
THIRD READING

Bill No: AB 2563
Author: Pacheco (D), et al.
Amended: 8/21/26 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-2, 6/16/26

AYES: Umberg, Allen, Caballero, Durazo, Laird, Reyes, Stern, Wahab, Wiener

NOES: Niello, Valladares

NO VOTE RECORDED: Ashby, Weber Pierson

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 58-17, 5/26/26 - See last page for vote

SUBJECT: Sex discrimination: scope

SOURCE: California Women's Law Center
Feminist Majority

DIGEST: This bill clarifies that "sex," as used within California antidiscrimination laws, includes gender, gender expression, gender identity, pregnancy and related conditions, and other specified traits or conditions.

Senate Floor amendments of 8/21/26 add contingent enactment language and add a co-author.

ANALYSIS:

Existing constitutional law:

1) Provides for equal protection under the law as follows:

- a) Under the United States Constitution, provides that no state shall deny to any person within its jurisdiction the equal protection of the laws. (U.S. Constitution, 14th Amend., § 1.)

- b) Under the California Constitution, provides that a person may not be denied the equal protection of the laws, and that a citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens. (California Constitution (Cal. Const.), Article (art.) I, § 7.)
- 2) Provides that the State shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting. (Cal. Const., art. I, § 31.)

Existing state law:

- 1) 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. (Civil (Civ.) Code, § 51(a).)
- 2) Provides that “sex,” for purposes of 1), includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth; or 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. (Civ. Code, § 51(e)(6).)
- 3) Prohibits discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, any other characteristic that is contained in the definition of hate crimes, or immigration status in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance, or enrolls pupils who receive state financial assistance. (Education (Ed.) Code, § 220.)
- 4) Defines the following for purposes of 5):
 - a) “Gender” means sex and includes a person's gender identity and gender expression.
 - b) “Gender expression” means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's assigned sex at birth. (Ed. Code, § 210.7.)

- 5) Establishes the Fair Employment and Housing Act (FEHA), which prohibits the following:
 - a) Specified acts of discrimination in employment on the basis of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, reproductive health decision-making, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status of any person. (Government (Gov.) Code, § 12940.)
 - b) Specified acts of discrimination in connection with housing on the basis of the person's 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. (Gov. Code, § 12955.)
- 6) Provides that “sex,” for purposes of 7), includes, but is not limited to:
 - a) Pregnancy, childbirth, or breastfeeding, or medical conditions related to pregnancy, childbirth, or breastfeeding.
 - b) A person's gender, which means sex, and includes a person's 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.
- 7) Establishes other prohibitions on the basis of sex, gender, gender identity, and/or gender expression throughout the Codes. (*See generally* California Codes.)

This bill:

- 1) States that the Legislature finds and declares that this bill is existing law and is not intended to expand or contract any existing rights or responsibilities.
- 2) States 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 in 4).
- 3) States that, in the event of a conflict between the provisions of 2) and other provisions of the relevant Code that set forth the scope of sex discrimination, gender discrimination, or similar discrimination, the provisions that would result in greater protections of individuals based on sex, gender, or similar

discrimination shall prevail; and that these provisions shall not be construed to impair or diminish any other civil rights protection that is broader in scope.

- 4) Provides that, for purposes of 2) and 3), the following definitions apply:
 - a) “Discrimination” includes, but is not limited to, harassment.
 - b) “Pregnancy or related medical conditions” includes, but is not limited to, childbirth, abortion, lactation, miscarriage, fertility, and contraception.
 - c) “Sex discrimination” includes, but is not limited to, discrimination on the basis of any of the following actual or perceived characteristics:
 - i) Assigned sex or gender category, including female, male, or nonbinary.
 - ii) Degree of conformity to sex or gender stereotypes.
 - iii) Gender, including gender identity, gender expression, and access to, and use of, gender affirming care and other related health care.
 - iv) Pregnancy or other related medical conditions.
 - v) Decision-making, access to care, or potential or actual use of a drug, device, product, or service relating to pregnancy or related medical conditions.
 - vi) Sexual orientation.
 - vii) Variations in sex characteristics, including intersex traits or differences in sex development.
- 5) Provides that 2)-4) reflects the existing protections 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, and that these provisions shall be construed liberally to effectuate the purposes of these constitutional protections.
- 6) Adds the language in 2)-5) to each of the Codes.
- 7) Adds, to the Unruh Act and the FEHA, specific references within the definitions to the clarifying sections added to their respective Codes pursuant to 6).

Comments

In 2022, the Legislature enacted SCR 92 (Leyva, Chapter 150, Statutes of 2022), which instructed the California Law Revision Commission to determine whether California's antidiscrimination laws might conflict with the Equal Rights Amendment (ERA), so that the state would be prepared if the ERA was actually added to the United States Constitution. The CLRC's 2025 report found that California law already complies with a potential ERA. The CLRC also found, however, that the specific definitions of "sex" within California's various antidiscrimination statutes are inconsistent, and while California's most significant antidiscrimination statutes define "sex" broadly, the broad definition is not clearly employed across the Codes.

This bill adopts the CRLC's proposed solution to clarify that "sex" has a consistent meaning throughout the state's antidiscrimination statutes, by adopting, within each Code, a provision clarifying the definition of "sex." The uniform definition provided by this bill accords with what is already in existing laws such as the Unruh Civil Rights Act, certain provisions of the Education Code, and the FEHA, and is intended to clarify the scope of all California antidiscrimination laws, not expand existing law. The bill also provides that, in the event that an existing provision of law conflicts with the uniform definition, the definition that results in greater protections against discrimination should prevail.

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

SUPPORT: (Verified 8/21/26)

California Women's Law Center (co-source)
Feminist Majority (co-source)
Alameda County Office of Education
California Rural Legal Assistance Foundation
California Teachers Association
LGBTQ+ Inclusivity, Visibility, and Empowerment
Planned Parenthood Affiliates of California

OPPOSITION: (Verified 8/21/26)

CAUSE

Democrats for an Informed Approach to Gender
Our Duty
Two individuals

ARGUMENTS IN SUPPORT: According to the California Women's Law Center and Feminist Majority:

California has long been a national leader in advancing gender equity, with strong constitutional and statutory protections against sex discrimination. However, inconsistencies in how "sex" and "sex discrimination" are defined and interpreted across different areas of state law can create gaps in protection, limit enforcement, and leave individuals vulnerable to discrimination.

AB 2563 addresses this issue by establishing a clear, minimum standard across California law. The bill requires that all provisions prohibiting discrimination on the basis of sex or gender be interpreted to prohibit sex discrimination and defines sex discrimination to include a broad range of actual or perceived characteristics, including gender identity and expression, pregnancy and related medical conditions, reproductive health decision-making, and conformity to gender stereotypes.

By aligning statutory interpretation with California's constitutional guarantees of equal protection, privacy, and reproductive freedom, AB 2563 strengthens existing civil rights protections and ensures they are applied broadly and as intended. This clarification is critical to protecting individuals from discrimination across employment, housing, education, healthcare, and public accommodations.

At a time when rights related to gender, identity, basic needs, and reproductive autonomy are increasingly contested nationwide, AB 2563 reaffirms California's commitment to ensuring that all individuals can live, work, and access services free from discrimination.

ARGUMENTS IN OPPOSITION: According to CAUSE:

Women are not women due to "identity." Women are women because our sex is determined to be female at conception. Female development in the womb and through puberty results in a body organized around the production of large, immobile egg cells- gametes- called ova in humans. Human females develop to carry our young in our uterus, give birth to our young through our cervix and vagina, and to nourish our young at our breasts, all female specific, necessary roles in human reproduction. Humans share this same reproductive process with every other mammalian species that exists or ever existed (even, in most aspects, monotremes-primitive egg-laying mammals that nurse their young.)

ASSEMBLY FLOOR: 58-17, 5/26/26

AYES: Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Ward, Wicks, Wilson, Zbur, Rivas

NOES: Castillo, Chen, Davies, DeMaio, Dixon, Ellis, Flora, Gallagher, Jeff

Gonzalez, Hadwick, Hoover, Johnson, Macedo, Patterson, Sanchez, Ta, Tangipa

NO VOTE RECORDED: Alanis, Lackey, Muratsuchi, Celeste Rodriguez, Wallis

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113

8/24/26 12:12:23

**** END ****