



General Assembly

Amendment

January Session, 2025

LCO No. 7734



Offered by:

SEN. KUSHNER, 24th Dist.

To: Senate Bill No. 1035

File No. 481

Cal. No. 275

***"AN ACT CONCERNING LIMITATIONS ON THE USE OF
NONDISCLOSURE AGREEMENTS."***

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 Section 46a-60 of the general statutes is repealed and the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, 2025*):

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 is not limited to, being
9 permitted to sit while working, more frequent or longer breaks, periodic
10 rest, assistance with manual labor, job restructuring, light duty
11 assignments, modified work schedules, temporary transfers to less
12 strenuous or hazardous work, time off to recover from childbirth or
13 break time and appropriate facilities for expressing breast milk; and

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

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

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

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

42 (3) For a labor organization, because of the race, color, religious creed,
43 age, sex, gender identity or expression, marital status, national origin,
44 ancestry, present or past history of mental disability, intellectual
45 disability, learning disability, physical disability, including, but not

46 limited to, blindness, status as a veteran or status as a victim of domestic
47 violence of any individual to exclude from full membership rights or to
48 expel from its membership such individual or to discriminate in any
49 way against any of its members or against any employer or any
50 individual employed by an employer, unless such action is based on a
51 bona fide occupational qualification;

52 (4) For any person, employer, labor organization or employment
53 agency to discharge, expel or otherwise discriminate against any person
54 because such person has opposed any discriminatory employment
55 practice or because such person has filed a complaint or testified or
56 assisted in any proceeding under section 46a-82, 46a-83 or 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 qualification
62 or need, to advertise employment opportunities in such a manner as to
63 restrict such employment so as to discriminate against individuals
64 because of their race, color, religious creed, age, sex, gender identity or
65 expression, marital status, national origin, ancestry, present or past
66 history of mental disability, intellectual disability, learning disability,
67 physical disability, including, but not limited to, blindness, status as a
68 veteran or status as a victim of domestic violence;

69 (7) For an employer, by the employer or the employer's agent: (A) To
70 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 signifying
79 her intent to return unless, in the case of a private employer, the
80 employer's circumstances have so changed as to make it impossible or
81 unreasonable to do so; (E) to limit, segregate or classify the employee in
82 a way that would deprive her of employment opportunities due to her
83 pregnancy; (F) to discriminate against an employee or person seeking
84 employment on the basis of her pregnancy in the terms or conditions of
85 her employment; (G) to fail or refuse to make a reasonable
86 accommodation for an employee or person seeking employment due to
87 her pregnancy, unless the employer can demonstrate that such
88 accommodation would impose an undue hardship on such employer;
89 (H) to deny employment opportunities to an employee or person
90 seeking employment if such denial is due to the employee's request for
91 a reasonable accommodation due to her pregnancy; (I) to force an
92 employee or person seeking employment affected by pregnancy to
93 accept a reasonable accommodation if such employee or person seeking
94 employment (i) does not have a known limitation related to her
95 pregnancy, or (ii) does not require a reasonable accommodation to
96 perform the essential duties related to her employment; (J) to require an
97 employee to take a leave of absence if a reasonable accommodation can
98 be provided in lieu of such leave; and (K) to retaliate against an
99 employee in the terms, conditions or privileges of her employment
100 based upon such employee's request for a reasonable accommodation;

101 (8) For an employer, by the employer or the employer's agent, for an
102 employment agency, by itself or its agent, or for any labor organization,
103 by itself or its agent, to harass any employee, person seeking
104 employment or member on the basis of sex or gender identity or
105 expression. If an employer takes immediate corrective action in
106 response to an employee's claim of sexual harassment, such corrective
107 action shall not modify the conditions of employment of the employee
108 making the claim of sexual harassment unless such employee agrees, in
109 writing, to any modification in the conditions of employment.
110 "Corrective action" taken by an employer, includes, but is not limited to,
111 employee relocation, assigning an employee to a different work

112 schedule or other substantive changes to an employee's terms and
113 conditions of employment. Notwithstanding an employer's failure to
114 obtain a written agreement from an employee concerning a modification
115 in the conditions of employment, the commission may find that
116 corrective action taken by an employer was reasonable and not of
117 detriment to the complainant based on the evidence presented to the
118 commission by the complainant and respondent. As used in this
119 subdivision, "sexual harassment" means any unwelcome sexual
120 advances or requests for sexual favors or any conduct of a sexual nature
121 when (A) submission to such conduct is made either explicitly or
122 implicitly a term or condition of an individual's employment, (B)
123 submission to or rejection of such conduct by an individual is used as
124 the basis for employment decisions affecting such individual, or (C)
125 such conduct has the purpose or effect of substantially interfering with
126 an individual's work performance or creating an intimidating, hostile or
127 offensive working environment;

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

142 (10) For an employer, by the employer or the employer's agent, after
143 informing an employee, pursuant to subdivision (9) of this subsection,
144 of a workplace exposure to substances which may cause birth defects or

145 constitute a hazard to an employee's reproductive system or to a fetus,
146 to fail or refuse, upon the employee's request, to take reasonable
147 measures to protect the employee from the exposure or hazard
148 identified, or to fail or refuse to inform the employee that the measures
149 taken may be the subject of a complaint filed under the provisions of
150 this chapter. Nothing in this subdivision is intended to prohibit an
151 employer from taking reasonable measures to protect an employee from
152 exposure to such substances. For the purpose of this subdivision,
153 "reasonable measures" are those measures which are consistent with
154 business necessity and are least disruptive of the terms and conditions
155 of the employee's employment;

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

165 (12) For an employer, by the employer or the employer's agent, to
166 request or require a prospective employee's age, date of birth, dates of
167 attendance at or date of graduation from an educational institution on
168 an initial employment application, provided the provisions of this
169 subdivision shall not apply to any employer requesting or requiring
170 such information (A) based on a bona fide occupational qualification or
171 need, or (B) when such information is required to comply with any
172 provision of state or federal law; [and]

173 (13) (A) For an employer or the employer's agent to deny an employee
174 a reasonable leave of absence in order to: (i) Seek attention for injuries
175 caused by domestic violence including for a child who is a victim of
176 domestic violence, provided the employee is not the perpetrator of the
177 domestic violence against the child; (ii) obtain services including safety

178 planning from a domestic violence agency or rape crisis center, as those
179 terms are defined in section 52-146k, as a result of domestic violence;
180 (iii) obtain psychological counseling related to an incident or incidents
181 of domestic violence, including for a child who is a victim of domestic
182 violence, provided the employee is not the perpetrator of the domestic
183 violence against the child; (iv) take other actions to increase safety from
184 future incidents of domestic violence, including temporary or
185 permanent relocation; or (v) obtain legal services, assisting in the
186 prosecution of the offense, or otherwise participate in legal proceedings
187 in relation to the incident or incidents of domestic violence.

188 (B) An employee who is absent from work in accordance with the
189 provisions of subparagraph (A) of this subdivision shall, within a
190 reasonable time after the absence, provide a certification to the employer
191 when requested by the employer. Such certification shall be in the form
192 of: (i) A police report indicating that the employee or the employee's
193 child was a victim of domestic violence; (ii) a court order protecting or
194 separating the employee or employee's child from the perpetrator of an
195 act of domestic violence; (iii) other evidence from the court or
196 prosecuting attorney that the employee appeared in court; or (iv)
197 documentation from a medical professional, domestic violence
198 counselor, as defined in section 52-146k, or other health care provider,
199 that the employee or the employee's child was receiving services,
200 counseling or treatment for physical or mental injuries or abuse
201 resulting in victimization from an act of domestic violence.

202 (C) Where an employee has a physical or mental disability resulting
203 from an incident or series of incidents of domestic violence, such
204 employee shall be treated in the same manner as an employee with any
205 other disability.

206 (D) To the extent permitted by law, employers shall maintain the
207 confidentiality of any information regarding an employee's status as a
208 victim of domestic violence; and

209 (14) For an employer, by the employer or the employer's agent to: (A)

210 Refuse to hire or employ, discriminate in compensation or in terms,
211 conditions or privileges of employment, or bar or discharge from
212 employment, any employee or independent contractor because such
213 person disclosed conduct the person reasonably believes to be a
214 discriminatory employment practice, or because such person
215 disparaged the employer for engaging in conduct the person reasonably
216 believes to be a discriminatory employment practice, or (B) require or
217 request a prospective, current or former employee or independent
218 contractor to enter into an agreement containing a provision that is void
219 pursuant to subsection (e) of this section, or for an employer to attempt
220 to enforce such provision. The provisions of this subdivision and
221 subsection (e) of this section shall be liberally construed so as to
222 effectuate their remedial purpose and such provisions shall extend to an
223 intern, who is paid or unpaid, and any volunteer engaged in service to
224 an employer in this state in the business of the employer.

225 (c) (1) The provisions of this section concerning age shall not apply
226 to: (A) The termination of employment of any person with a contract of
227 unlimited tenure at an independent institution of higher education who
228 is mandatorily retired, on or before July 1, 1993, after having attained
229 the age of seventy; (B) the termination of employment of any person
230 who has attained the age of sixty-five and who, for the two years
231 immediately preceding such termination, is employed in a bona fide
232 executive or a high policy-making position, if such person is entitled to
233 an immediate nonforfeitable annual retirement benefit under a pension,
234 profit-sharing, savings or deferred compensation plan, or any
235 combination of such plans, from such person's employer, which equals,
236 in aggregate, at least forty-four thousand dollars; (C) the termination of
237 employment of persons in occupations, including police work and fire-
238 fighting, in which age is a bona fide occupational qualification; (D) the
239 operation of any bona fide apprenticeship system or plan; or (E) the
240 observance of the terms of a bona fide seniority system or any bona fide
241 employee benefit plan for retirement, pensions or insurance which is not
242 adopted for the purpose of evading said provisions, except that no such
243 plan may excuse the failure to hire any individual and no such system

244 or plan may require or permit the termination of employment on the
245 basis of age. No such plan which covers less than twenty employees may
246 reduce the group hospital, surgical or medical insurance coverage
247 provided under the plan to any employee who has reached the age of
248 sixty-five and is eligible for Medicare benefits or any employee's spouse
249 who has reached age sixty-five and is eligible for Medicare benefits
250 except to the extent such coverage is provided by Medicare. The terms
251 of any such plan which covers twenty or more employees shall entitle
252 any employee who has attained the age of sixty-five and any employee's
253 spouse who has attained the age of sixty-five to group hospital, surgical
254 or medical insurance coverage under the same conditions as any
255 covered employee or spouse who is under the age of sixty-five.

256 (2) No employee retirement or pension plan may exclude any
257 employee from membership in such plan or cease or reduce the
258 employee's benefit accruals or allocations under such plan on the basis
259 of age. The provisions of this subdivision shall be applicable to plan
260 years beginning on or after January 1, 1988, except that for any
261 collectively bargained plan this subdivision shall be applicable on the
262 earlier of (A) January 1, 1990, or (B) the later of (i) the expiration date of
263 the collective bargaining agreement, or (ii) January 1, 1988.

264 (3) The provisions of this section concerning age shall not prohibit an
265 employer from requiring medical examinations for employees for the
266 purpose of determining such employees' physical qualification for
267 continued employment.

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

272 (d) (1) An employer shall provide written notice of the right to be free
273 from discrimination in relation to pregnancy, childbirth and related
274 conditions, including the right to a reasonable accommodation to the
275 known limitations related to pregnancy pursuant to subdivision (7) of

276 subsection (b) of this section to: (A) New employees at the
277 commencement of employment; (B) existing employees within one
278 hundred twenty days of October 1, 2017; and (C) any employee who
279 notifies the employer of her pregnancy within ten days of such
280 notification. An employer may comply with the provisions of this
281 section by displaying a poster in a conspicuous place, accessible to
282 employees, at the employer's place of business that contains the
283 information required by this section in both English and Spanish. The
284 Labor Commissioner may adopt regulations, in accordance with
285 chapter 54, to establish additional requirements concerning the means
286 by which employers shall provide such notice.

287 (2) The Commission on Human Rights and Opportunities shall
288 develop courses of instruction and conduct ongoing public education
289 efforts as necessary to inform employers, employees, employment
290 agencies and persons seeking employment about their rights and
291 responsibilities under this section.

292 (e) (1) Any provision in an agreement between an employer and a
293 prospective, current or former employee or independent contractor
294 shall be void as against public policy if such provision prohibits
295 disparagement or disclosure relating to conduct the employee or
296 independent contractor reasonably believes to be a discriminatory
297 employment practice. The provisions of this subsection shall not
298 prohibit: (A) The enforcement of a provision in any agreement that
299 prohibits the disclosure of (i) trade secrets, proprietary information or
300 confidential information that does not involve illegal acts; (ii) the
301 amount paid in settlement of a claim; or (iii) confidential information
302 received by an employee that relates to the employee's job
303 responsibilities in reviewing, investigating or resolving an allegation of
304 a discriminatory practice; or (B) an employee or volunteer from
305 requesting that the employee and employer enter into a binding written
306 agreement, which may include terms and conditions that preclude the
307 employer from disclosing certain confidential information relating to an
308 employee or a volunteer that does not involve illegal acts.

309 (2) A provision prohibiting disparagement or disclosure relating to
310 conduct the employee or independent contractor reasonably believes to
311 be a discriminatory employment practice prohibited under subdivision
312 (1) of this subsection, entered into prior to October 1, 2025, shall be void
313 and unenforceable only where such provision was entered into at the
314 outset of employment or during the course of employment. For a
315 nondisclosure or nondisparagement provision void and unenforceable
316 under this subdivision, an employee may recover only damages relating
317 to preventing the enforcement of the provision. The provisions of this
318 subdivision shall not apply to a nondisclosure or nondisparagement
319 provision contained in an agreement to settle a legal claim."

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2025</i>	46a-60
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