

AMENDED IN SENATE JULY 17, 2025

AMENDED IN SENATE JUNE 30, 2025

AMENDED IN SENATE JUNE 23, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 1136

Introduced by Assembly Member Ortega
(Principal coauthor: Assembly Member Gipson)
(Principal coauthor: Senator Durazo)
(Coauthors: Senators Becker, Caballero, and Gonzalez)

February 20, 2025

An act to add Chapter 3.3 (commencing with Section 1019.6) to Part 3 of Division 2 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1136, as amended, Ortega. Employment: immigration and work authorization.

Existing law, the California Fair Employment and Housing Act, prohibits various forms of employment and housing discrimination, including various types of discrimination because of national origin. Existing law empowers the Civil Rights Department to investigate and prosecute complaints alleging unlawful practices.

Existing labor law also prohibits an employer or other person or entity from engaging in, or to directing another person or entity to engage in, unfair immigration-related practices against a person for exercising specified rights. Existing law defines unfair immigration-related practices for these purposes. Existing law additionally makes it unlawful for an employer to request more or different immigration documents than are required under federal law, to refuse to honor documents

tendered that reasonably appear to be genuine, and to take other related actions concerning employee work authorization documents. Existing law authorizes an applicant for employment or an employee who is subject to an unlawful act that is prohibited by these provisions, or a representative of that applicant for employment or employee, to file a complaint with the Division of Labor Standards Enforcement. Existing law establishes specified civil penalties for a violation of these provisions.

This bill would require each employee, upon request, to be released by their employer for up to 5 unpaid working days in order to attend appointments, interviews, adjudications, legal proceedings, detainment, or any other meeting at which the employee's presence is required concerning the employee's immigration status, work authorization, visa status, or any other immigration-related matter. The bill would also require a postintroductory employee, as defined, whose employment has been terminated due to an inability to provide documentation of proper work authorization to be immediately reinstated to their former classification without loss in seniority, subject to producing proper work authorization, ~~as prescribed.~~ *except as provided.* The bill would also require an employer, if the employee needs additional ~~time;~~ *time to produce the proper work authorization,* to rehire the employee into the next available opening in the employee's former classification, as a new hire without retaining seniority, subject to meeting certain conditions. ~~The~~

This bill would require an employer that is notified that an employee has been detained or incarcerated as a result of pending immigration or deportation proceedings, to place the employee on an unpaid leave of absence for a period pending the employee's release from detainment or incarceration and not to exceed 12 months. If the employee is released and provides appropriate work authorization documentation within the period of the authorized unpaid leave of absence, the bill would require the employee, upon the employer's receipt of that documentation, to be returned to work without loss of seniority to their former job classification, except as specified.

This bill would apply ~~these the above~~ requirements to a public or private employer, but would exempt a public or private employer with 25 or fewer employees.

The bill would prohibit each public or private employer from disciplining, discharging, or discriminating against an employee because of national origin or immigration status, or because the employee is

subject to immigration or deportation proceedings, except as required to comply with the law. The bill would prohibit an employee subject to immigration or deportation proceedings from being discharged solely because of those proceedings, so long as the employee is authorized to work in the United States. ~~If the employer is notified that an employee has been detained or incarcerated as a result of pending immigration or deportation proceedings, the bill would require the employer to place the employee on an unpaid leave of absence for a period of 12 months. If the employee is released and provides appropriate work authorization documentation within the 12-month period, the bill would require the employee to be returned to work without loss of seniority to their former job classification, as prescribed. The~~

This bill would require the Labor Commissioner to enforce these the bill's provisions, and would make other related and conforming changes.

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

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

1 SECTION 1. Chapter 3.3 (commencing with Section 1019.6)
 2 is added to Part 3 of Division 2 of the Labor Code, to read:

3
 4 CHAPTER 3.3. EMPLOYMENT-RELATED PRACTICES: WORK
 5 AUTHORIZATION
 6

7 1019.6. (a) Upon request, each employee shall be released by
 8 their employer for up to five unpaid working days, which may be
 9 either consecutive or nonconsecutive working days, in order to
 10 attend appointments, interviews, adjudications, legal proceedings,
 11 detainment, or any other meeting at which the employee's presence
 12 is required concerning the employee's immigration status, work
 13 authorization, visa status, or any other immigration-related matter.
 14 ~~The employer may request verification of the absence.~~

15 (b) (1) A postintroductory employee whose employment has
 16 been terminated due to an inability to provide documentation of
 17 proper work authorization shall be immediately reinstated to their
 18 former classification without loss of prior seniority provided the
 19 employee produces proper work authorization within 12 months
 20 of the date of termination. ~~The employee shall be reinstated to~~
 21 ~~their former classification displacing the least senior employee in~~

1 ~~that job classification.~~ An employee shall not accrue vacation or
 2 other benefits based upon particular employment plan policies
 3 during those absences. *If there is no position available at the time*
 4 *the employee produces proper work authorization, an employer*
 5 *shall offer the employee in writing, by hand delivering or mailing*
 6 *to their last known physical address, and by email and text*
 7 *message, to the extent the employer possesses this information, all*
 8 *job positions that become available for which the employee is*
 9 *qualified and for which priority is based on length of service with*
 10 *the employer, before a new employee may be hired. The employee*
 11 *shall receive their prior pay rate and seniority.*

12 (e)

13 (2) If the employee needs additional time, the employer shall
 14 rehire the employee into the next available opening in the
 15 employee’s former classification, as a new hire without retaining
 16 seniority, upon the former employee providing proper work
 17 authorization within a maximum of 12 additional months from the
 18 date the employee notifies the employer that they need additional
 19 time. If this occurs, the employee shall be subject to an introductory
 20 period upon rehire.

21 (c) (1) *If the employer is notified that an employee has been*
 22 *detained or incarcerated as a result of pending immigration or*
 23 *deportation proceedings, the employer shall place the employee*
 24 *on an unpaid leave of absence for a period pending the employee’s*
 25 *release from detainment or incarceration and not to exceed 12*
 26 *months. An employee on a leave of absence shall not accrue*
 27 *vacation or other benefits during the leave of absence.*

28 (2) *If the employee is released and provides the employer with*
 29 *appropriate work authorization documentation within the period*
 30 *of the authorized unpaid leave of absence, upon the employer’s*
 31 *receipt of that documentation, the employee shall be returned to*
 32 *work without loss of seniority to their former job classification.*

33 (3) *If there is no position available at the time the employee*
 34 *produces proper work authorization, an employer shall offer the*
 35 *employee in writing, by hand delivering or mailing to their last*
 36 *known physical address, and by email and text message, to the*
 37 *extent the employer possesses this information, all job positions*
 38 *that become available for which the employee is qualified and for*
 39 *which priority is based on length of service with the employer,*

1 *before a new employee may be hired. The employee shall receive*
2 *their prior pay rate and seniority.*

3 (d) This section applies to a private or public employer, except
4 that it shall not apply to a public or private employer with 25 or
5 fewer employees.

6 1019.7. Each public or private employer shall not discipline,
7 discharge, or discriminate against any employee because of national
8 origin or immigration status, or because the employee is subject
9 to immigration or deportation proceedings, except as required to
10 comply with the law. An employee subject to immigration or
11 deportation proceedings shall not be discharged solely because of
12 pending immigration or deportation proceedings, so long as the
13 employee is authorized to work in the United States. ~~If the~~
14 ~~employer is notified that an employee has been detained or~~
15 ~~incarcerated as a result of pending immigration or deportation~~
16 ~~proceedings, the employer shall place the employee on an unpaid~~
17 ~~leave of absence for a period of 12 months. If the employee is~~
18 ~~released and provides appropriate work authorization~~
19 ~~documentation within the 12-month period, the employee shall be~~
20 ~~returned to work without loss of seniority to their former job~~
21 ~~classification, displacing the least senior employee in that job~~
22 ~~classification. Employees on a leave of absence shall not accrue~~
23 ~~vacation or other benefits during the leave of absence.~~

24 1019.8. (a) The provisions of this chapter shall not invalidate
25 a collective bargaining agreement or memorandum of
26 understanding that provides additional protections to employees
27 than what is included in the provisions of this chapter.

28 (b) The Labor Commissioner shall enforce this chapter.

29 1019.9. For purposes of this chapter, the following definitions
30 apply:

31 (a) “Postintroductory employee” means an employee who has
32 successfully completed their probation period of employment.

33 (b) “Public employer” means an employer as defined in
34 paragraph (2) of subdivision (e) of Section 512.1.

35 SEC. 2. The provisions of this act are severable. If any
36 provision of this act or its application is held invalid, that invalidity
37 shall not affect other provisions or applications that can be given
38 effect without the invalid provision or application.

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