



California
LEGISLATIVE INFORMATION

AB-5 Homelessness. (2013-2014)

AMENDED IN ASSEMBLY APRIL 30, 2013

AMENDED IN ASSEMBLY APRIL 08, 2013

CALIFORNIA LEGISLATURE— 2013–2014 REGULAR SESSION

ASSEMBLY BILL

No. 5

Introduced by Assembly Member Ammiano

December 03, 2012

An act to add Part 2.2 (commencing with Section 53.1) to Division 1 of the Civil Code, and to amend Section 11135 of the Government Code, relating to homelessness.

LEGISLATIVE COUNSEL'S DIGEST

AB 5, as amended, Ammiano. Homelessness.

Existing law provides that no person in the state shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, genetic information, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.

This bill would enact the Homeless Person's Bill of Rights and Fairness Act, which would provide that no person's rights, privileges, or access to public services may be denied or abridged because he or she is ~~homeless, has a low income, or suffers from a mental illness or physical disability~~ *homeless*. ~~The bill would provide that every person in the state, regardless of actual or perceived housing status, low income, sexual orientation, gender identity, citizenship, or immigration status, shall be free from specified forms of discrimination and shall be entitled to certain basic human rights, including the right to be free from discrimination by law enforcement, in the workplace, and while seeking services.~~ The bill would provide that every *homeless* person has the right, *among others*, to ~~access public property, possess personal property, access public restrooms, clean water, educational supplies~~ *move freely, rest, eat, share, accept, or give food or water, and solicit donations in public spaces, as defined, and the right to lawful self-employment*, as specified, ~~emergency and nonemergency health care~~, confidentiality of ~~medical~~ *specified* records, assistance of legal counsel in specified proceedings, and restitution, under specified circumstances. *By requiring a county to pay the cost of providing legal counsel, as specified, the bill would increase the duties of local agencies, thereby imposing a state-mandated local program.* The bill would provide immunity from employer ~~retaliation~~, *retaliation* to a public employee who provides *specified* assistance to a homeless person. The bill would require local law enforcement agencies to make

specified information available to the public and report to the Attorney General on an annual basis with regard to enforcement of local ordinances against homeless persons and compliance with the act, as specified, thereby imposing a state-mandated local program. The bill would provide for judicial relief and impose civil penalties for a violation of the act.

This bill would require the State Department of Public Health to fund the provision of health and hygiene centers, as specified, for use by homeless persons in designated areas.

This bill would provide that its provisions address a matter of statewide concern. The bill would provide that its provisions are severable.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known and may be cited as the Homeless Person's Bill of Rights and Fairness Act.

SEC. 2. The Legislature finds and declares all of the following:

(a) In the State of California, there has been a long history of discriminatory laws and ordinances that have disproportionately affected people with low incomes and who are without homes, including, but not limited to, all of the following:

(1) Jim Crow laws: After the Civil War, many states, especially in the south, passed laws denying African Americans basic human rights. In California, these laws also targeted Chinese immigrants. In San Francisco, Chinese residents were forced to live in one area of the city. The same segregation laws also prohibited interracial marriage between Chinese and non-Chinese persons.

(2) Ugly laws: In 1867, San Francisco was the first city in the country to pass a law making it illegal for people with "unsightly or disgusting" disabilities to appear in public. In many cities, these laws persisted until the 1970s.

(3) Anti-Okie laws: In 1937, California passed an Anti-Okie law that criminalized "bringing or assisting in bringing" extremely poor people into the state. The United States Supreme Court struck down the law in 1941, when it declared that these laws are in violation of the commerce clause, and therefore unconstitutional.

(4) Sundown town ordinances: Town policies and real estate covenants were aimed at preventing minorities, homeless persons, and other persons considered to be socially undesirable from remaining within city limits after sunset. Thousands of these towns existed prior to the federal Civil Rights Act of 1968, which made these ordinances and covenants illegal.

(5) Vagrancy laws: Vagrancy laws have been held to be discriminatory on their face because they criminalize a person's status rather than a behavior. Nevertheless, these laws existed in California until the Legislature revised them in 1961.

(b) Act of living ordinances, often known as "quality of life ordinances" and other similar ordinances, are the modern reincarnations of laws of this kind. They are designed to force homeless people to flee local jurisdictions. These local ordinances result in de facto segregation as homeless people are forced out of specific jurisdictions or out of specific neighborhoods within jurisdictions. These practices tend to condemn large groups of inhabitants to dwell in segregated districts or under depressed living conditions that result in crowded, unsanitary, substandard, and unhealthful accommodations. Furthermore, these policies result in criminalization of homeless persons who do not choose, or are unable, to migrate.

(c) Today, in the state, many people are denied the following:

(1) Housing due to their status of being homeless, living in a shelter, a vehicle, the street, or the public domain.

(2) Employment due to their current status of being homeless or living in a shelter or a vehicle on the street.

(3) Housing and employment as a result of not having a fixed or residential mailing address or having a post office box as a mailing address.

(4) Equal protection of the laws and due process by law enforcement and prosecuting agencies.

(5) The ability to make certain purchases or enter certain contests as a result of not having a fixed or residential mailing address or having a post office box as a mailing address.

(6) Access to safe, clean restrooms, water, and hygienic supplies necessary to maintain health, safety, and dignity, especially with the proliferation of closures of public restrooms.

(d) Homeless persons are unfairly targeted by law enforcement, often resulting in the violation of homeless persons' constitutional rights. Lacking the resources necessary to obtain adequate legal representation, homeless persons are often denied relief or damages through the courts.

(e) Homeless persons rarely have access to shelters, and when shelter is available, its conditions can be so poor as to jeopardize their health and physical and mental safety.

(f) Homeless persons are often forced to separate from loved ones, give up their personal property, abandon pets, and make other inhumane choices in order to access even minimal shelter.

(g) Lesbian, gay, bisexual, transgender, gender nonconforming, and queer individuals often are forced to accept inappropriate or unsafe accommodations to access publicly funded emergency shelters.

(h) Children in homeless families are denied the ability to continue receiving education in their preferred school if their family's shelter lies outside the boundaries of their former district.

(i) At the present time, many persons have been rendered homeless as a result of a deep and prolonged economic recession, a severe shortage of safe and affordable housing, a failed mental health system, and a shrinking social safety net.

(j) Section 1 of Article I of the California Constitution provides that "[a]ll people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy."

(k) Subdivision (a) of Section 7 of Article I of the California Constitution provides, in part, that "[a] person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws... ."

(l) Concordant with this fundamental belief, a person should not be subject to discrimination based on his or her housing status, income level, mental or physical disability, sexual orientation, gender identity, citizenship, or immigration status. Therefore, it is the intent of the Legislature in enacting this act to protect the rights of all Californians, regardless of their housing status, and to ameliorate the adverse effects of homelessness on *people who have no home and on* our communities.

(m) It is the intent of the Legislature to enact legislation that would require all state agencies to use the same definition for "homeless persons or people" as follows:

(1) "Homeless" means those individuals or families who lack or are perceived to lack a fixed, regular, and adequate nighttime residence, or who have a primary nighttime residence in a shelter, on the street, in a vehicle, in an enclosure or structure that is not authorized or fit for human habitation.

(2) "Homeless" also means a person whose only residence is a residential hotel or who is residing anywhere without tenancy rights, and families with children staying in a residential hotel whether or not they have tenancy rights.

(n) It is the intent of the Legislature that publicly funded social and health care services be offered in a sufficient quantity to meet the population's needs, without barriers, including geographical barriers, such as making locations inconvenient or creating screen-out barriers, or prohibiting access due to a person's inability to provide identification or criminal justice history, or disability, in order that persons are reasonably able to reach and use that service.

~~*SEC. 3.(a)It is the intent of the Legislature to enact legislation that would, except when otherwise not permitted by federal law, ensure that everyone in the state has the right to all of the following:*~~

~~(1) Access to income sufficient for survival, regardless of employment status or criminal justice background, including, but not limited to, the right to receive funds through public welfare programs, private donations, collecting recyclable goods, or soliciting donations in public spaces.~~

~~(2) Safe, decent, permanent, and affordable housing, as soon as possible, and the right to be free from further dislocation, unless and until safe, decent, permanent, and affordable housing is available.~~

~~(3) Access to clean and safe facilities 24 hours a day, seven days a week, with clearly identifiable staff able to react to safety concerns, including, but not limited to, shelters and drop-in centers that meet basic health, hygiene, and dignity needs, including any special needs of lesbian, gay, bisexual, or transgender individuals, youths, families, or those with mental illness or physical disabilities. This includes the right of all individuals to secure shelter without being required to state their gender or to share confidential health information protected by the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).~~

~~(4) As a child enrolled in a publicly funded school, be provided by his or her school with the supplies necessary to promote academic success, including, but not limited to, backpacks, textbooks, notebooks, pencils, pens, and appropriate academic technology.~~

~~(5) Nonemergency health care and access to medical facilities that provide quality care for both physical and mental needs.~~

~~(6) Access to emergency services, including, but not limited to, emergency rooms at hospitals, shelters, drop-in centers, rehabilitation centers, education, and special training, without the possibility of being denied based on race, color, sex, language, religion, political or other opinion, national or social origin, sexual orientation, gender identity, mental or physical disability, income level, housing status, citizenship, or immigration status.~~

~~(b) It is the intent of the Legislature to enact legislation that would require all state agencies to use the same definition for "homeless persons or people" as follows: "Homeless" means those individuals or families who lack a fixed, regular, and adequate nighttime residence or who have primary nighttime residence in a shelter, on the street, in a vehicle, in an enclosure or structure that is not authorized or fit for human habitation, substandard apartments, dwellings, doubled up temporarily with friends or families, or staying in transitional housing programs. "Homeless" also means any person residing anywhere without tenancy rights, and families with children staying in a residential hotel whether or not they have tenancy rights.~~

~~(c) It is the intent of the Legislature that publicly funded social and health care services be offered in a sufficient quantity to meet the population's needs, without barriers, including geographical barriers, such as making locations inconvenient or creating screen-out barriers, or prohibiting access due to a person's inability to provide identification or criminal justice history, or disability, in order that persons are reasonably able to reach and use that service.~~

SEC. 4. **SEC. 3.** Part 2.2 (commencing with Section 53.1) is added to Division 1 of the Civil Code, to read:

PART 2.2. Homeless Persons

53.1. For purposes of this part, the following definitions shall apply:

~~(a) "Access," as applied to an existing facility, service, or public space means the ability and permission to enter and make use of the facility, service, or public space. Otherwise, "access" means the offering or availability of a facility or service.~~

~~(b)~~

(a) "BID" means a business improvement district, as established under Chapter 2 (commencing with Section 36520) of Part 6 of Division 18 of, or Chapter 2 (commencing with Section 36620) of Part 7 of Division 18 of, the Streets and Highways Code, or any public-private partnership established under any municipal or county law authorized under Chapter 1 (commencing with Section 36500) of Part 6 of Division 18 of, or Chapter 1 (commencing with Section 36600) of Part 7 of Division 18 of, the Streets and Highways Code, whether or not the phrase "business improvement district" is part of the public-private partnership's name.

~~(c)~~

~~(b) "BID agent" means any person hired by a BID or any other public-private partnership similar to a business improvement district.~~

~~(d) "Damages" means, but is not limited to, losses:~~

~~(e)~~

(c) "Harassment" means ~~any behavior that is meant to intimidate or otherwise persuade an individual to alter his or her behavior, whether or not otherwise lawful.~~ *a knowing and willful course of conduct by law enforcement, public or private security personnel, or a BID agent directed at a specific person that a reasonable person would consider as seriously alarming, seriously annoying, seriously tormenting, or seriously terrorizing a person.*

~~(f)~~

(d) "Homeless persons" or "homeless people" means those individuals or families ~~lacking~~ *who lack or are perceived to lack* a fixed, regular, and adequate nighttime residence, or ~~having~~ *who have* a primary nighttime residence in a shelter, on the street, in a vehicle, in an enclosure or structure that is not authorized or fit for human ~~habitation, in a substandard apartment, dwelling, staying temporarily with friends or families, or staying in transitional housing programs or habitation.~~ *"Homeless" also means a person whose only residence is a residential hotel or who is* residing anywhere without tenancy rights, and families with children staying in a residential hotel whether or not they have tenancy rights.

~~(g) "Housing status" means the status of having or not having a fixed or regular residence, including the status of living outdoors, in a vehicle, or in a homeless shelter, or similar temporary residence or elsewhere in the public domain.~~

~~(h) "Lack of permanent mailing address" means the absence of an address fixed to a permanent home, and may include, but is not limited to, post-office boxes, addresses of friends or family members, and shelter addresses.~~

~~(i) "Lawful representative" means any person who has been asked to advocate on behalf of a person or any class that a person identifies with, including, but not limited to, a homeless person's retained attorney, a nonprofit organization that advocates on behalf of homeless persons, or a prosecuting attorney upon the request of a homeless person.~~

~~(j) "Losses" means, but is not limited to, any deprivation of constitutionally held rights as well as the loss of property or physical and mental wellbeing.~~

~~(k) "Low income" is defined as income at or lower than twice the federal poverty level as established by the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of Section 9902(2) of Title 42 of the United States Code.~~

~~(l) "Public service" means any program or activity that is conducted, operated, or administered by the state, any state agency, or local government agency, is funded directly by the state or any local government, or received any financial assistance from the state or any local government.~~

~~(m)~~

(e) "Public space" means any ~~space~~ *property* that is ~~predominantly within the public domain or owned by any state or local government entity or upon which there is an easement for public use and~~ that is held open to the public, including, but not limited to, plazas, courtyards, parking lots, sidewalks, public transportation, public buildings and parks. "Public space" ~~may also refer to those places that receive additional services through BIDs or other, similar public-private partnerships.~~ *does not include a private business establishment.*

~~(n)~~

(f) "Rest" means the state of not moving, holding certain postures that include, but are not limited to, sitting, standing, leaning, kneeling, squatting, sleeping, or lying.

~~(e)~~

(g) "Soliciting donations" means asking for *food, water, or* money, which includes panhandling.

53.2. (a) *The existence of homelessness requires that fundamental rights that are amply protected in the home and in private places be extended to the public domain to ensure the equal rights of all Californians, homeless and housed.* Every *homeless* person in the ~~state, regardless of actual or perceived housing status, low income, sexual orientation, gender identity, citizenship, or immigration status,~~ *state* shall have ~~the right to~~ all of the following basic human rights and legal and civil protections, except when prohibited by federal law:

(1) The right to move freely in the same manner as any other person in public ~~spaces, including, but not limited to, plazas, parking lots, public sidewalks, public parks, public transportation, public streets, and public buildings,~~ *spaces without being subject to criminal or civil sanctions, harassment or arrest* by law enforcement, public or private security personnel, or BID agents *because he or she is homeless.*

(2) The right to rest ~~and sleep~~ in a public ~~spaces~~ *space in the same manner as any other person* without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents *because he or she is homeless,* as long as ~~such that~~ rest does not maliciously or substantially obstruct a passageway.

~~(3) The right to set down or leave at rest personal property in public spaces without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents, as long as that personal property does not maliciously or substantially obstruct a passageway, or the possession or placement of that personal property does not deny another of the right to property. This includes the right to restitution for loss of property or personal effects and belongings if the property or personal effects are confiscated, removed, damaged, or destroyed by law enforcement, public or private security personnel, or BID agents in violation of this paragraph or any other protections of property provided under state or federal law.~~

~~(4)~~

(3) The right to *eat,* share, accept, or give food *or water* in public spaces *in the same manner as any other person* without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents *because he or she is homeless.*

(4) *The right to solicit donations in public spaces in the same manner as any other person without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents because he or she is homeless.*

(5) The right to the same protections that law enforcement agencies afford ~~to the general public~~ *any other person,* including, but not limited to, the right to reasonable protection from assault, domestic violence, sexual assault, or robberies.

(6) The right to ~~sleep, sit, lie down, stand, eat, solicit donations, or share food in a public place or in a vehicle~~ *rest* in a public ~~place~~ *space,* without being subject to criminal or civil sanctions, *harassment,* or arrest by law enforcement, public or private security personnel, or BID agents, except that law enforcement may enforce existing local laws if all of the following are true: (1) the person's county of residence maintains 12 months per year of nonmedical assistance provided for in Section 17000 of the Welfare and Institutions Code for employable, able-bodied adults without dependents who are compliant with program rules established by the county, including work requirements; (2) the locality is not a geographical area identified by the United States Department of Labor in accordance with Subpart A of Part 654 of Section 20 of the Code of Federal Regulations

as an area of concentrated unemployment or underemployment or an area of labor surplus; and (3) the public housing waiting list maintained by the county contains fewer than 50 persons.

(7) The right to ~~be self-employed~~ *engage in lawful self-employment in the same manner as any other person*, including, but not limited to, the right to seek self-employment in junk removal and recycling that requires the collection, possession, redemption, and storage of goods for reuse and recycling, without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents *because he or she is homeless*.

(8) The right to pray, meditate, or practice religion in public spaces *in the same manner as any other person*, without being subject to criminal or civil sanctions, harassment, or arrest by law enforcement, public or private security personnel, or BID agents *because he or she is homeless*.

(9) The right to decline admittance to a public or private shelter or any other accommodation, including social services programs, for any reason he or she sees fit, without ~~facing being subject to~~ criminal or civil sanctions, harassment, or ~~arrest, or threats of these actions~~, *arrest* from law enforcement, public or private security personnel, or BID agents.

(10) The right to occupy a motor vehicle, as defined in Section 415 of the Vehicle Code, or recreational vehicle, as defined in Section 18010 of the Health and Safety Code, either to rest, sleep, or use for the purposes of shelter, provided that the vehicle is legally parked on public property, without ~~facing being subject to~~ criminal or civil sanctions, harassment, or ~~arrest, or threats of these actions~~, *arrest* from law enforcement, public or private security personnel, or BID agents.

~~(11) If the person is a child or youth, the right to state enforcement of the educational protections under the federal McKinney Vento Act (42 U.S.C. Sec. 11432), particularly with regard to Sections 11432(e)(3)(C)(ii)(I) and 11432(e)(3)(C)(ii)(II) of Title 42 of the United States Code, which provide that a school shall provide assistance to the parent or guardian of each homeless child or youth (or, in the case of an unaccompanied youth, the youth) to exercise the right to attend the parent's or guardian's (or youth's) choice of school, and a school shall coordinate with the local educational agency with jurisdiction for the school selected by the parent or guardian (or youth), to provide transportation and other necessary services.~~

~~(12)~~

~~(11) The right to be protected from disclosure~~ *confidentiality* of his or her records and information ~~from by~~ homeless shelters, medical centers, schools, or any other *publicly funded human* service provider to law enforcement agencies ~~without appropriate legal authority, and the right to confidentiality of personal records and information in accordance with all limitations on disclosure established by the federal Homeless Management Information Systems, the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), and the federal Violence Against Women Act (Public Law 103-322), employers, or landlords, except that the records or information may be disclosed if the disclosure is based on appropriate legal authority. Disclosure of an individual's records or information shall not be allowed unless the individual received oral and written notice of the legal authority to disclose this information and the individual's right to opt out of having the records or information disclosed.~~

~~(13) The right to confidentiality of personal records regarding housing status, income level, mental illness, physical disability, sexual orientation, gender identity, citizenship, or immigration status, and to protection from disclosure of the information and records to landlords and employers.~~

~~(14)~~

(12) (A) ~~If~~ *The right to assistance of counsel, if* a county chooses to initiate judicial proceedings ~~subject to Section 40508 of the Vehicle Code, Section 853.6, 853.7, or 853.8 of the Penal Code, or any similar law authorizing arrest for failure to appear or pay bail of the amount listed on the notice to appear, the defendant shall be guaranteed the right to assistance of counsel~~ *under any law set forth in Section 53.5*. The accused shall be advised of this right to counsel before entering a plea, and any waiver of this right shall be explicit. If the district attorney's office or its agent is representing the state in any part of an infraction proceeding, the accused shall have the right to assistance of counsel with regard to that infraction.

(B) The county where the citation was issued shall pay the cost of providing counsel under this ~~section paragraph~~.

~~(C) A county shall not use penalties under Section 1214.1 of the Penal Code or any other civil assessment scheme in the prosecution of municipal infractions unless the defendant was the driver of a vehicle.~~

~~(15) The right to assistance of counsel in any civil or criminal proceeding that may result in commitment to a public health institution.~~

~~(16) The right to be free from arbitrary arrest, detention, or deportation, handed over to another law enforcement agency, or deported, without guarantees necessary for his or her timely defense.~~

~~(b)~~

(C) This ~~section~~ *paragraph* shall not be construed to eliminate any protection or right to representation available under Sections 5365 and 6500 of the Welfare and Institutions Code *or any other provision of law*.

53.3. (a) A public employee shall not be retaliated against by his or her employer, for offering *available* public resources to a homeless person in order to protect that person from harm, including, but not limited to, ~~for~~ offering or providing food, blankets, first-aid supplies, or water.

(b) Any person or organization ~~or water~~ offering food *or water* in *a* public ~~spaces~~ *space* to any *homeless* person ~~pursuant to this part~~ shall not be subject to criminal or civil sanctions, arrest, or harassment by law enforcement, public or private security personnel, or BID agents.

53.4. (a) Every local government and disadvantaged unincorporated community within the state shall have sufficient health and hygiene centers available 24 hours a day, seven days a week, for use by homeless people. These facilities may be part of the Neighborhood Health Center Program.

(b) For purposes of subdivision (a), the health and hygiene centers shall be funded by the State Department of Public Health through those county agencies that oversee public health programs, and, at a minimum, shall contain public bathroom and shower facilities.

(c) The State Department of Public Health shall distribute public bulletins and notices identifying the facilities to be used as health and hygiene centers.

(d) For purposes of this section, "disadvantaged unincorporated community" ~~means a fringe, island, or legacy community in which the median household income is 80 percent less than the statewide median household income~~ *shall be defined as in Section 65302.10 of the Government Code.*

53.5. (a) To ensure equitable and cost-effective enforcement of the Homeless Person's Bill of Rights and Fairness Act (Ch. _____, Stats. 2013), every local law enforcement agency shall annually compile and review the number of citations, arrests, and other enforcement activities made pursuant to laws prohibiting the following:

- (1) Obstructing a sidewalk, whether by a person or personal property.
- (2) Loitering.
- (3) Sitting.
- (4) Lying down.
- (5) Camping.
- (6) Public lodging, including the prohibition specified in subdivision (e) of Section 647 of the Penal Code.
- (7) Sleeping in a public place.
- (8) Soliciting donations.
- (9) Soliciting donations at certain restricted locations, including citing people for panhandling under Section 22520.5 of the Vehicle Code.
- (10) Bathing in public places.
- (11) Sharing or receiving food.
- (12) Inhabiting or sleeping in a vehicle.

(13) Violating public park closure laws.

(14) Crossing streets or highways at particular locations, including subdivisions (c) and (d) of Section 21451 of, subdivision (d) of Section 21453 of, subdivision (b) of Section 21456 of, Section 21461.5 of, subdivision (b) of Section 21950 of, Section 21954 of, Section 21955 of, and subdivision (a) of Section 21956 of, the Vehicle Code.

(15) Trespassing, unless the trespassing charge is coupled with any misdemeanor or felony, except those misdemeanors that are included in Section 372 of, and subdivisions (h) to (j), inclusive, and subdivisions (l) and (m), of Section 602 of, the Penal Code.

(16) Failing to appear, pay a fine, post bail, or comply with a condition of a court order, as described in Section 40508 of the Vehicle Code or Section 853.6, 853.7, or 853.8 of the Penal Code.

~~(16)~~

(17) Any other local or state law enforced against homeless persons and identified by the Attorney General's office, or a city attorney's office, or any nonprofit organization whose work or mission includes assistance to research about, or advocate for, poor and homeless people office.

(b) A local law enforcement agency shall make this information publicly available under the terms set forth in the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(c) A local law enforcement agency shall report the information specified in this section to the Attorney General's office on an annual basis.

53.6. (a) Any person whose rights have been violated under this part may enforce those rights ~~and he or she, or his or her lawful representative, may file a motion for relief in any trial or appellate court with jurisdiction over the case as a matter of right. The court shall act promptly on any motion for relief under this part in a civil action.~~

(b) ~~Any civil action alleging a violation of this part may be brought against any person, entity, public entity, or public employee.~~ The court may award ~~punitive damages, if applicable,~~ appropriate injunctive and declaratory relief, *restitution for loss of property or personal effects and belongings*, actual damages, compensatory damages, ~~general damages, special damages,~~ exemplary damages, statutory damages of one thousand dollars (\$1,000) per violation, ~~if applicable,~~ and reasonable attorneys' fees and costs to a prevailing plaintiff.

~~SEC. 5.~~ **SEC. 4.** Section 11135 of the Government Code is amended to read:

11135. (a) No person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, housing status, genetic information, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state. Notwithstanding Section 11000, this section applies to the California State University.

(b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions.

(c) (1) As used in this section, "disability" means any mental or physical disability, as defined in Section 12926.

(2) The Legislature finds and declares that the amendments made to this act are declarative of existing law. The Legislature further finds and declares that in enacting Senate Bill 105 of the 2001-02 Regular Session (Chapter 1102 of the Statutes of 2002), it was the intention of the Legislature to apply subdivision (d) to the California State University in the same manner that subdivisions (a), (b), and (c) already applied to the California State University, notwithstanding Section 11000. In clarifying that the California State University is subject to paragraph (2) of subdivision (d), it is not the intention of the Legislature to increase the cost of developing or procuring electronic and information technology. The California State University shall, however, in determining the cost of developing or procuring electronic or information technology, consider whether technology that

meets the standards applicable pursuant to paragraph (2) of subdivision (d) will reduce the long-term cost incurred by the California State University in providing access or accommodations to future users of this technology who are persons with disabilities, as required by existing law, including this section, Title II of the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794).

(d) (1) The Legislature finds and declares that the ability to utilize electronic or information technology is often an essential function for successful employment in the current work world.

(2) In order to improve accessibility of existing technology, and therefore increase the successful employment of individuals with disabilities, particularly blind and visually impaired and deaf and hard-of-hearing persons, state governmental entities, in developing, procuring, maintaining, or using electronic or information technology, either indirectly or through the use of state funds by other entities, shall comply with the accessibility requirements of Section 508 of the federal Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 794d), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations.

(3) Any entity that contracts with a state or local entity subject to this section for the provision of electronic or information technology or for the provision of related services shall agree to respond to, and resolve any complaint regarding accessibility of its products or services that is brought to the attention of the entity.

(e) As used in this section, "sex" and "sexual orientation" have the same meanings as those terms are defined in subdivisions (q) and (r) of Section 12926.

(f) As used in this section, "race, national origin, ethnic group identification, religion, age, sex, sexual orientation, color, or disability" includes a perception that a person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(g) As used in this section, "genetic information" has the same definition as in paragraph (2) of subdivision (e) of Section 51 of the Civil Code.

(h) For purposes of this ~~section~~ *section*, "housing status" ~~has the same meaning as that term is~~ *means status as a "homeless person" as* defined in ~~subdivision (g) of~~ Section 53.1 of the Civil Code.

SEC. 6. ~~SEC. 5.~~ The Legislature finds and declares that the need to address discriminatory practices is a matter of statewide concern and is not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act shall apply to all cities, including charter cities.

SEC. 7. ~~SEC. 6.~~ The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 8. ~~SEC. 7.~~ If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.