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ENROLLED SEPTEMBER 15, 2017

PASSED IN SENATE SEPTEMBER 12, 2017

PASSED IN ASSEMBLY SEPTEMBER 14, 2017

AMENDED IN SENATE SEPTEMBER 07, 2017

AMENDED IN SENATE SEPTEMBER 01, 2017

AMENDED IN SENATE JULY 18, 2017

AMENDED IN ASSEMBLY APRIL 19, 2017

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL**No. 569**

Introduced by Assembly Member Gonzalez Fletcher
(Coauthors: Assembly Members Chiu, Friedman, and Cristina Garcia)
(Coauthors: Senators Atkins, Jackson, Stern, and Wieckowski)

February 14, 2017**An act to add Section 2810.7 to the Labor Code, relating to employment.****LEGISLATIVE COUNSEL'S DIGEST**

AB 569, Gonzalez Fletcher. Discrimination: reproductive health.

The California Fair Employment and Housing Act prohibits discrimination in employment based upon specified personal characteristics, including the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of any person.

Existing law creates the Division of Labor Standards Enforcement in the Department of Industrial Relations for the purpose of enforcing labor laws.

This bill would make legislative findings and declarations relating to the right to privacy. The bill would amend provisions of labor law relating to the prohibition on an employer from taking any adverse action against an employee or their dependent or family member for their reproductive health decisions, including, but not limited to, the timing thereof, or the use of any drug, device, or medical service. The bill would also specify that any contract or agreement, express or implied, made by an employee to waive

this benefit is null and void. The bill would require an employer that requires compliance with an employee handbook to include in the handbook notice of the employee rights and remedies under the provisions of this bill.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds that employees of religiously affiliated institutions are entitled to the same protections as any other employee under the California Labor Code, unless the employee is the functional equivalent of minister, and therefore subject to a “ministerial exception” as developed in First Amendment case law. The Legislature agrees with the concurring opinion of Justice Alito in *Hosanna-Tabor Evangelical Lutheran Church and School v. E.E.O.C.* (2012) 565 U.S. 171, 199, which argues that the ministerial exception should apply only to an “employee who leads a religious organization, conducts worship services or important religious ceremonies or rituals, or serves as a messenger or teacher of its faith.”

SEC. 2. Section 2810.7 is added to the Labor Code, to read:

2810.7. (a) The Legislature finds and declares that it is the longstanding policy of the State of California to protect for its citizens the right to privacy as articulated in Section 1 of Article I of the California Constitution. As such, Californians’ freedom to make reproductive health decisions free of interference from their employers is a matter of fundamental and substantial public policy import.

(b) An employer, or any person acting on behalf of an employer, shall not take any adverse action against an employee or their dependent or family member for their reproductive health decisions, including, but not limited to, the timing thereof, or the use of any drug, device, or medical service.

(c) An employer, or any person acting on behalf of an employer, who takes any adverse employment action against an employee in violation of subdivision (b) is liable to the aggrieved employee who shall recover a penalty pursuant to Section 98.6 and obtain any other appropriate relief to remedy the violation, including, but not limited to, reinstatement, reimbursement of lost wages and interest thereon, and other compensation or equitable relief appropriate to the circumstances.

(d) Any contract or agreement, express or implied, made by an employee to waive the benefits of this section is null and void.

(e) An employer that requires compliance with an employee handbook shall include in the handbook notice of the employee rights and remedies under this section.

(f) For purposes of this section, “family member” shall have the same meaning as defined in subdivision (c) of Section 245.5.

(g) The rights and remedies conferred by this section are in addition to, and not in limitation of, any right or remedy lawfully granted under the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code).

(h) This section does not create a new basis upon which an employee can accrue or use benefits relating to paid or protected time off.