

AMENDED IN ASSEMBLY MARCH 21, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 1815

Introduced by Assembly Member Weber
(Coauthors: Assembly Members Bonta, Bryan, Gipson, Holden,
Jackson, Jones-Sawyer, Kalra, McCarty, McKinnor, and Wilson)
(Coauthors: Senators Bradford and Smallwood-Cuevas)

January 10, 2024

An act to ~~add Section 53.8 to amend Section 51 of the Civil Code, to amend Section 212.1 of the Education Code, and to amend Section 12926 of the Government Code,~~ relating to discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 1815, as amended, Weber. Discrimination: ~~hairstyles: amateur sports organizations.~~ race: *hairstyles*.

Existing law, the Unruh Civil Rights Act, provides that all persons within the jurisdiction of this state are entitled to full and equal accommodations in all business establishments regardless of their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status.

Existing law, the California Fair Employment and Housing Act, makes it unlawful to engage in specified discriminatory employment practices based on certain protected characteristics, including race, unless based on a bona fide occupational qualification or applicable security regulations, and prohibits housing discrimination based on specified personal characteristics, including race.

Existing law states the policy of the State of California to afford all persons in public schools, regardless of their disability, gender, gender

identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other specified characteristic, equal rights and opportunities in the educational institutions of the state, and to prohibit acts that are contrary to that policy and to provide remedies therefor.

Existing law ~~also~~ prohibits discrimination because of a perception that a person has one of those protected characteristics or is associated with a person who has, or is perceived to have, any of those characteristics. Existing law defines *The California Fair Employment and Housing Act* and public school policy define the term race for purposes of ~~these~~ *those* provisions to include traits historically associated with race, including, but not limited to, hair texture and protective hairstyles, as defined.

~~This bill would prohibit an amateur sports organization, as defined, from discriminating against any person on the basis of race, inclusive of traits historically associated with race, including, but not limited to, hair texture and protective hairstyles, as defined, in the operation, conduct, or administration of a youth or amateur sports competition, training, camp, or club.~~

This bill would remove the term “historically” from the definitions of race, thus defining race to include traits associated with race, including, but not limited to, hair texture and protective hairstyles, as defined, and would add those definitions for “race” and “protective hairstyle” to the Unruh Civil Rights Act.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 51 of the Civil Code is amended to read:
- 2 51. (a) This section shall be known, and may be cited, as the
- 3 Unruh Civil Rights Act.
- 4 (b) All persons within the jurisdiction of this state are free and
- 5 equal, and no matter what their sex, race, color, religion, ancestry,
- 6 national origin, disability, medical condition, genetic information,
- 7 marital status, sexual orientation, citizenship, primary language,
- 8 or immigration status are entitled to the full and equal
- 9 accommodations, advantages, facilities, privileges, or services in
- 10 all business establishments of every kind whatsoever.

1 (c) This section shall not be construed to confer any right or
2 privilege on a person that is conditioned or limited by law or that
3 is applicable alike to persons of every sex, color, race, religion,
4 ancestry, national origin, disability, medical condition, marital
5 status, sexual orientation, citizenship, primary language, or
6 immigration status, or to persons regardless of their genetic
7 information.

8 (d) Nothing in this section shall be construed to require any
9 construction, alteration, repair, structural or otherwise, or
10 modification of any sort whatsoever, beyond that construction,
11 alteration, repair, or modification that is otherwise required by
12 other provisions of law, to any new or existing establishment,
13 facility, building, improvement, or any other structure, nor shall
14 anything in this section be construed to augment, restrict, or alter
15 in any way the authority of the State Architect to require
16 construction, alteration, repair, or modifications that the State
17 Architect otherwise possesses pursuant to other laws.

18 (e) For purposes of this section:

19 (1) “Disability” means any mental or physical disability as
20 defined in Sections 12926 and 12926.1 of the Government Code.

21 (2) (A) “Genetic information” means, with respect to any
22 individual, information about any of the following:

23 (i) The individual’s genetic tests.

24 (ii) The genetic tests of family members of the individual.

25 (iii) The manifestation of a disease or disorder in family
26 members of the individual.

27 (B) “Genetic information” includes any request for, or receipt
28 of, genetic services, or participation in clinical research that
29 includes genetic services, by an individual or any family member
30 of the individual.

31 (C) “Genetic information” does not include information about
32 the sex or age of any individual.

33 (3) “Medical condition” has the same meaning as defined in
34 subdivision (i) of Section 12926 of the Government Code.

35 (4) “Race” is inclusive of traits associated with race, including,
36 but not limited to, hair texture and protective hairstyles.
37 “Protective hairstyles” includes, but is not limited to, such
38 hairstyles as braids, locks, and twists.

39 (4)

1 (5) “Religion” includes all aspects of religious belief,
2 observance, and practice.

3 (5)

4 (6) “Sex” includes, but is not limited to, pregnancy, childbirth,
5 or medical conditions related to pregnancy or childbirth. “Sex”
6 also includes, but is not limited to, a person’s gender. “Gender”
7 means sex, and includes a person’s gender identity and gender
8 expression. “Gender expression” means a person’s gender-related
9 appearance and behavior whether or not stereotypically associated
10 with the person’s assigned sex at birth.

11 (6)

12 (7) “Sex, race, color, religion, ancestry, national origin,
13 disability, medical condition, genetic information, marital status,
14 sexual orientation, citizenship, primary language, or immigration
15 status” includes a perception that the person has any particular
16 characteristic or characteristics within the listed categories or that
17 the person is associated with a person who has, or is perceived to
18 have, any particular characteristic or characteristics within the
19 listed categories.

20 (7)

21 (8) “Sexual orientation” has the same meaning as defined in
22 subdivision (s) of Section 12926 of the Government Code.

23 (f) A violation of the right of any individual under the federal
24 Americans with Disabilities Act of 1990 (Public Law 101-336)
25 shall also constitute a violation of this section.

26 (g) Verification of immigration status and any discrimination
27 based upon verified immigration status, where required by federal
28 law, shall not constitute a violation of this section.

29 (h) Nothing in this section shall be construed to require the
30 provision of services or documents in a language other than
31 English, beyond that which is otherwise required by other
32 provisions of federal, state, or local law, including Section 1632.

33 *SEC. 2. Section 212.1 of the Education Code is amended to*
34 *read:*

35 212.1. (a) “Race or ethnicity” includes ancestry, color, ethnic
36 group identification, and ethnic background.

37 (b) “Race” is inclusive of traits ~~historically~~ associated with race,
38 including, but not limited to, hair texture and protective hairstyles.

39 (c) “Protective hairstyles” includes, but is not limited to, such
40 hairstyles as braids, locs, and twists.

1 *SEC. 3. Section 12926 of the Government Code is amended to*
2 *read:*

3 12926. As used in this part in connection with unlawful
4 practices, unless a different meaning clearly appears from the
5 context:

6 (a) “Affirmative relief” or “prospective relief” includes the
7 authority to order reinstatement of an employee, awards of backpay,
8 reimbursement of out-of-pocket expenses, hiring, transfers,
9 reassignments, grants of tenure, promotions, cease and desist
10 orders, posting of notices, training of personnel, testing, expunging
11 of records, reporting of records, and any other similar relief that
12 is intended to correct unlawful practices under this part.

13 (b) “Age” refers to the chronological age of any individual who
14 has reached a 40th birthday.

15 (c) Except as provided by Section 12926.05, “employee” does
16 not include any individual employed by that person’s parent,
17 spouse, or child or any individual employed under a special license
18 in a nonprofit sheltered workshop or rehabilitation facility.

19 (d) “Employer” includes any person regularly employing five
20 or more persons, or any person acting as an agent of an employer,
21 directly or indirectly, the state or any political or civil subdivision
22 of the state, and cities, except as follows:

23 “Employer” does not include a religious association or
24 corporation not organized for private profit.

25 (e) “Employment agency” includes any person undertaking for
26 compensation to procure employees or opportunities to work.

27 (f) “Essential functions” means the fundamental job duties of
28 the employment position the individual with a disability holds or
29 desires. “Essential functions” does not include the marginal
30 functions of the position.

31 (1) A job function may be considered essential for any of several
32 reasons, including, but not limited to, any one or more of the
33 following:

34 (A) The function may be essential because the reason the
35 position exists is to perform that function.

36 (B) The function may be essential because of the limited number
37 of employees available among whom the performance of that job
38 function can be distributed.

- 1 (C) The function may be highly specialized, so that the
2 incumbent in the position is hired based on expertise or the ability
3 to perform a particular function.
- 4 (2) Evidence of whether a particular function is essential
5 includes, but is not limited to, the following:
- 6 (A) The employer's judgment as to which functions are essential.
7 (B) Written job descriptions prepared before advertising or
8 interviewing applicants for the job.
9 (C) The amount of time spent on the job performing the function.
10 (D) The consequences of not requiring the incumbent to perform
11 the function.
12 (E) The terms of a collective bargaining agreement.
13 (F) The work experiences of past incumbents in the job.
14 (G) The current work experience of incumbents in similar jobs.
- 15 (g) (1) "Genetic information" means, with respect to any
16 individual, information about any of the following:
- 17 (A) The individual's genetic tests.
18 (B) The genetic tests of family members of the individual.
19 (C) The manifestation of a disease or disorder in family members
20 of the individual.
- 21 (2) "Genetic information" includes any request for, or receipt
22 of, genetic services, or participation in clinical research that
23 includes genetic services, by an individual or any family member
24 of the individual.
- 25 (3) "Genetic information" does not include information about
26 the sex or age of any individual.
- 27 (h) "Labor organization" includes any organization that exists
28 and is constituted for the purpose, in whole or in part, of collective
29 bargaining or of dealing with employers concerning grievances,
30 terms or conditions of employment, or of other mutual aid or
31 protection.
- 32 (i) "Medical condition" means either of the following:
- 33 (1) Any health impairment related to or associated with a
34 diagnosis of cancer or a record or history of cancer.
- 35 (2) Genetic characteristics. For purposes of this section, "genetic
36 characteristics" means either of the following:
- 37 (A) Any scientifically or medically identifiable gene or
38 chromosome, or combination or alteration thereof, that is known
39 to be a cause of a disease or disorder in a person or that person's
40 offspring, or that is determined to be associated with a statistically

1 increased risk of development of a disease or disorder, and that is
2 presently not associated with any symptoms of any disease or
3 disorder.

4 (B) Inherited characteristics that may derive from the individual
5 or family member, that are known to be a cause of a disease or
6 disorder in a person or that person’s offspring, or that are
7 determined to be associated with a statistically increased risk of
8 development of a disease or disorder, and that are presently not
9 associated with any symptoms of any disease or disorder.

10 (j) “Mental disability” includes, but is not limited to, all of the
11 following:

12 (1) Having any mental or psychological disorder or condition,
13 such as intellectual disability, organic brain syndrome, emotional
14 or mental illness, or specific learning disabilities, that limits a
15 major life activity. For purposes of this section:

16 (A) “Limits” shall be determined without regard to mitigating
17 measures, such as medications, assistive devices, or reasonable
18 accommodations, unless the mitigating measure itself limits a
19 major life activity.

20 (B) A mental or psychological disorder or condition limits a
21 major life activity if it makes the achievement of the major life
22 activity difficult.

23 (C) “Major life activities” shall be broadly construed and shall
24 include physical, mental, and social activities and working.

25 (2) Any other mental or psychological disorder or condition not
26 described in paragraph (1) that requires special education or related
27 services.

28 (3) Having a record or history of a mental or psychological
29 disorder or condition described in paragraph (1) or (2), which is
30 known to the employer or other entity covered by this part.

31 (4) Being regarded or treated by the employer or other entity
32 covered by this part as having, or having had, any mental condition
33 that makes achievement of a major life activity difficult.

34 (5) Being regarded or treated by the employer or other entity
35 covered by this part as having, or having had, a mental or
36 psychological disorder or condition that has no present disabling
37 effect, but that may become a mental disability as described in
38 paragraph (1) or (2).

39 “Mental disability” does not include sexual behavior disorders,
40 compulsive gambling, kleptomania, pyromania, or psychoactive

1 substance use disorders resulting from the current unlawful use of
2 controlled substances or other drugs.

3 (k) “Veteran or military status” means a member or veteran of
4 the United States Armed Forces, United States Armed Forces
5 Reserve, the United States National Guard, and the California
6 National Guard.

7 (l) “On the bases enumerated in this part” means or refers to
8 discrimination on the basis of one or more of the following: race,
9 religious creed, color, national origin, ancestry, physical disability,
10 mental disability, medical condition, genetic information, marital
11 status, sex, age, sexual orientation, reproductive health
12 decisionmaking, or veteran or military status.

13 (m) “Physical disability” includes, but is not limited to, all of
14 the following:

15 (1) Having any physiological disease, disorder, condition,
16 cosmetic disfigurement, or anatomical loss that does both of the
17 following:

18 (A) Affects one or more of the following body systems:
19 neurological, immunological, musculoskeletal, special sense
20 organs, respiratory, including speech organs, cardiovascular,
21 reproductive, digestive, genitourinary, hemic and lymphatic, skin,
22 and endocrine.

23 (B) Limits a major life activity. For purposes of this section:

24 (i) “Limits” shall be determined without regard to mitigating
25 measures such as medications, assistive devices, prosthetics, or
26 reasonable accommodations, unless the mitigating measure itself
27 limits a major life activity.

28 (ii) A physiological disease, disorder, condition, cosmetic
29 disfigurement, or anatomical loss limits a major life activity if it
30 makes the achievement of the major life activity difficult.

31 (iii) “Major life activities” shall be broadly construed and
32 includes physical, mental, and social activities and working.

33 (2) Any other health impairment not described in paragraph (1)
34 that requires special education or related services.

35 (3) Having a record or history of a disease, disorder, condition,
36 cosmetic disfigurement, anatomical loss, or health impairment
37 described in paragraph (1) or (2), which is known to the employer
38 or other entity covered by this part.

1 (4) Being regarded or treated by the employer or other entity
2 covered by this part as having, or having had, any physical
3 condition that makes achievement of a major life activity difficult.

4 (5) Being regarded or treated by the employer or other entity
5 covered by this part as having, or having had, a disease, disorder,
6 condition, cosmetic disfigurement, anatomical loss, or health
7 impairment that has no present disabling effect but may become
8 a physical disability as described in paragraph (1) or (2).

9 (6) “Physical disability” does not include sexual behavior
10 disorders, compulsive gambling, kleptomania, pyromania, or
11 psychoactive substance use disorders resulting from the current
12 unlawful use of controlled substances or other drugs.

13 (n) Notwithstanding subdivisions (j) and (m), if the definition
14 of “disability” used in the federal Americans with Disabilities Act
15 of 1990 (Public Law 101-336) would result in broader protection
16 of the civil rights of individuals with a mental disability or physical
17 disability, as defined in subdivision (j) or (m), or would include
18 any medical condition not included within those definitions, then
19 that broader protection or coverage shall be deemed incorporated
20 by reference into, and shall prevail over conflicting provisions of,
21 the definitions in subdivisions (j) and (m).

22 (o) “Race, religious creed, color, national origin, ancestry,
23 physical disability, mental disability, medical condition, genetic
24 information, marital status, sex, age, sexual orientation,
25 reproductive health decisionmaking, or veteran or military status”
26 includes a perception that the person has any of those
27 characteristics or that the person is associated with a person who
28 has, or is perceived to have, any of those characteristics.

29 (p) “Reasonable accommodation” may include either of the
30 following:

31 (1) Making existing facilities used by employees readily
32 accessible to, and usable by, individuals with disabilities.

33 (2) Job restructuring, part-time or modified work schedules,
34 reassignment to a vacant position, acquisition or modification of
35 equipment or devices, adjustment or modifications of examinations,
36 training materials or policies, the provision of qualified readers or
37 interpreters, and other similar accommodations for individuals
38 with disabilities.

39 (q) “Religious creed,” “religion,” “religious observance,”
40 “religious belief,” and “creed” include all aspects of religious

1 belief, observance, and practice, including religious dress and
2 grooming practices. “Religious dress practice” shall be construed
3 broadly to include the wearing or carrying of religious clothing,
4 head or face coverings, jewelry, artifacts, and any other item that
5 is part of an individual observing a religious creed. “Religious
6 grooming practice” shall be construed broadly to include all forms
7 of head, facial, and body hair that are part of an individual
8 observing a religious creed.

9 (r) (1) “Sex” includes, but is not limited to, the following:

10 (A) Pregnancy or medical conditions related to pregnancy.

11 (B) Childbirth or medical conditions related to childbirth.

12 (C) Breastfeeding or medical conditions related to breastfeeding.

13 (2) “Sex” also includes, but is not limited to, a person’s gender.

14 “Gender” means sex, and includes a person’s gender identity and
15 gender expression. “Gender expression” means a person’s
16 gender-related appearance and behavior whether or not
17 stereotypically associated with the person’s assigned sex at birth.

18 (s) “Sexual orientation” means heterosexuality, homosexuality,
19 and bisexuality.

20 (t) “Supervisor” means any individual having the authority, in
21 the interest of the employer, to hire, transfer, suspend, lay off,
22 recall, promote, discharge, assign, reward, or discipline other
23 employees, or the responsibility to direct them, or to adjust their
24 grievances, or effectively to recommend that action, if, in
25 connection with the foregoing, the exercise of that authority is not
26 of a merely routine or clerical nature, but requires the use of
27 independent judgment.

28 (u) “Undue hardship” means an action requiring significant
29 difficulty or expense, when considered in light of the following
30 factors:

31 (1) The nature and cost of the accommodation needed.

32 (2) The overall financial resources of the facilities involved in
33 the provision of the reasonable accommodations, the number of
34 persons employed at the facility, and the effect on expenses and
35 resources or the impact otherwise of these accommodations upon
36 the operation of the facility.

37 (3) The overall financial resources of the covered entity, the
38 overall size of the business of a covered entity with respect to the
39 number of employees, and the number, type, and location of its
40 facilities.

1 (4) The type of operations, including the composition, structure,
2 and functions of the workforce of the entity.

3 (5) The geographic separateness or administrative or fiscal
4 relationship of the facility or facilities.

5 (v) “National origin” discrimination includes, but is not limited
6 to, discrimination on the basis of possessing a driver’s license or
7 identification card granted under Section 12801.9 of the Vehicle
8 Code.

9 (w) “Race” is inclusive of traits ~~historically~~ associated with
10 race, including, but not limited to, hair texture and protective
11 hairstyles.

12 (x) “Protective hairstyles” includes, but is not limited to, such
13 hairstyles as braids, locks, and twists.

14 (y) “Reproductive health decisionmaking” includes, but is not
15 limited to, a decision to use or access a particular drug, device,
16 product, or medical service for reproductive health. This
17 subdivision and other provisions in this part relating to
18 “reproductive health decisionmaking” shall not be construed to
19 mean that subdivision (r) of this section and other provisions in
20 this part related to “sex” do not include reproductive health
21 decisionmaking.

22 ~~SECTION 1. Section 53.8 is added to the Civil Code,~~
23 ~~immediately following Section 53.7, to read:~~

24 ~~53.8. (a) For purposes of this section, the following definitions~~
25 ~~shall apply:~~

26 ~~(1) “Amateur sports organization” means an organization,~~
27 ~~business, nonprofit entity, or a local governmental agency that~~
28 ~~sponsors or conducts youth or amateur sports competitions,~~
29 ~~training, camps, or clubs. “Amateur sports organization” does not~~
30 ~~include collegiate sports organizations and professional sports~~
31 ~~organizations.~~

32 ~~(2) “Collegiate sports organization” means an athletic~~
33 ~~organization in which the participants are teams from a public or~~
34 ~~private institution of higher learning or an individual competing~~
35 ~~on behalf of a public or private institution of higher learning.~~

36 ~~(3) “Professional sports organization” means an athletic~~
37 ~~organization in which the participants receive compensation for~~
38 ~~competing in a sporting event. Any organization that qualifies as~~
39 ~~a collegiate sports organization shall not be considered a~~

1 professional sports organization regardless of whether competitors
2 are compensated.

3 (4) “Protective hairstyles” includes, but is not limited to, such
4 hairstyles as braids, locks, and twists.

5 (5) “Race” is inclusive of traits historically associated with race,
6 including, but not limited to, hair texture and protective hairstyles.

7 (b) An amateur sports organization shall not discriminate against
8 any person on the basis of race in the operation, conduct, or
9 administration of a youth or amateur sports competition, training,
10 camp, or club within this state.

11

12

13 **REVISIONS:**

14 **Heading—Line 3.**

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