

LEGISLATIVE DIGEST

[Police Code - Prohibiting Discrimination Against Lesbian, Gay, Bisexual, and Transgender Residents by Long-Term Care Facilities]

Ordinance amending the Police Code to prohibit discrimination against residents or patients at long-term care facilities in San Francisco on the basis of sexual orientation or gender identity; to provide aggrieved persons with the right to seek investigation and mediation by the Human Rights Commission, as well as a private right of action; and to impose treble damages on violators.

Existing Law

Article 33 of the Police Code currently prohibits discrimination in employment, housing, and public accommodations, and by home delivery services, on the basis of race, color, ancestry, national origin, place of birth, sex, age, religion, creed, disability, sexual orientation, gender identity, weight, or height. These anti-discrimination provisions may be enforced administratively by the Human Rights Commission; the aggrieved individual, the City Attorney, or the District Attorney may seek an injunction; and any aggrieved person may file a civil action. Civil penalties for a violation consist of treble general damages, punitive damages, attorneys' fees, and costs.

Amendments to Current Law

This ordinance would add a new Section 3304.1 to prohibit discrimination on the basis of sexual orientation, gender identity, and HIV status in long-term care facilities located in the City and County of San Francisco. Section 3304.1 would prohibit ten enumerated actions from being taken in whole or in part on the basis of sexual orientation, gender identity, or HIV status, except on the basis of reasonable clinical judgment. Section 3304.1 would also require long-term care facilities to keep records that reflect a resident or patient's preferred name and pronoun, post a non-discrimination notice specific to sexual orientation and gender identity, require confidentiality and privacy, and designate an LGBT liaison to complete an annual training. Within six months of the effective date of the ordinance, the Human Rights Commission would be required to publish a manual for Facilities to assist them with compliance in collaboration with the San Francisco Long Term Ombudsman Program.

The Human Rights Commission would investigate complaints and seek to resolve them through mediation. Violators other than City facilities would also be subject to the injunction, civil action, and damages provisions of the current Article 33.

Background Information

While state and local laws already prohibit discrimination in public accommodations on the basis of actual or perceived sexual orientation, gender identity, gender expression, and HIV status, the promise of these laws has not yet been fully actualized in long-term care facilities, where LGBT persons are particularly vulnerable. The purpose of the ordinance is to accelerate the process of eliminating such discrimination in the long-term care setting and provide additional remedies for violations.

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