

CONCURRENCE IN SENATE AMENDMENTS

AB 2563 (Pacheco)

As Amended August 21, 2026

Majority vote

SUMMARY

Creates a consistent definition of "sex discrimination" across several codes, thereby implementing recommendations of the California Law Revision Commission.

Major Provisions

- 1) Finds and declares that this bill is declarative of existing law and is not intended to expand or contract any existing rights or responsibilities.
- 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" 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 characteristics or 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) Specifies that in the case of conflict between provisions of the 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 nothing in this bill shall be construed to impair or diminish any other civil rights protection that is broader in 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.

- 7) Incorporates changes proposed by AB 1940 of the current legislative session for chaptering purposes.

Senate Amendments

Incorporate changes proposed by AB 1940 for chaptering purposes.

COMMENTS

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 (Res. 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 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 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 that provide the greater protection 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.

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.

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 characteristics, 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."

FISCAL COMMENTS

According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

VOTES:

ASM JUDICIARY: 9-3-0

YES: Kalra, Lee, Bryan, Connolly, Harabedian, Pacheco, Papan, Stefani, Zbur

NO: Macedo, Dixon, Sanchez

ASM APPROPRIATIONS: 11-4-0

YES: Wicks, Aguiar-Curry, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

NO: Hoover, Dixon, Ta, Tangipa

ASSEMBLY FLOOR: 58-17-5

YES: 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

NO: Castillo, Chen, Davies, DeMaio, Dixon, Ellis, Flora, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Johnson, Macedo, Patterson, Sanchez, Ta, Tangipa

ABS, ABST OR NV: Alanis, Lackey, Muratsuchi, Celeste Rodriguez, Wallis

UPDATED

VERSION: August 21, 2026

CONSULTANT: Tom Clark / JUD. / (916) 319-2334

FN: 0004087