

# Top 20 *Signed* Employment Bills of 2019\*

## *and notable vetoes and failed bills*

For more information please click on the bill, visit [www.leginfo.legislature.ca.gov](http://www.leginfo.legislature.ca.gov), or email [mariko@cela.org](mailto:mariko@cela.org).

*\*These bills will become law effective January 1, 2020, unless otherwise specified.*

### Signed Bills

1. **[AB 5 \(Gonzalez, \*\\*\\*CELA-Priority\\*\\*\*\)](#) *Dynamex: employees and independent contractors.* This bill codifies the ABC test, as set out in *Dynamex*, as the standard for determining whether a worker is an employee or an independent contractor under all provisions of the Labor Code and the Unemployment Insurance Code. This bill has been the major battleground between business and labor that will determine the fate of millions of workers, including those in the “gig economy.” This bill has been amended to exempt specific professions from the ABC test (and restoring the Borello test for these professions), including professionals in the financial services industry (insurance agents, accountants, securities brokers, investment advisors), direct sales salespersons, real estate licensees, workers providing hairstyling or barbering services, and those performing work under a contract for professional services that require an active license, like law, dentistry, architecture, engineering, or accounting. There are also several exemptions that sunset in due time, such as commercial fisherman and newspaper distributors. Exemptions aside, this bill retains its core function of clarifying the proper test for misclassification and presuming employment status for workers who are most vulnerable to abuse.  
*Status: Signed.***
2. **[AB 9 \(Reyes, \*\\*\\*CELA-Sponsored\\*\\*\*\)](#) *Employment discrimination: filing deadline.* This bill extends the filing period with the Department of Fair Employment and Housing (DFEH) for complaints of unlawful employment practices from one to three years. *Status: Signed.***
3. **[AB 51 \(Gonzalez, \*\\*\\*CELA-Priority\\*\\*\*\)](#) *Forced arbitration.* This bill prohibits an employer from requiring any applicant for employment or any employee to waive any right, forum, or procedure for a violation of any provision of the California Fair Employment and Housing Act (FEHA) or other specific statutes governing employment as a condition of employment, continued employment, or the receipt of any employment-related benefit. The bill also prohibits an employer from threatening, retaliating or discriminating against, or terminating any applicant for employment or any employee because of the refusal to consent to the waiver of any right, forum, or procedure for a violation of specific statutes governing employment. *Status: Signed.***
4. **[AB 170 \(Gonzalez\)](#) *Independent contractors: newspaper carriers.* This bill exempts, until January 1, 2021, newspaper carriers working under a contract either with a newspaper publisher or newspaper distributor from the Dynamex provisions proposed to be added by AB 5 above. *Status: Signed.***
5. **[AB 242 \(Kamlager-Dove\)](#) *Courts: attorneys: implicit bias: training.* This bill establishes an implicit bias curriculum intended to improve fairness in the justice system by requiring the State Bar to implement a continuing education curriculum for all attorneys on implicit bias and the promotion of**

bias-reducing strategies of certain protected groups. Likewise, this bill also authorizes the Judicial Council to develop training for all judges, subordinate judicial officers, and other court staff on how implicit bias affects their perceptions, judgments, and actions resulting in potential disparities in access to justice. *Status: Signed.*

6. [AB 333 \(Eggman\)](#) **Whistleblower protection: county patients' rights advocates.** This bill provides whistleblower protections to county patients' rights advocates appointed or under contract to provide services relating to mental health advocacy. An employee or an independent contractor of a contracted organization may file a private right of action to enforce these rights. *Status: Signed.*
7. [AB 378 \(Limón\)](#) **Family childcare providers: bargaining representative.** This bill provides that family childcare providers have the right to form, join, and participate in the activities of a provider organization of their own choosing for the purpose of representing them and bargaining on matters related to the terms and conditions of their employment. *Status: Signed.*
8. [AB 467 \(Boerner Horvath\)](#) **Competitions on state property: equal pay.** This bill requires any competitive event on specified state property which provides prize compensation, as defined, in gendered categories to award identical prizes in each category. *Status: Signed.*
9. [AB 547 \(Gonzalez\)](#) **Janitorial workers: sexual violence and harassment prevention training.** This bill requires the director of the Department of Industrial Relations (DIR) to convene a training advisory committee to assist in compiling a list of qualified organizations and peer trainers that janitorial employers would be required to use to provide a biennial in-person sexual violence and harassment prevention training. *Status: Signed.*
10. [AB 668 \(Gonzalez\)](#) **Courthouses: Privilege from civil arrest.** This bill clarifies the power of judicial officers to prohibit activities that threaten access to courthouses, including by protecting the privilege from arrest at a courthouse. The bill provides that no person shall be subject to civil arrest in a courthouse while attending a court proceeding or having legal business in the courthouse. *Status: Signed.*
11. [AB 673 \(Carrillo, \*\*\\*\\*CELA-Sponsored\\*\\*\*\*\)](#) **Late payment of wages: penalties.** This bill allows workers to recover penalties through the Labor Commissioner for late paychecks. Current law sets out penalties for late paychecks that can only be recovered by the Labor Commissioner on behalf of the state. AB 673 allows the worker to recover this penalty through the Labor Commissioner while also preserving the ability to enforce the penalty through PAGA. *Status: Signed.*
12. [AB 749 \(Stone, Mark, \*\*\\*\\*CELA-Sponsored\\*\\*\*\*\)](#) **Settlement agreements: "No Rehire Provisions".** This bill prohibits blanket "No Rehire" provisions in settlement agreements involving an employment dispute. This bill would not prohibit an agreement to end a current employment relationship. *Status: Signed.*
13. [AB 1223 \(Arambula\)](#) **Living organ donation.** This bill requires a private or public employer to grant an employee an additional unpaid leave of absence, not exceeding 30 business days in a one-year period, for the purpose of organ donation, provided that in the case of a public employee, they have exhausted all sick leave, and prohibits life, long-term care or disability insurance policies from discriminating against an organ donor. *Status: Signed.*
14. [SB 41 \(Hertzberg\)](#) **Civil actions: damages.** This bill provides that estimations, measures, or

calculations of past, present, or future damages for lost earnings or impaired earning capacity resulting from personal injury or wrongful death shall not be reduced based on race, ethnicity, or gender. *Status: Signed.*

15. **SB 142 (Wiener) Employees: lactation accommodation.** This bill requires an employer to provide a lactation room or location that includes prescribed features and requires an employer, among other things, to provide access to a sink and refrigerator in close proximity to the employee's workspace, as specified. The bill deems denial of reasonable break time or adequate space to express milk a failure to provide a rest period in accordance with state law. The bill prohibits an employer from discharging, or in any other manner discriminating or retaliating against, an employee for exercising or attempting to exercise rights under these provisions and establishes remedies that include filing a complaint with the Labor Commissioner. *Status: Signed.*
16. **SB 188 (Mitchell) Discrimination: hairstyles.** This bill defines "race," for purposes of the Fair Employment and Housing Act (FEHA), to include traits historically associated with race. *Status: Signed.*
17. **SB 286 (Durazo) Payment of wages: professional sports organization employees.** This bill provides that an "events employee" for a professional baseball venue, whose employment terminates is entitled to receive payment of wages earned at the time of termination by the next regular payday, except as specified. *Status: Signed.*
18. **SB 671 (Hertzberg) Payment of wages: print shoot employees.** This bill allows employers of print shoot employees to pay wages owed at the time of termination on the next regular payday, rather than immediately. *Status: Signed.*
19. **SB 698 (Leyva) University of California employee wages: payment.** This bill requires that employees of the Regents of the University of California be paid on a regular payday. The bill requires those university employees who are paid on a monthly basis to be paid no later than 5 days after the close of the monthly payroll period and also provides that those employees who are paid on a more frequent basis be paid in accordance with the pay policies announced in advance by the university. *Status: Signed.*
20. **SB 707 (Wieckowski, \*\*CELA-Sponsored\*\*) Strategic Non-Payment of Arbitration Fees:** This bill provides procedural remedies for consumers and employees when companies strategically withhold payment of arbitration fees in order to stall or impede the arbitration proceedings. The bill allows arbitrators and courts to impose appropriate sanctions on the defaulting party, up to and including terminating sanctions. This bill also addresses the issue of diversity in the arbitration industry by requiring arbitration companies to report the same kind of demographic information about their arbitrators as the Judicial Council is required to report about state court justices and judges. *Status: Signed.*

### **Notable Vetoes and Failed Bills**

1. **AB 196 (Gonzalez) Paid family leave.** This bill would increase the wage replacement rate for

calculating Paid Family Leave benefits from the 60-70% provided currently to 100% of their wages, subject to an annually adjusted maximum benefit amount. *Status: Stalled in the Senate.*

2. [AB 555 \(Gonzalez\)](#) **Paid sick leave.** This bill would expand the state's paid sick leave program to provide an employee with no less than 40 hours or five days of sick leave by the 200th calendar day of employment. *Status: Stalled in the Assembly.*
3. [AB 403 \(Kalra, \\*\\*CELA-Sponsored\\*\\*\)](#) **Retaliation and whistleblowing: attorneys' fees.** This bill would extend the statute of limitations for retaliation claims under Labor Code Section 98.7 from 6 months to 2 years and would allow prevailing plaintiffs to recover their attorney's fees under Section 1102.5. *Status: Vetoed. A veto message can be found [here](#).*
4. [AB 589 \(Gonzalez\)](#) **Employment: unfair immigration-related practices.** This bill would prohibit an employer from withholding an employee's immigration-related documents and would establish a Worker's Bill of Rights regarding freedom of movement and payment of wages. *Status: Vetoed. A veto message can be found [here](#).*
5. [AB 628 \(Bonta\)](#) **Sexual harassment accommodations.** This bill would allow victims of sexual harassment to take time off from work to obtain relief to ensure their health and safety in the same manner that existing law allows victims of domestic violence, sexual assault, and stalking to take time off from work, and extends job-protected leave to immediate family members of victims. *Status: Stalled in the Assembly.*
6. [AB 500 \(Gonzalez\)](#) **School and community college employees: paid maternity leave.** This bill would require that school districts, charter schools, and community colleges provide at least six weeks of full pay for pregnancy-related leave of absence taken by certificated, academic, and classified employees. *Status: Vetoed. A veto message can be found [here](#).*
7. [AB 1478 \(Carrillo, \\*\\*CELA-Priority\\*\\*\)](#) **Employment discrimination: victims of domestic violence, sexual assault, or stalking.** This bill would provide a private right of action for an employee who is discriminated or retaliated against by their employer due to, among other reasons, their status of being a victim of domestic violence, sexual assault, and stalking, and would entitle a prevailing plaintiff to reasonable attorney's fees and other relief the court deems proper. *Status: Vetoed. A veto message can be found [here](#).*
8. [SB 135 \(Jackson, \\*\\*CELA-Sponsored\\*\\*\)](#) **Family leave.** This bill would: (1) expand the scope of the California Family Rights Act (CFRA) by reducing the employee threshold and time of service requirement to prohibit employers with five or more employees from refusing to grant an employee request to take up to 12 weeks of unpaid leave for family care and medical leave if the employee had 180 days of service with the employer; (2) expand the list of individuals for which a worker can take leave under CFRA to include child-in-laws, grandparents, grandchildren, siblings, domestic partners, parent-in-laws, or a designated person; and (3) expand the scope of CFRA and Paid Family Leave to include time off to care for a seriously ill designated person or child-in-law, as defined, or to bond with a designated person or child-in-law within one year of the birth or placement of that individual. *Status: Stalled in the Senate.*
9. [SB 171 \(Jackson, \\*\\*CELA-Sponsored\\*\\*\)](#) **Employers: annual report: pay data.** This bill would require large employers (those with 100 employees or more) to submit data about their employees' pay,

broken down in specified job categories and including the number of employees by race, ethnicity and sex with annual earnings, to the California Department of Fair Employment and Housing (DFEH). The information that the bill requires employers to submit to the DFEH is the same information, using the same form in fact, that these same employers were required to submit under the revised reporting requirements by the federal Equal Employment Opportunity Commission (EEOC). *Status: Stalled in the Assembly.*

10. [SB 218 \(Bradford\)](#) **Employment: discrimination enforcement: local government.** This bill would authorize local governments within the County of Los Angeles to enact and enforce workplace anti-discrimination laws, including establishing remedies and penalties for violations, and subject to specified procedural requirements. *Status: Vetoed. A veto message can be found [here](#).*
11. [SB 238 \(Grove\)](#) **Worker status: factors for determination of employee status.** This bill would annul the *Dynamex* decision on independent contractors and replaced it with a six part “economic realities” test from federal law. *Status: Dead*
12. [AB 171 \(Gonzalez\)](#) **Labor Code: sexual harassment.** The bill would amend Section 230 and 230.1 of the Labor Code to also prohibit an employer from discharging or in any manner discriminating or retaliating against an employee because of the employee’s status as a victim of sexual harassment. This bill would also establish a rebuttable presumption of unlawful retaliation based on the employee’s status as a victim of domestic violence, sexual assault, sexual harassment, or stalking if an employer takes an adverse action against the employee within 90 days following either the date when the victim provides notice to the employer or when the employer has actual knowledge of the status. *Status: Vetoed. A veto message can be found [here](#).*
13. [AB 789 \(Flora\)](#) **Itemized wage statements under Private Attorneys General Act (PAGA).** This bill would require, for an action under PAGA to recover for any violation of the itemized wage statement requirements, that an employee or representative give prescribed notice of the alleged violation to the employer. *Status: Dead*
14. [AB 443 \(Flora\)](#) **Attorneys’ fees under Private Attorneys General Act (PAGA).** This bill would limit attorney’s fees in connection with a PAGA action for a violation of the wage information requirements. If the gross judgment amount or gross settlement amount in the action is \$50,000 or more, the bill would prohibit the attorney’s fees from exceeding 25% of the gross judgment amount or gross settlement amount. *Status: Dead*