibility, and Empowerment (LIVE). It is opposed by several groups that object, for different reasons, to a definition of “sex” that goes beyond the male-female binary. The author will make an amendment in this Committee that adds a new section with the new definition to the Education Code. The amendment is reflected in the bill summary.

SUMMARY: Creates a consistent definition of “sex discrimination” across several codes, thereby implementing recommendations of the California Law Revision Commission. Specifically, **this bill:**

- 1) Adds or amends several code sections to clarify that “sex,” as used in statutes that prohibit “sex discrimination,” includes any perceived characteristics of sex, as specified.
- 2) Adds or amends several code sections to clarify that “sex” includes, but is not limited to, pregnancy or medical conditions related to pregnancy, childbirth or medical conditions related to childbirth, breastfeeding or medical conditions relating to breastfeeding.

- 3) Specifies that “pregnancy or related medical conditions,” for purposes of 2) above, includes, but is not limited to, childbirth, abortion, lactation, miscarriage, fertility, and contraception.
- 4) Adds or amends several code sections to clarify that “sex discrimination” includes, but is not limited to, discrimination based on any of the following actual or perceived characteristics of actions:
 - a) Assigned sex or gender category, including female, male, or nonbinary.
 - b) Degree of conformity to sex or gender stereotype.
 - c) Gender, including gender identity, gender expression, and access to, and use of, gender affirming care and related health care.
 - d) Pregnancy or related medical conditions.
 - e) Decision making, access to care, or potential or actual use of a drug, device, product, or service relating to pregnancy or related medical conditions.
 - f) Sexual orientation.
 - g) Variations in sex characteristics, including intersex traits or differences in sex development.
- 5) Adds a new section to the Government Code specifying that any provision that prohibits discrimination on the basis of sex, discrimination on the basis of gender, or similar discrimination shall also be interpreted as prohibiting sex discrimination, as defined. Provides that in case of a conflict between this new section and other provisions of the code that set forth the scope of “sex discrimination,” the provisions of the new section shall prevail over provisions with a narrower scope.
- 6) Declares that in each of the added or amended code sections that statutory protections against sex discrimination reflect existing protections in the California Constitution recognizing the individual rights to pursue and obtain safety, happiness, and privacy, ensuring equal protection of the laws, protecting the ability to enter or pursue a business, profession, vocation, or employment, and protecting an individual’s reproductive freedom. Specifies that these sections shall be liberally construed to effectuate the purposes of these constitutional protections.

EXISTING LAW:

- 1) Makes unlawful, under the Fair Employment and Housing Act (FEHA), certain discriminatory employment and housing practices, and authorizes a person harmed by an unlawful practice to file a verified complaint with the Civil Rights Department. (Government Code Section 12940 *et seq.*)
- 2) Defines, for purposes of identifying unlawful practices under FEHA, the following terms:
 - a) “Sex” includes, but is not limited to, the following: pregnancy or medical conditions related to pregnancy; childbirth or medical conditions related to childbirth; and breastfeeding or medical conditions relating to breastfeeding.

- b) Specifies that “sex” also includes but is not limited to a person’s gender. “Gender” 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 Section 12926 (r).)
- 3) Prohibits, under the Unruh Civil Rights Act, a business establishment from denying any person full and equal accommodations, advantages, facilities, advantages, or services of the establishment on basis of a protected characteristics, including “sex.” Defines “sex” for this purpose to include pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. Specifies that discrimination against any particular characteristic, including “sex,” includes discrimination based on a perception that the person has a particular characteristic. (Civil Code Section 51 (b), (e)(6)-(7).)
- 4) Declares, under the Educational Equity Act, that it is the policy of the state to afford all persons in public schools with equal rights and opportunities in the educational institutions of the state, regardless of the person’s disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic set forth in the definition of hate crimes under Penal Code. Although the Educational Equity Act does not include “sex” in its list of protected characteristics, it includes “gender” and then defines gender to mean sex. Specifies that gender includes a person’s gender identity and gender expression. Defines “gender expression” to mean a person’s gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth. (Education Code Section 200 *et seq.*)
- 5) Declares, under the Sex Equity in Education Act, that it is the policy of the state that elementary and secondary classes and courses be conducted without regard to the sex of the pupil enrolled in these classes and courses. Although the Sex Equity in Education Act lists examples of “harassment and discrimination on the basis of sex,” it does not define “sex.” (Education Code Section 221.5 *et seq.*)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: According to the author:

In 1972, the California legislature ratified the federal Equal Rights Amendment (ERA), which declares, “Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.” However, the amendment was not formally added to the U.S. Constitution after disputes over ratification deadlines. Rather than rely on federal action, the California Legislature directed the California Law Revision Commission to study whether California statutes reflect the principles of the ERA.

In September 2025, the Commission completed its review and found that the definitions of sex discrimination are not consistent across California’s many codes. While California has strong civil rights protections, inconsistent language can create confusion, weaken enforcement, and result in uneven protections depending on the code section. At a time when federal protections have been rolled back – including the overturning of *Roe v. Wade* – California must ensure that its laws are clear, consistent, and unequivocal in protecting people from discrimination based on sex.

AB 2563 aligns the definition of sex discrimination across all of California's codes. The bill ensures that protections apply equally in every area of state law, reaffirming California's commitment to protecting women and girls, and all people who face discrimination based on sex, amid increasing uncertainty at the federal level.

Existing state and federal law prohibit discrimination on the basis of sex in several contexts and in several statutes, including California's Fair Employment and Housing Act (FEHA), Unruh Civil Rights Act, and provisions in the Education Code, most notably the Educational Equity Act and the Sex Equity in Education Act. However, while the existing California statutes generally provide relatively robust protections against sex-based discrimination, they do not all define "sex" or "sex discrimination" in precisely the same way. Most of California's anti-discrimination laws have been amended over the years to include discrimination against sexual orientation, gender, gender identity, and gender expression, including forms of gender identity and gender expression that do not conform to a stereotypical male-female binary. However, most of these statutes have been amended in piecemeal fashion and at different points of time. As such, while all of the statutes have provided more nuanced definitions of sex and gender that better reflect modern understandings, they have not done so in exactly the same way.

Although this bill is not sponsored by the California Law Revision Commission (CLRC), it nonetheless grows out of a recent CLRC report that examined ways in which California might better realize the aims of the 1972 Equal Rights Amendment (ERA). The ERA – which declared that equality of rights under the law shall not be denied or abridged on account of sex – was ratified by California, but it failed to win the support of enough states to become a part of the U.S. Constitution. Nonetheless, SCR 92 (Chap. 150, Stats., 2022) authorized the California Law Revision Commission to complete a study identifying the extent to which California law complies with the principles of the ERA and "to identify any defects that prohibit compliance with the [ERA]." In September 2025, the Commission completed its review and found that, while California provided strong protections for women, often going beyond protections provided by federal law, definitions of sex discrimination were not consistent across California's many codes, and it identified specific examples of these inconsistencies.

This bill seeks to remedy these inconsistencies by providing a common definition of "sex" and "sex discrimination" across all of the codes. For the most part, the definition provided by this bill accords with what is already in existing law, especially reflecting the trend in recent decades to define "sex" to include gender, gender identity, and gender expression, and more recently still to clarify that sexual discrimination includes discrimination because of a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's assigned sex at birth. (See e.g. Education Code Section 210.7.)

Specifically, the bill slightly amends definitions of "sex" and "sex discrimination" where they appear in existing statutes and then adds this new standard definition to 26 new sections across several codes. The bill also adds a new Section 27 to the Government Code that sets forth the new definition and declares that in "the case of conflict between the provisions of this section and other provisions of this code that set forth the scope of 'sex discrimination,' the provisions of this section shall prevail over provisions with a narrower scope." The definition of "sex discrimination" draws to a large extent from definitions that currently exist in FEHA, the Unruh Civil Rights Act, and certain provisions of the Education Code, but it puts them together in a single and standard definition.

Most significantly, and of greatest concern to the opposition, the bill provides, throughout the code, that “sex discrimination” includes, but is not limited to, discrimination based on any of the following actual or perceived characteristics:

- Assigned sex or gender category, including male, female, or nonbinary.
- Degree of conformity to sex or gender stereotypes.
- Gender, including gender identity, gender expression, and access to, and use of, gender affirming care and other related health care.
- Pregnancy or related medical conditions.
- Decisionmaking, access to care, or potential or actual use of a drug, device, product, or service relating to pregnancy or related medical conditions.
- Sexual orientation.
- Variations in sex characteristics, including intersex traits or differences in sex development.

Most of the phrases in the definition above can already be found in existing law, even if they are not all together in one place. Although the phrase “degree of conformity to sex or gender stereotype” does not appear in existing anti-discrimination statutes, the definition of “gender expression” in the anti-discrimination provisions of the Education Code include discrimination against a person because their behavior was “not stereotypically associated with the person’s assigned sex at birth.” Although existing anti-discrimination statutes do not expressly include discrimination based on intersex traits, discrimination based on intersex traits may be reasonably construed to constitute a form of sex or gender identity discrimination. For example, the Sexual Orientation and Gender Equity in Higher Education Act requires CSU and the community colleges (and requests UC) to designate an employee as a point of contact “for the needs of lesbian, gay, bisexual, asexual, pansexual, transgender, gender-nonconforming, intersex, and two-spirit faculty, staff, and students,” suggesting that “intersex” is considered a form of protected gender identity.

Opposition concerns mostly address existing law. Opponents of the bill appear to object to existing law as much as they object to this bill. For example, the California Family Council (CFC) – which generally supports the rights of religious schools, churches, and faith-based nonprofits to reject what they consider to be the prevailing “gender ideology” – claims that the “new definition adds gender identity, gender expression, sexual orientation, intersex status, reproductive health decisions, and ‘degree of conformity to sex or gender stereotypes.’” However, with the possible exception of the last phrase and “intersex status,” all of the other characteristics that CFC lists are already expressly included within the *existing* definitions of sex discrimination. CFC expresses concern that religious schools, churches, and faith-based nonprofits are not exempted from existing law. This is a fair and reasonable concern, rooted in First Amendment accommodations for diverse religious belief, but CFC’s objection is more appropriately targeted at existing law than at this bill, which mostly brings consistency to definitions in existing law and makes sure that they are in all statutes that prohibit discrimination.

While CFC opposes the bill in large part on religious freedom grounds, other groups claiming to represent women, lesbians, and gay men argue that expanding the definition of “sex” to include gender identity, gender expression, and non-binary persons ignores biology and will eventually undermine hard-won rights, including participation in school sports, as well as undermining the relatively recent legal protections and social acceptance for gays and lesbians. For example, the Lesbian, Gay, and Bi-Sexual Alliance (LGBA) cite a study showing that minors who are treated with gender-affirming care are disproportionately lesbian, gay, or bisexual. LGBA suggests that this is due to a kind of “homophobia,” where youths attracted to people of the same sex believe that they are transgender and in need of gender-affirming medical treatment rather than accepting that they are gay or lesbian. One is free to agree or disagree with LGBA’s assessment, but as with CFC, LGBA’s grievances appear to have more to do with existing law than with this bill. FEHA, the Educational Equity Act, and the Sex Equity in Education Act already define “sex” to include gender identity and gender expression, and they define “gender expression” to include appearance or behavior that does not conform to stereotypes associated with the person’s assigned sex at birth. The bill offers a new definition only in the sense that it attempts to synthesize the varied wording that exists in different code sections. The bill does substantially change existing law.

Proposed author amendment. The author will amend the bill in this Committee to add a new section to the Education Code that adopts the standard definition. Specifically, the amendment will add the following language:

SEC 32. Section 66269 is added to the Education Code to read as follows:

Section 66269 (a) (1) Any provision that prohibits discrimination on the basis of sex, discrimination on the basis of gender, or similar discrimination shall also be interpreted as prohibiting sex discrimination, as defined in this section.

(2) In case of a conflict between the provisions of this section and other provisions of this code that set forth the scope of “sex discrimination,” the provisions of this section shall prevail over provisions with a narrower scope.

(b) For purposes of this section, the following definitions shall apply:

(1) “Discrimination” includes, but is not limited to, harassment.

(2) “Pregnancy or related medical conditions” includes, but is not limited to, childbirth, abortion, lactation, miscarriage, fertility, and contraception.

(3) “Sex discrimination” includes, but is not limited to, discrimination based on any of the following actual or perceived characteristics or actions:

(A) Assigned sex or gender category, including female, male, or nonbinary.

(B) Degree of conformity to sex or gender stereotypes.

(C) Gender, including gender identity, gender expression, and access to, and use of, gender affirming care and other related health care.

(D) Pregnancy or related medical conditions.

(E) Decisionmaking, access to care, or potential or actual use of a drug, device, product, or service relating to pregnancy or related medical conditions.

(F) Sexual orientation.

(G) Variations in sex characteristics, including intersex traits or differences in sex development.

(c) This section reflects the existing protections of Sections 1, 1.1, 7, and 8 of Article I of the California Constitution recognizing the individual rights to pursue and obtain safety, happiness, and privacy, ensuring equal protection of the laws, protecting the ability to enter or pursue a business, profession, vocation, or employment, and protecting an individual's reproductive freedom. This section shall be liberally construed to effectuate the purposes of these constitutional protections.

Interaction with other legislation. As currently drafted, the bill's effort to create a common definition of "sex" and "sex discrimination" is at odds with AB 1940 (Calderon, 2026), which the Committee will hear in the coming weeks. AB 1940 amends the existing definition of "sex" in FEHA to include perimenopause, menopause, or post-menopause or other related medical conditions. FEHA's existing definition of "sex," which will be adopted into the several statutes, amended or added by this bill, defines "sex" to include pregnancy or medical conditions related to pregnancy, childbirth or medical conditions related to childbirth, and breastfeeding or medical conditions related to breastfeeding. If AB 1940 adds menopause-related conditions to this list in FEHA only, the state would once again have inconsistent definitions. *The author may wish to consider, therefore, adding the menopause related conditions to each of the sections added or amended by this bill.* AB 1940, in addition to adding the menopause-related conditions to the existing definition, also requires the Civil Rights Department and the Office of Community Partnerships and Strategic Communications, within the Governor's Office, to conduct campaigns to raise awareness about menopause as a form of unlawful discrimination. If effective, this educational campaign could obviate the need to expressly add menopause to the statute, given that discrimination against menopause is, according to some case law, already prohibited as form of sex, age, or disability discrimination.

ARGUMENTS IN SUPPORT: Planned Parenthood Affiliates of California (PPAC) support this bill because it "proposes a sex equity provision for each California code section." PPAC "supports a vision in which people are not discriminated against, and their health and well-being is not prejudiced based on gender, sexuality, sexual identity, sexual orientation, religion, political affiliations, age, race, disability, location, social class, socioeconomic circumstances, or other characteristic, background, or group membership." PPAC contends that by adding a definition of sex discrimination across all California codes, "AB 2563. . . ensures that protections apply equally in every area of state law, and reaffirms California's commitment to protecting women and girls, and all people who may face discrimination based on sex."

LGBTQ+ Inclusivity, Visibility, and Empowerment (LIVE) support this bill because it will clarify "the definition of sex discrimination across California codes to ensure that Californians regardless of gender, or degree of conformity to sex and gender stereotypes, have equal protection under every section of state law that prohibits discrimination."

ARGUMENTS IN OPPOSITION: The Lesbian, Gay, Bisexual Alliance (LGBA) opposes AB 2563 because it "defies biological reality, harms women and girls, jeopardizes the medical safety

of vulnerable youth, and is counterproductive for gay, lesbian, and bisexual rights.” LGBA contends that allowing a biological male to claim a different “gender identity” will undermine the protection and privacy that women enjoy in female-only spaces and require female athletes to “compete against males (who retain a biological advantage over females.)” LGBA similarly believes that “protection for gender identity would make it harder to offer protections for sexual orientation, given that gays, lesbians, and bisexuals depend on same-sex only spaces for their own privacy and protection.” Finally, LGBA argues against promoting gender-affirming care, citing a study which found that minors treated for gender-affirming care were disproportionately gay, lesbian, or bisexual. “This is in part due to homophobia,” LGBA contends, “some people would rather be a straight person of the opposite sex than a gay person of their actual sex.”

The California Family Council (CFC) opposes the bill because they believe it rewrites the definition of “sex discrimination” across the California codes to add “gender identity, gender expression, sexual orientation, intersex status, reproductive health services, and ‘degree of conformity to sex or gender stereotypes.’ That final phrase means any policy treating a biological male as male could constitute unlawful discrimination if that person self-identifies otherwise.” CFC also is concerned about the effect that defining sex discrimination this broadly will have on “female-only spaces, meaning women’s shelters, locker rooms, and girls’ sports programs face discrimination liability for enforcing biological sex distinctions.” Finally, CFC writes that it is “particularly concerned that religious schools, churches, and faith-based nonprofits are not explicitly exempt from this bill’s expanded definitions.” Finally, CFC sees this bill as part of an “incremental” process that is eroding protections for parents and religious communities. AB 2563, CFC concludes, “permanently encodes gender ideology into the foundational lawyer of civil rights statutes, with no limiting principle and no conscience protection for those who recognize biological reality.”

OTHER POSITION. The California Law Revision Commission (CLRC) has no position on this bill. However, it writes to note that the bill would implement a California Law Revision Commission recommendation to clarify the existing definitions of sex discrimination in California statutes. CLRC explains that “the recommendation was developed as a result of SCR 92, which tasked the Commission with studying California law to identify and propose revisions to comply with the proposed federal ERA. The Commission did not find any barriers to ERA compliance in California’s laws. To emphasize California’s commitment to equality, however, the Commission proposed draft legislation proposing a sex equality provision for each California code clarifying the existing definitions of sex discrimination.”

REGISTERED SUPPORT / OPPOSITION:

Support

California Rural Legal Assistance Foundation
CFT – a Union of Educators & Classified Professionals
LGBTQ+ Inclusivity, Visibility, and Empowerment
Planned Parenthood Affiliates of California

Opposition

California Family Council
California Teachers Supporting Gender-nonconforming Youth
Cause: Californians United for Sex-based Evidence in Policy and Law

Democrats for an Informed Approach to Gender
Lesbians Advocating for a Resilient Future
LGB Alliance Foundation
LGB Courage Coalition
Our Duty
Women's Liberation Front

Other

California Law Revision Commission

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