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Employee Benefit Plan Review

New California Laws for 2024 and Beyond: What Employers Should Know

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California Gov. Gavin Newsom signed several laws impacting California employers in 2023. Some of the new laws became effective immediately and others, including some that were signed into law just weeks ago, take effect January 1, 2024, or later. These new laws address several topics, including expanding of paid sick leave, leave of absence for reproductive loss, minimum wage increases for fast-food restaurant employees and health care workers, restraint on trade and workplace violence prevention standards.

As a reminder, the minimum wage in California is increasing to $16 per hour on January 1, 2024, for all employers – regardless of the number of workers employed by an employer. Also, many cities and local governments in California have enacted minimum wage ordinances exceeding the state minimum wage.

In addition to the summaries below, employers should note that in July 2023, the California Civil Rights Department (CRD) approved revisions to regulations relating to the use of criminal history under the California Fair Chance Act. These revised regulations went into effect on October 1, 2023, and provide that, prior to a conditional job offer, and subject to certain exceptions, employers: (1) cannot inquire about criminal history through an employment application, background check, or internet searches, and (2) are prohibited from including statements in job advertisements, postings, applications, or other materials that no persons with criminal history will be considered for hire, such as "No Felons" or "Must Have Clean Record." Employers who violate the prohibition on inquiring into criminal history prior to making a conditional offer of employment may not, after extending a conditional offer of employment, use an applicant's failure to disclose criminal history prior to the conditional offer as a factor in subsequent employment decisions, including denial of the position conditionally offered.

All employers with operations in California should be aware of these new laws, understand how these laws may affect their operations and consult with counsel to address any compliance questions, including whether existing employment policies should be updated or whether new employment policies should be created. The effective date of each new law is indicated in the heading of the Assembly Bill (AB) or

Senate Bill (SB). The list below is in numerical order by AB or SB.

Please note that the summary below does not address all new California laws that impact employers or employees; rather, it is a summary of the new California laws that we believe to be the most significant in terms of scope and impact of individuals or employers with business operations in California.

AB 102 – Budget Act Of 2023 (Effective July 10, 2023)

Signed into law by Governor Newsom on July 10, 2023, AB 102 (a/k/a The Budget Act of 2023) went into effect immediately as a Budget Bill. This bill resurrects the Industrial Welfare Commission (IWC) and appropriates $3 million to the IWC to convene industry-specific wage boards and adopt orders specific to wages, hours, and working conditions in such industries. This bill also requires the IWC to convene by January 1, 2024, with any final recommendations for wages, hours, and working conditions in new wage orders adopted by October 31, 2024.

The IWC is also required to prioritize for consideration industries in which more than 10 percent of workers are at or below the federal poverty level.

AB 113 – Agricultural Labor Relations (Effective May 15, 2023)

Signed into law by Governor Newsom on May 15, 2023, AB 113 (a/k/a The Budget Act of 2023) went into effect immediately as a Budget Bill.

Existing law grants agricultural employees the right to form and join unions by elections held by secret ballot and conducted by the Agricultural Labor Relations Board (ALRB). AB 113 is a follow-on to AB 2183.

AB 113 repeals the "labor peace compact" provisions of AB 2183 and also repeals the mail-ballot election procedures under AB 2183. Until January 1, 2028, this bill:

- Establishes, a single alternative process that is, in most respects, the same as the non-labor peace election process of existing law, but it would instead be referred to as a Majority Support Petition. A certification through Majority Support Petition would be a valid election for purposes of limiting ALRB authority to direct elections.
- Makes various conforming changes to account for the Majority Support Petition process, including authorizing the ALRB to certify labor organizations in this connection, establishing that representatives designated by the submission of authorization cards are exclusive agricultural employee representatives, and prohibiting the ALRB from conducting reviews of a majority support petition for a specified period.
- Requires the ALRB, in specified situations, to order proceedings to determine the specific amount of a monetary remedy, and if the monetary remedy is continuing to accrue, the amount accrued as of the date of the ALRB's order.
- Requires an employer who petitions for a writ of review of a final ALRB order, or who otherwise appeals, petitions, or seeks to overturn or stay or modify any order of the ALRB in which the ALRB has ordered the payment of a monetary remedy to first post a bond with the ALRB in the amount of the entire economic value of the order, as a condition of proceeding.

This bill makes a number of revisions to the Labor Code. Please refer to AB 113 for the impacted code sections.

AB 521 – Toilet Facilities at Construction Jobsites (Effective January 1, 2024)

AB 521 requires the Division of Occupational Safety and Health (Cal/OSHA), before December 1, 2025, to draft a rulemaking proposal to consider revising a regulation on construction jobsite toilet facilities to require at least one single-user toilet facility on all construction jobsites, designated for employees who self-identify as female or nonbinary. This bill requires the Cal/OSHA standards board to consider adopting revised standards for the standards described above on or before December 31, 2025.

In passing this bill, the California legislature made the following findings and declarations:

- Women and nonbinary individuals are underrepresented in the trades and face numerous barriers on construction jobsites.
- One of these many barriers is access to a clean and secure restroom.
- Shared restrooms often pose sanitary as well as safety concerns for women and nonbinary individuals on construction jobsites.

Further, existing law requires that all single-user toilet facilities in a business establishment, place of public accommodation, or state or local government agency to be identified as all-gender toilet facilities by specified signage and designated for use by no more than one occupant at a time or for family or assisted use. AB 521 provides that this provision does not apply to construction jobsites.

This bill amends Section 118600 of the Health and Safety Code and adds Section 6722 to the Labor Code.

AB 594 – Labor Code Alternative Enforcement (Effective January 1, 2024)

Until January 1, 2029, AB 594 authorizes a "public prosecutor" – which is defined as the attorney general, a district attorney, a city attorney, a county counsel, or any

other city or county prosecutor – to prosecute an action either civil or criminal, for a violation of specified Labor Code provisions or to enforce those provisions independently. AB 594 also provides that: (1) any individual agreement between a worker and employer that purports to limit representative actions or to mandate private arbitration shall have no effect on the authority of the public prosecutor or the Labor Commissioner to enforce the Labor Code, and (2) any subsequent appeal of the denial of any motion or other court filing to force arbitration on the public prosecutor shall not stay the trial court proceedings, notwithstanding Section 916 of the Code of Civil Procedure which would require that proceedings in the trial court be stayed upon perfection of appeal.

This bill requires moneys recovered by such prosecutors to be applied first to payments due to affected workers and requires all civil penalties recovered to be paid to the general fund of the state, unless otherwise specified.

The action of the prosecutor is limited to redressing violations occurring within the prosecutor's geographic jurisdiction.

Finally, AB 594 expands a company's exposure in the event the company engages in willful misclassification of an independent contractor. Not only does this bill provide additional powers to the Labor Commissioner or public prosecutor in enforcing willful misclassifications, this bill also provides that certain penalties may be paid directly to the misclassified independent contractor (i.e., employee).

This bill makes a number of revisions to the Labor Code. Please refer to AB 594 for the impacted code sections and relevant chapters.

AB 783 – Single-User Restroom (Effective January 1, 2024)

AB 783 requires that when a city, county, or city and county (public entity) that issues business licenses, equivalent instruments or permits, such public entity must provide written notice to each applicant of the requirement that all single-user toilet facilities in any business establishment, place of public accommodation or government agency be identified as all-gender toilet facilities.

This bill adds Section 16000.2 to the Business and Professions Code.

AB 1076 – Noncompete Agreements in Employment (Effective January 1, 2024) (See, Also, SB 699 Below)

Existing California Business and Professions Code Section 16600 provides that, subject to limited exceptions, "every contract by which anyone is restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void."

AB 1076 clarifies and amends Section 16600 that it is to be read broadly, in accordance with the California Supreme Court's 2008 *Edwards v. Arthur Andersen LLP* decision, to void the application of any noncompete agreement in an employment context, or any noncompete clause in an employment contract, no matter how narrowly tailored.

AB 1076 also makes it unlawful for an employer to include a noncompete clause in an employment contract, or to require an employee to enter a noncompete agreement. And by February 14, 2024, this bill requires that employers give written notice to current employees, and former employees who were employed after January 1, 2022 – whose contracts include a noncompete clause or who were required to enter a noncompete agreement – that the noncompete clause or noncompete agreement is void. Such written notice must be individualized and delivered to the last known address and the email address of the employee or former employee. A violation of Section 16600.1 is an act of unfair competition under Business & Professions Code Section 17200 which provides remedies such as injunctions and restitution.

AB1076 does not apply where there is an exception to this statutory framework, such as noncompete agreements entered into in connection with the certain sales of ownership in the employer.

This bill amends Section 16600 of, and adds Section 16600.1 to, the Business and Professions Code.

AB 1163 – Lesbian, Gay, Bisexual, and Transgender Disparities Reduction Act (Operative as Early as January 1, 2025, But No Later Than July 1, 2026)

Under existing law, various state entities must collect voluntary self-identification information pertaining to sexual orientation and gender identity about Californians.

AB 1163 adds intersexuality to the voluntary self-identification information to be collected as early as January 1, 2025, but no later than July 1, 2026.

This bill amends Section 8310.8 of the Government Code.

AB 1228 – Fast Food Restaurant Industry (Effective January 1, 2024; $20 Minimum Wage Effective April 1, 2024)

AB 1228 implements a compromise between fast food companies and labor unions to establish a Fast Food Council and increase the minimum wage for fast food workers.

This bill follows 2022's Fast Food Accountability and Standards Recovery Act (AB 257), which fast food companies were successful in putting on hold by qualifying a referendum on the issue for the November 2024 ballot. Those businesses have agreed to withdraw the referendum in exchange for the compromises in AB 1228.

Specifically, AB 1228 will raise the minimum wage for workers at national fast food chains to $20 an hour effective April 1, 2024. National

fast food chains are defined as those with at least 60 limited-service establishments nation-wide "that share a common brand, or that are characterized by standardized options for decor, marketing, packaging, products, and services," with limited or no table service. Bakeries that produce bread on the premises and sell it as a standalone menu item are exempt.

Effective January 1, 2024, AB 1228 also establishes a Fast Food Council, which will be empowered to recommend minimum standard for hours and other working conditions for fast food chains. The Council may raise the minimum wage for fast food chains annually beginning January 1, 2025, by no more than 3.5 percent or the annual average change to the United States Consumer Price Index for Urban Wage Earners and Clerical Workers, whichever is lower.

This bill repeals Sections 1470, 1471, 1472 and 1473 of the Labor Code and enacts new Sections 1474, 1475 and 1476 of the Labor Code.

AB 1740 – Human Trafficking Notice at Pediatric Care Facilities (Effective January 1, 2024)

Existing law requires specified businesses and other establishments, including, among others, airports, intercity passenger rail or light rail stations, bus stations, truck stops, hotels and motels, and urgent care centers, to post a notice, as developed by the Department of Justice, that contains information relating to slavery and human trafficking, including information regarding specified nonprofit organizations that a person can call for services or support in the elimination of slavery and human trafficking. Existing law also makes a business or establishment that fails to comply with the requirements of these provisions liable for a civil penalty of $500 for a first offense, and $1,000 for each subsequent offense.

AB 1740 adds "facilities that provide pediatric care," which means any "facility that provides pediatric services, as that term is defined in Section 16907.5 of the Welfare and Institutions Code," to the types of businesses covered by Section 52.6 of the Civil Code, and therefore such facilities that provide pediatric care must post the required notice.

This bill amends Section 52.6 of the Civil Code.

SB 54 – Venture Capital Companies Reporting (Operative March 1, 2025)

Effective March 1, 2025, and annually thereafter, SB 54 requires any venture capital company that meets specific criteria to report to the CRD specific information about their funding determinations, including, at an aggregate level, specified demographic information, including gender identity, race, ethnicity, disability status, veteran status, whether the person identifies as LQBTQ+, and whether the person is a California resident, for each of the founding team members of all of the businesses in which the covered entity made a venture capital investment in the prior calendar year. Such information is to be collected and reported by covered venture capital companies through a survey provided to each founding team member of a business that has received funding from a venture capital company to which the covered entity has acted as an investment adviser.

Covered venture capital companies will be required to collect and report this information in a manner that does not associate the survey response data with an individual founding team member. This bill also requires the CRD to notify the covered entity that the covered entity must submit the report within 60 days of the notification, and if the covered entity has not submitted the report after those 60 days have elapsed, then the department may commence prescribed proceedings seeking specified relief, including a penalty.

This bill adds Chapter 40 (starting with Section 22949.85) to Division 8 of the Business and Professions Code and amends Section 12907 of the Government Code.

SB 365 – Arbitration (Effective January 1, 2024)

Under existing law, a party is authorized to appeal, among other things, an order dismissing or denying a petition to compel arbitration. Also, under existing law, proceedings in the trial court are generally automatically suspended (or stayed) on the judgment or order appealed from when the appeal is perfected. SB 365 changes existing law by providing that, notwithstanding the foregoing general rule, trial court proceedings are not automatically stayed during the pendency of an appeal of an order dismissing or denying a petition to compel arbitration.

This bill amends Section 1294 of the Code of Civil Procedure.

SB 428 – Temporary Restraining Orders for Employee Harassment (Effective January 1, 2025)

Existing law authorizes employers to seek a temporary restraining order and an injunction against any individual on behalf of employees who have suffered unlawful violence or a credible threat of violence that can reasonably be construed to be carried out or to have been carried out at the workplace.

SB 428 authorizes employers to seek a temporary restraining order and an injunction against any individual who has "harassed" their employees. This bill also allows employees the opportunity to decline to be named in the order before the employer files the petition. Finally, this bill expressly prohibits a court from issuing such an order to the extent that the order would prohibit speech or activities protected, including by the constitution, by the

National Labor Relations Act or any other provision of law.

This bill amends, repeals and adds Section 527.8 of the Civil Code of Procedure.

SB 497 – Equal Pay And Anti-Retaliation Protection (Effective January 1, 2024)

Existing law prohibits a person from discharging an employee or in any manner discriminating, retaliating, or taking any adverse action against any employee or applicant for employment because the employee or applicant engaged in protected activity. Existing law also prohibits an employer from discharging, or discriminating or retaliating against, an employee because of an action taken by the employee to invoke the provisions of the Equal Pay Act, including the provision that an employer is prohibited from paying an employee at wage rates less than the rates paid to an employee of the opposite sex, or of another race or ethnicity, for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions. An employer can defeat an Equal Pay Act claim by proving that the difference in pay for substantially similar work is due to: seniority; merit; a system that measures production; and/or a "bona fide factor other than sex, race, or ethnicity."

SB 497 – also referred to as the Equal Pay and Anti-Retaliation Protection Act – creates a rebuttable presumption of retaliation if an employee if disciplined or discharged within 90 days of engaging in certain protected activity protected by the California Labor Code or California's Equal Pay Act, making it easier for employees to establish a prima facie case of retaliation.

Faced with the rebuttable presumption, an employer must articulate a legitimate, nonretaliatory reason for the alleged retaliation. If the employer does so, the burden shifts back to the employee to demonstrate that, despite the nonretaliatory justification proffered by the employer, the adverse action was nonetheless retaliatory in nature.

Further, SB 497 establishes that in addition to other remedies, an employer is liable for a civil penalty not exceeding $10,000 per employee for each violation of amended Labor Code Sections 98.6 and 1102.5, to be awarded to the employee or employees who suffered the violation. In assessing this penalty under Labor Code Section 1102.5, the Labor Commissioner must consider the nature and seriousness of the violation based on the evidence obtained during the course of the investigation, including but not limited to the type of violation, the economic or mental harm suffered, and the chilling effect on the exercise of employment rights in the workplace.

This bill amends Sections 98.6, 1102.5 and 1197.5 of the Labor Code.

SB 525 – Health Care Workers' Minimum Wages – (Effective January 1, 2024, but First Pay Changes Due June 1, 2024)

SB 525 establishes five new minimum wage schedules for "covered health care employees" depending on the nature of the employer. Covered health care employees include most jobs at a health care facility employer. The new law contains densely worded definitions and specifics, of which this summary will not replace a careful read by those in the health care industry.

- For such employees of large, covered healthcare facility employers, the minimum wage will be $23 per hour starting June 1, 2024, increase by $1 per hour for each of the next two years, and adjust thereafter based on the Consumer Price Index calculation (CPI). Generally, these large employers have – or are part of an integrated health care delivery system or a health care system with – 10,000 or more full-time equivalent employees, are a dialysis clinic or own, control, or operate a dialysis clinic, or are a covered health facility owned, affiliated, or operated by a county with a population of more than 5,000,000 as of January 1, 2023.
- For such employees of hospitals with a high governmental payor mix, an independent hospital with an elevated governmental payor mix, a rural independent covered health care facility, or a covered health care facility that is owned, affiliated, or operated by a county with a population of less than 250,000 as of January 1, 2023, the minimum wage will be $18 per hour starting June 1, 2024, to May 31, 2033, and $25 per hour starting June 1, 2033, and adjusted thereafter based on CPI.
- For such employees of specified clinics that meet certain requirements, the minimum wage will be $21 per hour starting June 1, 2024, $22 per hour starting June 1, 2026, $25 per hour starting June 1, 2027, and adjusted thereafter based on CPI.
- For such employees of all other covered health care facility employers, the minimum wage will be $21 per hour starting June 1, 2024, $23 per hour tarting June 1, 2026, and $25 per hour starting June 1, 2028, and adjusted thereafter based on CPI.

This bill identifies 20 different "covered health care employers" within its scope. For example, physician groups are listed and defined as "a medical group practice, including a professional medical corporation . . ., another form of corporation controlled by physicians and surgeons, or a medical partnership, provided that the group includes a total of 25 or more physicians." It also includes urgent care clinics,

- regardless of the number of physicians, and licensed home health agencies.
  Covered health care facilities that are county owned, affiliated, or operated must implement the appropriate minimum wage schedule described above, as applicable, beginning January 1, 2025.
- For certain health care employees of certain licensed skilled nursing facilities, the minimum wage will be $21 per hour starting June 1, 2024, $23 per hour starting June 1, 2026, $25 per hour starting June 1, 2028, and there after adjusted based on CPI.

For salary-basis employees who are covered health care employment, must earn a monthly salary equivalent to no less than 150% of the health care worker minimum wage or 200% of the applicable minimum wage, whichever is greater, for full-time employment in order to qualify as exempt from the payment of minimum wage and overtime.

By January 31, 2024, the state Department of Health Care Access and Information must publish on its website a list of (a) all large covered health care facility employers who, on their own or as part of an integrated delivery system or health care system, employ 10,000 or more full-time employees, and (b) all hospitals with a high governmental payor mix, with an elevated governmental payor mix (and are independent hospitals), and a rural independent covered health care facilities.

By March 1, 2024, the state Department of Industrial Relations must, in collaboration with certain state health care agencies, develop a waiver program that would allow a covered health care facility to apply for and receive a temporary pause or alternative phase in schedule of the health care minimum wage requirements based on whether the covered health care facility would be able to continue as a going concern.

This bill adds Sections 1182.14 and 1182.15 to the Labor Code.

SB 553 – Workplace Violence, Restraining Orders And Workplace Violence Prevention Plan (Effective July 1, 2024 (Workplace Violence Prevention Plan); January 1, 2025 (Temporary Restraining Orders)

Effective July 1, 2024, SB 553 requires that employers:

- Establish, implement, and maintain, at all times in all work areas, an effective workplace violence prevention plan containing specified information.
- Record information in a violent incident log for every workplace violence incident.
- Provide effective training to employees on the workplace violence prevention plan.
- Provide additional training when a new or previously unrecognized workplace violence hazard has been identified and when changes are made to the plan.
- Require records of workplace violence hazard identification, evaluation, correction and training, violent incident logs and workplace incident investigation to be maintained, and certain records to be made available to the division, employees and employee representatives.

Effective January 1, 2025, SB 553 authorizes a collective bargaining representative to seek a temporary restraining order on behalf of an employee or employees who suffer unlawful violence or a credible threat of violence from any individual that can reasonably be construed to have been carried out at the workplace.

Previously, only employers were authorized to seek such an order. This bill also requires employers or collective bargaining representatives, before seeking any such order, to allow the affected employee to refrain from being named in the request.

Finally, SB 553 requires Cal/OSHA to adopt a general industry workplace violence regulation by December 31, 2026.

This bill makes a number of revisions to Code of Civil Procedure and the Labor Code. Please refer to SB 553 for the impacted code sections and relevant chapters.

SB 616 – Paid Sick Leave (Effective January 1, 2024)

SB 616 amends California's sick leave law to increase the amount of sick leave that employees can accrue and use. Specifically, it increases the minimum amount of sick leave that employees must be allowed to accrue to 80 hours (or 10 days), from 48 hours (or six days). It also increases the minimum amount of sick leave that employees must be allowed to use in any given year to 40 hours (or five days) from 24 hours (or three days).

Given the increased minimum usage cap, employers who "front-load" sick leave must provide at least 40 hours, or five days, of sick leave.

Under SB 616, employees must be eligible to earn at least five days or 40 hours of sick leave or paid time off within six months of employment. Further, this bill modifies the alternate sick leave accrual method to additionally require that employees have no less than 40 hours of accrued sick leave or paid time off by the 200th calendar day of employment or each calendar year, or in each 12-month period.

SB 616 does not change the required minimum accrual rate under California's sick leave law, which remains at one hour of sick leave for every 30 hours worked, but does

extends procedural requirements on the use of paid sick days to employees covered by a collective bargaining agreement.

This bill amends Sections 245.5, 246 and 246.5 of the Labor Code.

SB 699 – Contracts in Restraint of Trade, A/K/A Noncompetes (Effective January 1, 2024)

Existing law, buttressed by AB 1076 (discussed above), voids clauses or contracts that restrain an employee from engaging in a lawful profession, trade, or business of any kind, unless an exception applies, such as certain sales of one's ownership interest in the employer.

The stated purpose of SB 699 is to protect "the freedom of movement of persons whom California-based employers wish to employ to provide services in California, regardless of the person's state of residence." As such, SB 699 expands the reach of existing law by prohibiting employers from entering into such "noncompete" contracts or clauses with employees and, once they do, making these provisions unenforceable regardless whether the contract was signed and the employment was maintained outside of California.

This bill also gives an employee, former employee or prospective employee a private right of civil action to sue for injunctive relief, recovery of actual damages, and to recover their reasonable attorneys' fees and costs if they prevail.

This bill adds Section 16600.5 to the Business and Professions Code.

SB 700 – Cannabis Use (Effective January 1, 2024)

Existing law makes it unlawful for an employer to discriminate against a candidate or employee because of the person's use of cannabis off the job and away from the workplace unless an exception applied, such as testing for only psychoactive cannabis metabolites (as opposed to non-psychoactive), federal law permitting testing for controlled substances, and jobs requiring federal government background investigation or security clearance.

SB 700 modifies existing law to make it unlawful for an employer to request information from an applicant relating to the applicant's prior use of cannabis, or to use prior criminal history of cannabis use. This bill retains the same exemptions noted above, adds an exemption where other state or federal law permits criminal cannabis use history, and exempts employment in the building and construction trades.

This bill amends Section 12954 of the Government Code.

SB 723 – Employment Rehiring and Retention Of Displaced Workers (Effective January 1, 2024)

Until December 31, 2024, existing law requires covered employers to offer "laid-off employees" specified information in writing about job positions that become available for which the laid-off employees are qualified, and to offer positions to those laid-off employees based on a preference system, in accordance with specified timelines and procedures. "Laid-off employees" means any employee who was employed by the employer for six months or more in the 12 months preceding January 1, 2020, and whose most recent separation from active service was due to a reason related to the COVID-19 pandemic, including a public health directive, government shutdown order, lack of business, a reduction in force, or other economic, nondisciplinary reason related to the COVID-19 pandemic. Further, until December 31, 2024, existing law prohibits an employer from refusing to employ, terminating, reducing compensation, or taking other adverse action against a laid-off employee for seeking to enforce their rights under these provisions.

AB 723 redefines "laid-off employee" to mean any employee who was employed for six months or more and whose most recent separation from active employment occurred on or after March 4, 2020, and was due to a reason related to the COVID-19 pandemic, including a public health directive, government shutdown order, lack of business, reduction in force, or other economic nondisciplinary reason due to the COVID-19 pandemic.

This bill also creates a rebuttable presumption that a separation due to a lack of business, reduction in force, or other economic, nondisciplinary reason is due to a reason related to the COVID-19 pandemic. Finally, the law extends the employer's obligations to continue through December 31, 2025, instead of December 31, 2024.

This bill does not create a private right of action and enforcement rests with the exclusive jurisdiction of the Division of Labor Standards Enforcement.

This bill amends and repeals Section 2810.8 of the Labor Code.

SB 727 – Human Trafficking Civil Actions (Effective January 1, 2024)

Existing law authorizes a person who has been the victim of human trafficking to bring a civil action for damages and also to be awarded attorneys' fees and costs. A plaintiff may be awarded up to three times the plaintiff's actual damages or $10,000, whichever is greater. SB 727 provides survivors of human trafficking another level of protection by authorizing them to seek a court finding that specific debts attributed to them were incurred as a result of trafficking and without their consent. This bill also authorizes the court to base its finding upon evidence that a debt attributed to the plaintiff was incurred as the result of any illegal

act in which the plaintiff was the victim and provides that the finding will not affect the priority of any lien or other security interest.

Further, SB 727 clarifies that the CRD may seek the aforementioned relief in a civil action brought by CRD on behalf of a trafficking survivor.

This bill amends Section 52.5 of the Civil Code, and Section 12965 of the Government Code.

SB 740 – Hazardous Materials Management, Stationary Sources And Skilled and Trained Workforce (Effective January 1, 2024)

Existing law establishes an accidental release prevention program for the state, under which stationary sources subject to that program may be required to prepare and submit a risk management plan (RMP) to prevent accidental releases of certain substances. Existing law also requires an owner or operator of a stationary source that is engaged in certain petroleum-related activities, and with one or more covered processes that require the preparation and submission of an RMP, when contracting for the performance of construction, alteration, demolition, installation, repair, or maintenance work at the stationary source, to require that its contractors and any subcontractors use a skilled and trained workforce to perform all onsite work within an apprenticeable occupation in the building and construction trades.

SB 740 extends this workforce requirement to contracts awarded, extended, or renewed on or after January 1, 2024, by an owner or operator of a stationary source that is engaged in manufacturing hydrogen, biofuels, or certain specified chemicals, or in capturing, sequestering, or using carbon dioxide in specified conditions.

SB 740 further provides that a stationary source must be considered when determining whether an existing apprenticeship program does not have the capacity, or has neglected or refused, to dispatch sufficient apprentices to qualified employers who are willing to abide by the applicable apprenticeship standards.

This bill adds Section 25536.8 to the Health and Safety Code.

SB 791 – Disclosure of Sexual Harassment For Postsecondary Education Academic and Administrative Employees (Effective January 1, 2024)

SB 791 requires that an applicant to an academic or administrative position as part of the hiring process for certain postsecondary schools disclose any final administrative decision or final judicial decision issued within the last seven years determining that the applicant committed sexual harassment.

Further, SB 791 requires that any inquiry concerning any final administrative decision or final judicial decision must not be made until it has determined that the applicant meets the minimum employment qualifications stated in the notice issued for the position.

This bill adds Sections 87604.5, 89521 and 92612.1 to the Education Code.

SB 808 – Requirement For Annual Reporting About Sexual Harassment Complaints (Effective January 1, 2024)

Existing federal law, known as Title IX, prohibits a person, on the basis of sex, from being excluded from participation in, being denied the benefits of, or being subject to discrimination, which includes sexual harassment, under any education program or activity receiving federal financial assistance.

SB 808 requires the California State University, on or before December 1 of each year, to submit a report to the Legislature on the investigations and outcomes of sexual harassment reports and formal sexual harassment complaints and requires the California State University to post these annual reports on its internet website.

This bill adds Section 66282 to the Education Code.

SB 831 – Agricultural Workers Immigration Parole (Effective January 1, 2024)

Under the Immigration and Nationality Act, certain non-citizens may be granted "parole" to allow them to enter or temporarily remain in the United States for specific reasons. SB 831 authorizes the California Governor to enter into an agreement with the United States Attorney General to establish a program for agricultural employees living in California to be granted parole.

Subject to implementation of the program, the California Governor is required to prepare a report on the impact of the program on the third year of the renewal of the program.

This bill makes a number of revisions to the Government Code. Please refer to SB 831 for the impacted code sections and relevant chapters.

SB 848 – Employment Leave for Reproductive Loss (Effective January 1, 2024)

SB 848 provides an eligible employee, who has worked for the employer at least 30 days, up to five days of "reproductive loss leave" following a "reproductive loss event." A "reproductive loss event" means the day of, or, for a multiple-day event, the final day of, a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction. Any reproductive loss leave generally must be taken within three months of the event, and pursuant to any existing leave policy of the employer. Employee leave rights

are in addition to other leaves under the California Family Rights Act and the Fair Employment and Housing Act.

This bill also provides that if an employee experiences more than one reproductive loss event within a 12-month period, the employer can cap the total amount of reproductive loss leave time at 20 days within a 12-month period. In the absence of an existing employer policy, the reproductive loss leave may be unpaid, but an employee may use certain other leave balances, including accrued and available paid sick leave, during the covered leave.

Finally, SB 848 requires the employer to maintain employee confidentiality relating to reproductive loss leave, and makes it an unlawful employment practice for an employer to retaliate against an individual because of the individual's exercise of the right to reproductive loss leave or the individual's giving of information or testimony as to reproductive loss leave.

This bill adds Section 12945.6 to the Government Code.

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