



NATIONAL CENTER FOR LESBIAN RIGHTS

SB 1441 FACT SHEET
PROTECTION FROM DISCRIMINATION
BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY
IN STATE OPERATED OR STATE FUNDED PROGRAMS IN CALIFORNIA

SB 1441, authored by Senator Kuehl and sponsored by Equality California was signed into law on August 29, 2006 and went into effect on January 1, 2007. This new law amends the existing **California Bias Free Government Funded State Services & Programs Law**, section 11135 of the California Government Code, so that it explicitly includes sexual orientation and gender identity as prohibited grounds for discrimination.

WHAT IS PROHIBITED DISCRIMINATION UNDER §11135?

Section 11135 is an expansive law that prohibits discrimination against individuals applying for, participating in, or receiving services from:

- any program or activity operated, administered, or conducted by the state;
- any program or activity operated, administered, or conducted by any state agency;¹ or
- any program or activity that receives funding or financial assistance from the state.²

The state of California runs many different types of programs and activities providing essential services to millions of Californians every day. Some examples of state programs or activities³ that are prohibited from discrimination under § 11135 are:

- California disability insurance;
- workers' compensation;
- driver licensing and vehicle registration;
- juvenile justice facilities and state-run prisons;
- California Highway Patrol;
- public assistance programs like Medi-Cal, Elder Abuse Prevention, and Food Stamps; and
- state voter registration.

In addition to the programs and activities that California directly operates, the state also funds or gives financial assistance to (in the form of a contract or a grant, for example), many different activities, programs, and local agencies across the state. Some examples of programs that are prohibited from discrimination under § 11135 if they receive state funding include:

- privately owned facilities like prisons, group homes, and other institutions the state contracts with to provide services to the public;
- county juvenile halls and jails;
- local publicly run senior services;
- school districts; and
- many other county social services programs.

WHO IS PROTECTED UNDER § 11135?

With the passage of SB 1441 the list of prohibited grounds for discrimination under § 11135 now explicitly includes sexual orientation and gender identity, as well as race, national origin, ethnic group identification, religion, age, sex, color, and disability.⁴ SB 1441 also clarifies that any person who is perceived to have, or is associated with someone who has, any of the characteristics listed under § 11135, is also protected from discrimination in state operated or funded programs.⁵

What this means is that state operated or funded programs are prohibited from discriminating against you:

- because you are lesbian, gay, bisexual, or transgender;
- because people think you are lesbian, gay, bisexual, or transgender (even if you are not); or
- because of your relationship with someone who is lesbian, gay, bisexual, or transgender, or who is perceived to be.

WHAT REMEDIES DO I HAVE UNDER § 11135?

If you face discrimination in violation of § 11135, you have the right to a hearing with the state agency that administers the program that you feel has discriminated against you.⁶ If after a hearing, the agency determines that this program, contractor, grantee, or local agency has violated § 11135, the state agency shall take action against them.⁷ You also have the right to sue in civil court if you believe you have experienced discrimination that violates § 11135.⁸

FOR MORE INFORMATION ABOUT YOUR RIGHTS UNDER § 11135 or if you have additional questions, contact the National Center for Lesbian Rights: 415-392-6257, info@nclrights.org, www.nclrights.org.

¹ The California Government Code defines “state agency” to include every state office, officer, department, dividing, bureau, board, and commission. Cal Gov Code § 11000.

² Cal Gov Code § 11135 (a). The full text of the bill can be found at http://www.leginfo.ca.gov/pub/bill/sen/sb_1401-1450/sb_1441_bill_20060828_chaptered.html

³ The California Code of Regulations § 98010, defines a state “program or activity” to include state employment assistance or state supplied goods; goods or services acquired with state assistance; state funded education, training, health programs, welfare programs, rehabilitation programs, housing, or other services; cash or loan assistance provided by the state or a group that receives state funding; or state-funded facilities that furnish services, financial aid, or other benefits. State funded facilities that furnish services, financial aid, or other benefits include:

(1) any services, financial aid or other benefits provided with the aid of State support, or with the aid of other funds or resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order for the recipients to receive the State support; or

(2) any service, financial aid or other benefit provided in or through a facility which is or was provided with the aid of State support or other funds or resources.

⁴ Specifically, the bill adds sexual orientation and clarifies that the term “sex” includes discrimination based on gender identity and expression. See Cal Gov Code § 11135 (e).

⁵ Cal Gov Code § 11135 (f).

⁶ Whenever a state agency has probable cause to believe that a program or activity it administers has violated the provisions of section 11135, or any regulations adopted to implement this law, the head of the state agency should institute a hearing to determine whether a violation has occurred. Cal Gov Code § 11136.

⁷ Cal Gov Code § 11137 (state agency is obligated to curtail funding to contractor, grantee, or local agency, in whole or in part, if hearing reveals violation of § 11135).

⁸ Section 11135 and regulations adopted pursuant to this section may be enforced by a civil action for equitable relief, which shall be independent of any other rights and remedies. Cal Gov Code § 11139. The administrative remedy available under Section 11136 is not mandatory and does not preclude a private judicial remedy as provided for in Section 11139. See 2001 Cal. Legis. Serv. Ch. 708 (A.B. 677); *Greater Los Angeles Council on Deafness v. Zolin*, 812 F2d 1103 (9th Cir. 1987).