

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 04/30/2012
POSITION: Oppose
SPONSOR: California Employment Lawyers Association and Equal Rights Advocates

BILL NUMBER: AB 1999
AUTHOR: Brownley, Julia
RELATED BILLS: AB 2039, Swanson

BILL SUMMARY: Employment: family caregiver status protection.

This bill would add family caregiving status to the protected categories of the employment provisions under the Fair Employment and Housing Act (FEHA). Specifically, this bill would: (1) prohibit family caregiving status as a basis of discrimination; (2) define "family caregiver status" as an individual who provides medical or supervisory care of a family member; and (3) specify that "family member" includes a child, parent, spouse, domestic partner, parent-in-law, sibling, grandparent, and grandchild.

FISCAL SUMMARY

The Department of Fair Employment and Housing (DFEH) estimates ongoing costs of approximately \$139,000 and 1.5 positions to investigate additional complaints filed as a result of this bill.

The DFEH anticipates this bill to increase litigation costs for employers, including the state. According to UC Hastings College of Law research, verdicts and settlements in family responsibilities discrimination cases average over \$500,000. Additionally, to the extent that this bill would result in increased workload at the courts, it could cause a delay of civil cases and/or create a backlog among the criminal cases to be heard.

COMMENTS

The Department of Finance opposes this bill for the following reasons:

- It would result in additional General Fund costs that are inconsistent with the current Budget.
It is unnecessary because state and federal laws already provide protections against discrimination in employment and allows for paid and unpaid leave to care for family members with serious medical conditions.

Existing law provides protections against discrimination in employment, housing, public accommodation and services on the basis of specified characteristics under the FEHA. The California Family Rights Act provides specified protected employment leave of absence rights for certain employees for the birth of a child or placement of a child in the employee's family for adoption or foster care; for the serious health condition of the employee's child, parent or spouse; or for the employee's own serious health condition.

This bill would:

- Add "family caregiver status" to the list characteristics that are prohibited bases for discrimination under the employment provisions of the FEHA.
Define "family caregiver status" to include an individual who provides medical or supervisory care to a family member.

Analyst/Principal (0240) J.Morozumi Date Program Budget Manager Lisa Ann Mangat Date

Department Deputy Director Date

Governor's Office: By: Date: Position Approved Position Disapproved

Brownley, Julia

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COMMENTS (continued)

- Define "family member" as a child, parent, spouse, domestic partner, parent-in-law, sibling, grandparent, or grandchild.
- Make technical and conforming changes to various code sections.

The FEHA prohibits discrimination on the basis of familial status in housing but not in the workplace. According to the author's office, the intent of this bill is to address the question of discrimination in the workplace on the basis of familial status directly by including family caregiver status to the list of characteristics that, if used as the basis for an adverse employment action, is prohibited discrimination under FEHA.

The federal Family and Medical Leave Act, Americans with Disabilities Act, and Equal Pay Act provide protections for family caregivers in the workplace as well as provide some basis for challenging wage discrimination faced by workers providing family care. Furthermore, federal Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on the basis of sex, race, color, religion and national origin, and has been used to protect family caregivers in the workplace as well as covering discrimination on the basis of pregnancy.

In addition, the federal Equal Employment Opportunity Commission released guidelines to address employment discrimination against caregivers. Although there are no federal laws that expressly prohibit discrimination against caregivers, there are various forms of caregiver discrimination that may be unlawful under federal statutes. According to a 2010 report based on research by the UC Hastings College of Law, the number of lawsuits filed by caregivers has increased almost 400 percent over the past decade while the overall number of employment discrimination cases filed has decreased.

Currently, AB 2039 (Swanson) would increase the circumstances under which an employee would be entitled to take leave under the California Family Rights Act by permitting an employee to take protected leave to care for a seriously ill parent-in-law, grandparent, grandchild, sibling, independent adult child, or domestic partner. AB 2039 would also entitle an employee to take an additional 12 weeks of leave to care for his or her independent child, parent-in-law, grandparent, grandchild, sibling, independent adult child, or domestic partner.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)					
	LA	(Dollars in Thousands)					
	CO	PROP					Fund
	RV	98	FC	2012-2013 FC	2013-2014 FC	2014-2015	Code
1700/Fair Employ	SO	No	A	70 A	139 A		139 0001