



General Assembly

Amendment

January Session, 2017

LCO No. 7020



Offered by:

REP. PORTER, 94th Dist.

REP. LINEHAN, 103rd Dist.

SEN. FLEXER, 29th Dist.

REP. LUXENBERG, 12th Dist.

REP. CONLEY, 40th Dist.

REP. MCCARTHY VAHEY, 133rd
Dist.

REP. SIMMONS, 144th Dist.

To: Subst. House Bill No. 6668

File No. 222

Cal. No. 186

**"AN ACT CONCERNING PREGNANT WOMEN IN THE
WORKPLACE."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 46a-60 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2017*):

5 (a) As used in this section:

6 (1) "Pregnancy" means pregnancy, childbirth or a related condition,
7 including, but not limited to, lactation;

8 (2) "Reasonable accommodation" means, but shall not be limited to,
9 being permitted to sit while working, more frequent or longer breaks,
10 periodic rest, assistance with manual labor, job restructuring, light
11 duty assignments, modified work schedules, temporary transfers to

12 less strenuous or hazardous work, time off to recover from childbirth
13 or break time and appropriate facilities for expressing breast milk; and

14 (3) "Undue hardship" means an action requiring significant
15 difficulty or expense when considered in light of factors such as (A) the
16 nature and cost of the accommodation; (B) the overall financial
17 resources of the employer; (C) the overall size of the business of the
18 employer with respect to the number of employees, and the number,
19 type and location of its facilities; and (D) the effect on expenses and
20 resources or the impact otherwise of such accommodation upon the
21 operation of the employer.

22 [(a)] (b) It shall be a discriminatory practice in violation of this
23 section:

24 (1) For an employer, by the employer or the employer's agent,
25 except in the case of a bona fide occupational qualification or need, to
26 refuse to hire or employ or to bar or to discharge from employment
27 any individual or to discriminate against such individual in
28 compensation or in terms, conditions or privileges of employment
29 because of the individual's race, color, religious creed, age, sex, gender
30 identity or expression, marital status, national origin, ancestry, present
31 or past history of mental disability, intellectual disability, learning
32 disability or physical disability, including, but not limited to,
33 blindness;

34 (2) For any employment agency, except in the case of a bona fide
35 occupational qualification or need, to fail or refuse to classify properly
36 or refer for employment or otherwise to discriminate against any
37 individual because of such individual's race, color, religious creed, age,
38 sex, gender identity or expression, marital status, national origin,
39 ancestry, present or past history of mental disability, intellectual
40 disability, learning disability or physical disability, including, but not
41 limited to, blindness;

42 (3) For a labor organization, because of the race, color, religious
43 creed, age, sex, gender identity or expression, marital status, national

44 origin, ancestry, present or past history of mental disability,
45 intellectual disability, learning disability or physical disability,
46 including, but not limited to, blindness of any individual to exclude
47 from full membership rights or to expel from its membership such
48 individual or to discriminate in any way against any of its members or
49 against any employer or any individual employed by an employer,
50 unless such action is based on a bona fide occupational qualification;

51 (4) For any person, employer, labor organization or employment
52 agency to discharge, expel or otherwise discriminate against any
53 person because such person has opposed any discriminatory
54 employment practice or because such person has filed a complaint or
55 testified or assisted in any proceeding under section 46a-82, 46a-83 or
56 46a-84;

57 (5) For any person, whether an employer or an employee or not, to
58 aid, abet, incite, compel or coerce the doing of any act declared to be a
59 discriminatory employment practice or to attempt to do so;

60 (6) For any person, employer, employment agency or labor
61 organization, except in the case of a bona fide occupational
62 qualification or need, to advertise employment opportunities in such a
63 manner as to restrict such employment so as to discriminate against
64 individuals because of their race, color, religious creed, age, sex,
65 gender identity or expression, marital status, national origin, ancestry,
66 present or past history of mental disability, intellectual disability,
67 learning disability or physical disability, including, but not limited to,
68 blindness;

69 (7) For an employer, by the employer or the employer's agent: (A)
70 To terminate a woman's employment because of her pregnancy; (B) to
71 refuse to grant to that employee a reasonable leave of absence for
72 disability resulting from her pregnancy; (C) to deny to that employee,
73 who is disabled as a result of pregnancy, any compensation to which
74 she is entitled as a result of the accumulation of disability or leave
75 benefits accrued pursuant to plans maintained by the employer; (D) to

76 fail or refuse to reinstate the employee to her original job or to an
77 equivalent position with equivalent pay and accumulated seniority,
78 retirement, fringe benefits and other service credits upon her
79 signifying her intent to return unless, in the case of a private employer,
80 the employer's circumstances have so changed as to make it impossible
81 or unreasonable to do so; [(E) to fail or refuse to make a reasonable
82 effort to transfer a pregnant employee to any suitable temporary
83 position which may be available in any case in which an employee
84 gives written notice of her pregnancy to her employer and the
85 employer or pregnant employee reasonably believes that continued
86 employment in the position held by the pregnant employee may cause
87 injury to the employee or fetus; (F) to fail or refuse to inform the
88 pregnant employee that a transfer pursuant to subparagraph (E) of this
89 subdivision may be appealed under the provisions of this chapter; or]
90 (E) to limit, segregate or classify the employee in a way that would
91 deprive her of employment opportunities due to her pregnancy; (F) to
92 discriminate against an employee or person seeking employment on
93 the basis of her pregnancy in the terms or conditions of her
94 employment; (G) to fail or refuse to [inform employees of the
95 employer, by any reasonable means, that they must give written notice
96 of their pregnancy in order to be eligible for transfer to a temporary
97 position;] make a reasonable accommodation for an employee or
98 person seeking employment due to her pregnancy, unless the
99 employer can demonstrate that such accommodation would impose an
100 undue hardship on such employer; (H) to deny employment
101 opportunities to an employee or person seeking employment if such
102 denial is due to the employee's request for a reasonable
103 accommodation due to her pregnancy; (I) to force an employee or
104 person seeking employment affected by pregnancy to accept a
105 reasonable accommodation if such employee or person seeking
106 employment (i) does not have a known limitation related to her
107 pregnancy, or (ii) does not require a reasonable accommodation to
108 perform the essential duties related to her employment; (J) to require
109 an employee to take a leave of absence if a reasonable accommodation
110 can be provided in lieu of such leave; and (K) to retaliate against an

111 employee in the terms, conditions or privileges of her employment
112 based upon such employee's request for a reasonable accommodation;

113 (8) For purposes of subparagraph (G) of subdivision (7) of this
114 subsection, it shall be a rebuttable presumption that if the employer
115 provides or would be required to provide a similar accommodation to
116 another employee or employees, such accommodation does not
117 impose an undue hardship on the employer.

118 [(8)] (9) For an employer, by the employer or the employer's agent,
119 for an employment agency, by itself or its agent, or for any labor
120 organization, by itself or its agent, to harass any employee, person
121 seeking employment or member on the basis of sex or gender identity
122 or expression. "Sexual harassment" shall, for the purposes of this
123 [section] subdivision, be defined as any unwelcome sexual advances or
124 requests for sexual favors or any conduct of a sexual nature when (A)
125 submission to such conduct is made either explicitly or implicitly a
126 term or condition of an individual's employment, (B) submission to or
127 rejection of such conduct by an individual is used as the basis for
128 employment decisions affecting such individual, or (C) such conduct
129 has the purpose or effect of substantially interfering with an
130 individual's work performance or creating an intimidating, hostile or
131 offensive working environment;

132 [(9)] (10) For an employer, by the employer or the employer's agent,
133 for an employment agency, by itself or its agent, or for any labor
134 organization, by itself or its agent, to request or require information
135 from an employee, person seeking employment or member relating to
136 the individual's child-bearing age or plans, pregnancy, function of the
137 individual's reproductive system, use of birth control methods, or the
138 individual's familial responsibilities, unless such information is
139 directly related to a bona fide occupational qualification or need,
140 provided an employer, through a physician may request from an
141 employee any such information which is directly related to workplace
142 exposure to substances which may cause birth defects or constitute a
143 hazard to an individual's reproductive system or to a fetus if the

144 employer first informs the employee of the hazards involved in
145 exposure to such substances;

146 ~~[(10)]~~ (11) For an employer, by the employer or the employer's
147 agent, after informing an employee, pursuant to subdivision ~~[(9)]~~ (10)
148 of this subsection, of a workplace exposure to substances which may
149 cause birth defects or constitute a hazard to an employee's
150 reproductive system or to a fetus, to fail or refuse, upon the employee's
151 request, to take reasonable measures to protect the employee from the
152 exposure or hazard identified, or to fail or refuse to inform the
153 employee that the measures taken may be the subject of a complaint
154 filed under the provisions of this chapter. Nothing in this subdivision
155 is intended to prohibit an employer from taking reasonable measures
156 to protect an employee from exposure to such substances. For the
157 purpose of this subdivision, "reasonable measures" shall be those
158 measures which are consistent with business necessity and are least
159 disruptive of the terms and conditions of the employee's employment;

160 ~~[(11)]~~ (12) For an employer, by the employer or the employer's
161 agent, for an employment agency, by itself or its agent, or for any labor
162 organization, by itself or its agent: (A) To request or require genetic
163 information from an employee, person seeking employment or
164 member, or (B) to discharge, expel or otherwise discriminate against
165 any person on the basis of genetic information. For the purpose of this
166 subdivision, "genetic information" means the information about genes,
167 gene products or inherited characteristics that may derive from an
168 individual or a family member.

169 ~~[(b)]~~ (c) (1) The provisions of this section concerning age shall not
170 apply to: (A) The termination of employment of any person with a
171 contract of unlimited tenure at an independent institution of higher
172 education who is mandatorily retired, on or before July 1, 1993, after
173 having attained the age of seventy; (B) the termination of employment
174 of any person who has attained the age of sixty-five and who, for the
175 two years immediately preceding such termination, is employed in a
176 bona fide executive or a high policy-making position, if such person is

177 entitled to an immediate nonforfeitable annual retirement benefit
178 under a pension, profit-sharing, savings or deferred compensation
179 plan, or any combination of such plans, from such person's employer,
180 which equals, in aggregate, at least forty-four thousand dollars; (C) the
181 termination of employment of persons in occupations, including police
182 work and fire-fighting, in which age is a bona fide occupational
183 qualification; (D) the operation of any bona fide apprenticeship system
184 or plan; or (E) the observance of the terms of a bona fide seniority
185 system or any bona fide employee benefit plan for retirement, pensions
186 or insurance which is not adopted for the purpose of evading said
187 provisions, except that no such plan may excuse the failure to hire any
188 individual and no such system or plan may require or permit the
189 termination of employment on the basis of age. No such plan which
190 covers less than twenty employees may reduce the group hospital,
191 surgical or medical insurance coverage provided under the plan to any
192 employee who has reached the age of sixty-five and is eligible for
193 Medicare benefits or any employee's spouse who has reached age
194 sixty-five and is eligible for Medicare benefits except to the extent such
195 coverage is provided by Medicare. The terms of any such plan which
196 covers twenty or more employees shall entitle any employee who has
197 attained the age of sixty-five and any employee's spouse who has
198 attained the age of sixty-five to group hospital, surgical or medical
199 insurance coverage under the same conditions as any covered
200 employee or spouse who is under the age of sixty-five.

201 (2) No employee retirement or pension plan may exclude any
202 employee from membership in such plan or cease or reduce the
203 employee's benefit accruals or allocations under such plan on the basis
204 of age. The provisions of this subdivision shall be applicable to plan
205 years beginning on or after January 1, 1988, except that for any
206 collectively bargained plan this subdivision shall be applicable on the
207 earlier of (A) January 1, 1990, or (B) the later of (i) the expiration date
208 of the collective bargaining agreement, or (ii) January 1, 1988.

209 (3) The provisions of this section concerning age shall not prohibit
210 an employer from requiring medical examinations for employees for

211 the purpose of determining such employees' physical qualification for
212 continued employment.

213 (4) Any employee who continues employment beyond the normal
214 retirement age in the applicable retirement or pension plan shall give
215 notice of intent to retire, in writing, to such employee's employer not
216 less than thirty days prior to the date of such retirement.

217 (d) (1) An employer shall provide written notice of the right to be
218 free from discrimination in relation to pregnancy, childbirth and
219 related conditions, including the right to a reasonable accommodation
220 to the known limitations related to pregnancy pursuant to subdivision
221 (7) of subsection (b) of this section to: (A) New employees at the
222 commencement of employment; (B) existing employees within one
223 hundred twenty days after the effective date of this section; and (C)
224 any employee who notifies the employer of her pregnancy within ten
225 days of such notification. An employer may comply with the
226 provisions of this section by displaying a poster in a conspicuous
227 place, accessible to employees, at the employer's place of business that
228 contains the information required by this section in both English and
229 Spanish. The Labor Commissioner may adopt regulations, in
230 accordance with chapter 54, to establish additional requirements
231 concerning the means by which employers shall provide such notice.

232 (2) The Commission on Human Rights and Opportunities shall
233 develop courses of instruction and conduct ongoing public education
234 efforts as necessary to inform employers, employees, employment
235 agencies and persons seeking employment about their rights and
236 responsibilities under this section.

237 Sec. 2. Subsection (b) of section 5-248a of the general statutes is
238 repealed and the following is substituted in lieu thereof (*Effective*
239 *October 1, 2017*):

240 (b) The leave of absence benefits granted by this section shall be in
241 addition to any other paid leave benefits and benefits provided under
242 subdivision (7) of subsection [(a)] (b) of section 46a-60, as amended by

243 this act, which are otherwise available to the employee.

244 Sec. 3. Section 46a-54 of the general statutes is repealed and the
245 following is substituted in lieu thereof (*Effective October 1, 2017*):

246 The commission shall have the following powers and duties:

247 (1) To establish and maintain such offices as the commission may
248 deem necessary;

249 (2) To organize the commission into a division of affirmative action
250 monitoring and contract compliance, a division of discriminatory
251 practice complaints and such other divisions, bureaus or units as may
252 be necessary for the efficient conduct of business of the commission;

253 (3) To employ legal staff and commission legal counsel as necessary
254 to perform the duties and responsibilities under section 46a-55. One
255 commission legal counsel shall serve as supervising attorney. Each
256 commission legal counsel shall be admitted to practice law in this state;

257 (4) To appoint such investigators and other employees and agents as
258 it deems necessary, fix their compensation within the limitations
259 provided by law and prescribe their duties;

260 (5) To adopt, publish, amend and rescind regulations consistent
261 with and to effectuate the provisions of this chapter;

262 (6) To establish rules of practice to govern, expedite and effectuate
263 the procedures set forth in this chapter;

264 (7) To recommend policies and make recommendations to agencies
265 and officers of the state and local subdivisions of government to
266 effectuate the policies of this chapter;

267 (8) To receive, initiate as provided in section 46a-82, investigate and
268 mediate discriminatory practice complaints;

269 (9) By itself or with or by hearing officers or human rights referees,
270 to hold hearings, subpoena witnesses and compel their attendance,

271 administer oaths, take the testimony of any person under oath and
272 require the production for examination of any books and papers
273 relating to any matter under investigation or in question;

274 (10) To make rules as to the procedure for the issuance of subpoenas
275 by individual commissioners, hearing officers and human rights
276 referees;

277 (11) To require written answers to interrogatories under oath
278 relating to any complaint under investigation pursuant to this chapter
279 alleging any discriminatory practice as defined in subdivision (8) of
280 section 46a-51, and to adopt regulations, in accordance with the
281 provisions of chapter 54, for the procedure for the issuance of
282 interrogatories and compliance with interrogatory requests;

283 (12) To utilize such voluntary and uncompensated services of
284 private individuals, agencies and organizations as may from time to
285 time be offered and needed and with the cooperation of such agencies,
286 (A) to study the problems of discrimination in all or specific fields of
287 human relationships, and (B) to foster through education and
288 community effort or otherwise good will among the groups and
289 elements of the population of the state;

290 (13) To require the posting by an employer, employment agency or
291 labor organization of such notices regarding statutory provisions as
292 the commission shall provide;

293 (14) To require the posting, by any respondent or other person
294 subject to the requirements of section 46a-64, 46a-64c, 46a-81d or 46a-
295 81e, of such notices of statutory provisions as it deems desirable;

296 (15) (A) To require an employer having three or more employees to
297 post in a prominent and accessible location information concerning the
298 illegality of sexual harassment and remedies available to victims of
299 sexual harassment; and (B) to require an employer having fifty or more
300 employees to provide two hours of training and education to all
301 supervisory employees within one year of October 1, 1992, and to all

302 new supervisory employees within six months of their assumption of a
303 supervisory position, provided any employer who has provided such
304 training and education to any such employees after October 1, 1991,
305 shall not be required to provide such training and education a second
306 time. Such training and education shall include information
307 concerning the federal and state statutory provisions concerning
308 sexual harassment and remedies available to victims of sexual
309 harassment. As used in this subdivision, "sexual harassment" has the
310 same meaning as provided in subdivision [(8)] (9) of subsection [(a)]
311 (b) of section 46a-60, as amended by this act, and "employer" includes
312 the General Assembly;

313 (16) To require each state agency that employs one or more
314 employees to (A) provide a minimum of three hours of diversity
315 training and education (i) to all supervisory and nonsupervisory
316 employees, not later than July 1, 2002, with priority for such training to
317 supervisory employees, and (ii) to all newly hired supervisory and
318 nonsupervisory employees, not later than six months after their
319 assumption of a position with a state agency, with priority for such
320 training to supervisory employees. Such training and education shall
321 include information concerning the federal and state statutory
322 provisions concerning discrimination and hate crimes directed at
323 protected classes and remedies available to victims of discrimination
324 and hate crimes, standards for working with and serving persons from
325 diverse populations and strategies for addressing differences that may
326 arise from diverse work environments; and (B) submit an annual
327 report to the Commission on Human Rights and Opportunities
328 concerning the status of the diversity training and education required
329 under subparagraph (A) of this subdivision. The information in such
330 annual reports shall be reviewed by the commission for the purpose of
331 submitting an annual summary report to the General Assembly.
332 Notwithstanding the provisions of this section, if a state agency has
333 provided such diversity training and education to any of its employees
334 prior to October 1, 1999, such state agency shall not be required to
335 provide such training and education a second time to such employees.

336 The requirements of this subdivision shall be accomplished within
337 available appropriations. As used in this subdivision, "employee" shall
338 include any part-time employee who works more than twenty hours
339 per week;

340 (17) To require each agency to submit information demonstrating its
341 compliance with subdivision (16) of this section as part of its
342 affirmative action plan and to receive and investigate complaints
343 concerning the failure of a state agency to comply with the
344 requirements of subdivision (16) of this section; and

345 (18) To enter into contracts for and accept grants of private or
346 federal funds and to accept gifts, donations or bequests, including
347 donations of service by attorneys.

348 Sec. 4. Section 46a-81aa of the general statutes is repealed and the
349 following is substituted in lieu thereof (*Effective October 1, 2017*):

350 The provisions of subsection (a) of section 4a-60, subsection (c) of
351 section 8-169s, section 8-265c, subsection (c) of section 8-294, section 8-
352 315, subsection (a) of section 10-15c, section 10-153, subsection (b) of
353 section 10a-6, subsection (a) of section 11-24b, sections 16-245r and 16-
354 247r, subsection (b) of section 28-15, section 31-22p, subsection (e) of
355 section 31-57e, sections 32-277, 38a-358 and 42-125a, subsection (c) of
356 section 42-125b, subsection (a) of section 46a-58, subsection (a) of
357 section 46a-59, subsection [(a)] (b) of section 46a-60, as amended by
358 this act, subsection (a) of section 46a-64, subsections (a) and (e) of
359 section 46a-64c, subsection (a) of section 46a-66, subsection (a) of
360 section 46a-70, subsection (a) of section 46a-71, subsection (b) of section
361 46a-72, subsection (a) of section 46a-73, subsection (a) of section 46a-75,
362 subsection (a) of section 46a-76, subsections (b) and (c) of section 52-
363 571d and section 53-37a that prohibit discrimination on the basis of
364 gender identity or expression shall not apply to a religious
365 corporation, entity, association, educational institution or society with
366 respect to the employment of individuals to perform work connected
367 with the carrying on by such corporation, entity, association,

368 educational institution or society of its activities, or with respect to
369 matters of discipline, faith, internal organization or ecclesiastical rule,
370 custom or law which are established by such corporation, entity,
371 association, educational institution or society."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2017</i>	46a-60
Sec. 2	<i>October 1, 2017</i>	5-248a(b)
Sec. 3	<i>October 1, 2017</i>	46a-54
Sec. 4	<i>October 1, 2017</i>	46a-81aa