

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

2020 LEGISLATIVE SUMMARY

The following bills were signed and chaptered into law by Governor Gavin Newsom in 2020 and become effective January 1, 2021, unless stated otherwise.

EMPLOYMENT

California Family Rights Act

The California Family Rights Act (CFRA) provides up to 12 weeks per 12-month period of unpaid, job-protected leave to eligible employees to bond with a new child or to care for their own or certain family members' serious medical condition. Prior to SB 1383, CFRA applied to private employers with 50 or more employees within 75 miles of the employee's workplace and public employers in California. The New Parent Leave Act (NPLA) provided up to 12 weeks per year of unpaid, job-protected leave to eligible employees of employers of 20 or more to bond with a new child. SB 1383 made CFRA leave available to eligible employees at employers of 5 or more, eliminated the 75-mile requirement and other exceptions, and repealed the NPLA as superfluous. In addition, SB 1383 expanded the list of family members for whom CFRA leave can be taken (child, spouse, domestic partner, parent, grandparent, grandchild, and/or sibling) and expanded the circumstances in which CFRA leave can be taken to include exigencies related to a family member's military service.

Bill Number: SB 1383 (Jackson) (Stats. 2020, ch. 86.)

Code Section Amended: Government Code section 12945.2.

Code Section Added: None.

Code Section Repealed: Government Code section 12945.6.

As it relates to the California Family Rights Act, AB 1867 required the Department to create a small employer family leave mediation pilot program until January 1, 2024. The pilot program authorizes an employer with between 5 and 19 employees or its employee to request all parties to participate in mediation through the Department's dispute resolution division within 30 days of obtaining a right-to-sue notice raising CFRA claims. AB 1867 prohibits an employee from pursuing civil action until the mediation is complete if an employer or employee requests mediation. The bill tolls the statute of limitations for the employee, including for additional related claims, from receipt of a request to participate in the program until the mediation is complete. AB 1867 was an urgency measure effective immediately upon enactment.

Bill Number: AB 1867 (Assembly Committee on Budget) (Stats. 2020, ch. 45.)

Code Section Amended: None.

Code Section Added: Government Code section 12945.21.

Pay Data & Equal Pay Act

SB 973 requires employers of 100 or more employees to report to DFEH pay and hours-worked data by job category and by sex, race, and ethnicity. By creating a system by which large employers report pay data annually to DFEH, the Legislature sought to encourage these employers to assess themselves pay disparities along gendered, racial, and ethnic lines in their workforce and promote voluntary compliance with equal pay and anti-discrimination laws. In addition, SB 973 authorized DFEH to enforce the Equal Pay Act (Labor Code section 1197.5), which prohibits unjustified pay disparities, along with the Division of Labor Standards Enforcement (DLSE) of the Department of Industrial Relations. Employers' pay data reports will allow DFEH to more efficiently identify wage patterns and allow for effective enforcement of equal pay or anti-discrimination laws, when appropriate.

Bill Number: SB 973 (Jackson) (Stats. 2020, ch. 363.)

Code Section Amended: Government Code section 12930.

Code Section Added: Government Code section 12999.

Sexual Harassment Prevention Training

AB 3369 clarified that the Fair Employment and Housing Act's required sexual harassment prevention training is satisfied if an employee received the training in the previous two years from a prior or other employer. The employee does not need to be retrained for two years since the previous training. AB 3369 was an urgency measure effective immediately upon enactment.

Bill Number: AB 3369 (Assembly Committee on Arts, Entertainment, Sports, Tourism, and Internet Media) (Stats. 2020, ch. 227.)

Code Section Amended: Government Code section 12950.1.

Code Section Added: None.

RALPH CIVIL RIGHTS ACT

Definition of "Intimidation by Threat of Violence"

As it relates to the Ralph Civil Rights Act, AB 1775 added "making or threatening to make a claim or report to a peace officer or law enforcement agency that falsely alleges that another person has engaged in unlawful activity or in an activity that requires law enforcement intervention, knowing that the claim or report is false, or with reckless disregard for the truth or falsity of the claim or report" to the definition of "intimidation by threat of violence."

Bill Number: AB 1775 (Jones-Sawyer) (Stats. 2020, ch. 327.)

Code Section Amended: Civil Code section 51.7.

Code Section Added: None.

RELATED STATUTES NOT ENFORCED BY DFEH

Sexual Harassment Prevention Training & Minors in the Entertainment Industry

AB 3175 requires a minor seeking a work permit to work in the entertainment industry to take DFEH's free, online sexual harassment prevention training, to do so accompanied by a parent or guardian, and to certify to the Labor Commissioner that the training was completed in order to obtain the work permit. AB 3175 was an urgency measure effective immediately upon enactment.

Bill Number: AB 3175 (Levine) (Stats. 2020, ch. 37.)

Code Section Amended: Labor Code section 1700.52.

Code Section Added: None.

Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020, COVID-19 Small Landlord and Homeowner Relief Act of 2020, and COVID-19 Tenant Relief Act of 2020

Amid the turmoil of the COVID-19 pandemic, AB 3088 provides protections against evictions and foreclosure to tenants and property owners facing financial hardship due to COVID-19, among other provisions intended to stabilize and secure housing in California. AB 3088 was an urgency measure effective immediately upon enactment.

Bill Number: AB 3088 (Chiu) (Stats. 2020, ch. 176.)

Code Sections Amended: Civil Code sections 1946.2, 1947.12, and 1947.13.

Code Sections Amended, Repealed, and Added: Civil Code sections 798.56, 1942.5, 2924.15, and Code of Civil Procedure sections 1161 and 1161.2.

Code Sections Added: Civil Code title 19 (commencing with Section 3273.01) to Part 4 of Division 3, and Code of Civil Procedure section 1161.2.5.

Code Section Added and Repealed: Civil Code section 789.4 and Code of Civil Procedure section 116.223 and Chapter 5 (commencing with Section 1179.01) of Title 3 of Part 3.

Task Force to Study and Develop Reparation Proposals for African Americans

AB 3121 established a nine-member Task Force to Study and Develop Reparation Proposals for African Americans, with a Special Consideration for African Americans Who are Descendants of Persons Enslaved in the United States. In addition to studying and developing reparation proposals, the Task Force is to propose ways to educate the public about its findings, make recommendations on the forms that reparations might take, and submit a report of its findings to the Legislature. The law establishing the task force is in effect until July 1, 2023.

Bill Number: AB 3121 (Weber) (Stats. 2020, ch. 319.)

Code Section Amended: None.

Code Section Added: Government Code sections 8301-8301.5 and 8301.7.

Corporate Boards of Directors & Underrepresented Communities

SB 979 requires publicly held corporations headquartered in California to include at least one person from an “underrepresented community” on their boards by the end of 2021, and one to three, depending on the size of the board, by the end of 2022. The bill defines a “director from an underrepresented community” as an individual who self-identifies as Black, African American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian, Alaska Native, gay, lesbian, bisexual, or transgender. Violations of these or reporting provisions could subject a corporation to a fine of \$100,000 for the first violation and \$300,000 for subsequent violations.

Bill Number: AB 979 (Holden) (Stats. 2020, ch. 316.)

Code Section Amended: Corporations Code section 301.3.

Code Section Added: Corporations Code sections 301.4 and 2115.6.

Limitation of “No Rehire” Clauses in Settlement Agreements

As a result of AB 749 (2019), employers are prohibited from including a provision in their settlement agreements restricting an aggrieved person from working for the employer, but there is an exception if the aggrieved person engaged in sexual harassment or assault. AB 2143 clarified this exception to apply “if the employer has made and documented a good faith determination, before the aggrieved person filed the claim that the aggrieved person engaged in sexual harassment, sexual assault, or any criminal conduct.”

Bill Number: AB 2143 (Stone) (Stats. 2020, ch. 73.)

Code Section Amended: Code of Civil Procedure section 1002.5.

Code Section Added: None.