



"Fighting for Employee Rights"

## SHARE ACT (Stopping Harassment & Reporting Extension)

**AB 1870**  
*Asm. Reyes,  
Friedman,  
Waldron*

### SUMMARY OF THE BILL

AB 1870 would extend the time for filing harassment and discrimination claims under California's Fair Employment and Housing Act (FEHA). Currently, a harassment victim must file a pre-litigation claim with the Department of Fair Employment and Housing (DFEH) within one year of the unlawful act, or she will face an absolute time bar and will be unable to seek administrative or civil redress in court. This bill would extend this pre-filing requirement from one year to three years, allowing victims additional time to seek redress, making it more consistent with the filing time limits for other actions.

The opposition is requesting two amendments: 1) They want to shorten the statute of limitation to only two years; 2) They want to limit the bill so it covers only sexual harassment claims. Foes claim that a three-year statute of limitations is a drastic increase from current law. In fact, a three-year filing deadline is actually more consistent with other deadlines. Further, 13 states currently provide statutes of limitations at least double the length of California's current statute of limitations.<sup>1</sup>

In addition, the FEHA covers more than just sexual harassment. To single out only sexual harassment claims for a longer filing deadline would be extremely prejudicial to victims who have been harassed or

<sup>1</sup> The states and their respective statutes of limitations are as follows: Ohio (6 years); Kentucky (5 years); Michigan (3 years); New York (3 years); North Dakota (3 years); Vermont (3 years); Washington (3 years); Alaska (2 years); Hawaii (2 years); Maine (2 years); New Jersey (2 years); South Dakota (2 years); and West Virginia (2 years).



discriminated against on account of their race, religion or sexual orientation, to name just a few.

### BACKGROUND

FEHA prohibits discrimination, harassment and retaliation. The Department of Fair Employment and Housing (DFEH) is the state agency that enforces the law. Generally, FEHA prohibits harassment and discrimination in employment and housing because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national

origin, ancestry, mental and physical disability, medical condition, age, pregnancy, denial of medical and family care leave, or pregnancy leave (Cal. Government Code section 12940 et seq. and 12955 et seq.). Harassment based on sex violates FEHA. Retaliation is unlawful for opposing employment practices that discriminate based on sex or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding or litigation involving harassment.

All FEHA claims, including for sex harassment, are time barred after one year. To file a suit for sexual harassment, the victim must first file an administrative claim with the DFEH and/or the federal Equal Employment Opportunity Commission. The time limit for filing a claim with the DFEH is one year from the most recent incident. When filing a claim with the DFEH, the victim may request an investigation of the claim or an immediate "right to sue letter." They then have one year to file a lawsuit in Superior Court against the alleged perpetrator of the sexual harassment and/or their employer.

## **PROBLEM**

Low wage earners are particularly harmed by the short filing time. Most low wage workers who suffered harassment or discrimination are not aware of their legal rights and do not know that they are time barred if they do not file with the DFEH within a year. By the time they realize harassment is against the law, they are usually past the time to file or close to having their statute expire. Extending the time to file a claim with the DFEH will allow parties additional time to resolve grievances outside of court, without feeling compelled to file a claim in order to meet the short filing deadline. Most other types of harm have longer filing deadlines. For example, the time for filing an action for personal injury in California is two years; actions for fraud are three years; and contract disputes have a four-year time window. Victims of harassment and discrimination should have time to file their claims with the Department commensurate with other types of civil actions, especially in light of the common barriers that exist, including trauma and a lack of awareness of their rights.

## **SOLUTION**

AB 1870 will give victims additional time to seek civil and administrative remedies for FEHA claims. It will amend the FEHA to extend the current one-year time limit for filing a claim with the DFEH to three years.

### **SPONSORS**

Consumer Attorneys of California; California Employment Lawyers Assn.; Equal Rights Advocates.

### **SUPPORTERS**

California NOW; Courage Campaign; Stronger California Advocates Network; Women's Foundation of California; ACLU of California; Legal Aid at Work; Anti-Defamation League; CA Conference Board of Amalgamated Transit Union; CA Conference of Machinists; CA Teamsters Public Affairs Council; Engineers and Scientists of CA, Local 20; International Longshore & Warehouse Union; Jockey's Guild; Professional and Technical Engineers, Local 21; SAG-AFTRA; The Caucus for Producers, Writers & Directors; Utility Workers of America; California Environmental Justice Alliance.

### **CONTACTS**

Nancy Peverini    Jacquie Serna    Jessica Stender    Mariko Yoshihara  
[nancyp@caoc.org](mailto:nancyp@caoc.org)    [jserna@caoc.org](mailto:jserna@caoc.org)    [jstender@equalrights.org](mailto:jstender@equalrights.org)    [mariko@ccla.org](mailto:mariko@ccla.org)