

AMENDED IN ASSEMBLY SEPTEMBER 4, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

Assembly Concurrent Resolution

No. 125

Introduced by Assembly Members Jones-Sawyer and Holden
(Coauthors: Assembly Members Kamlager-Dove and Low)
(Coauthor: Senator Lena Gonzalez)

August 14, 2019

Assembly Concurrent Resolution No. 125—Relative to employment.

LEGISLATIVE COUNSEL’S DIGEST

ACR 125, as amended, Jones-Sawyer. Bias and discrimination in hiring reduction through new technology.

This measure would urge ~~policy-makers~~ *policymakers* in both federal and state government to explore ways to promote the development and use of new technologies to reduce bias and discrimination in hiring and help reduce discrimination in employment in California, as provided.

Fiscal committee: no.

1 WHEREAS, The State of California has one of the world’s most
2 diverse populations, with citizens from a wide variety of ethnic,
3 racial, and national backgrounds. No single race or ethnic group
4 constitutes a majority of the state’s population, and 39 percent of
5 residents are Latino, 14 percent are Asian American, 6 percent are
6 African American, and 3 percent identify as multiracial; and
7 WHEREAS, The current laws of this state protect and safeguard
8 the right and opportunity of all persons to seek, obtain, and hold
9 employment without discrimination on account of certain protected
10 characteristics, including race, ethnic group, or sex; and

1 WHEREAS, The current laws of this state permit employers to
2 utilize tests and other selection procedures for purposes of hiring
3 or promotion, provided the tests and selection procedures do not
4 have an unlawful discriminatory impact; and

5 WHEREAS, Under current state law, a test or other selection
6 procedure that has an adverse impact on employment opportunities
7 for individuals on the basis of race, ethnic group, or sex is unlawful
8 unless the employer establishes that the test or selection procedure
9 is job-related and consistent with business necessity. In addition,
10 under current law, an employer that utilizes a test or other selection
11 procedure must, prior to implementation of the test or selection
12 procedure, investigate valid alternatives and must opt for the
13 alternative that poses the lowest risk of discriminatory impact; and

14 WHEREAS, Many commonly used selection procedures fail to
15 ensure unbiased decisionmaking and also yield poor outcomes for
16 employers. A 2014 report by the Harvard Business Review found
17 that résumés were in fact the worst predictor of job success of any
18 of the employment selection tools studied; and

19 WHEREAS, Despite laws prohibiting employment
20 discrimination, a 2017 study reported in *the Harvard Business*
21 *Review analyzing discrimination trends* found that hiring
22 discrimination against Black workers in the United States has not
23 declined in the last quarter century, and has declined only slightly
24 for Latino workers. ~~Since~~ *According to the study, since 1990,*
25 White applicants received, on average, 36 percent more callbacks
26 than Black applicants and 24 percent more callbacks than Latino
27 applicants with identical résumés; and

28 WHEREAS, *Research published in the Harvard Business Review*
29 *found that the country's most prestigious employers limited their*
30 *campus recruiting efforts to the most elite institutions, which has*
31 *the effect of excluding many lower income and minority students*
32 *from consideration; and*

33 WHEREAS, A 2017 study by Harvard University's Opportunity
34 Insights group found that 25 percent of the wealthiest American
35 students attend an elite college, while less than 0.5 percent of
36 children from the bottom fifth of American families attend an elite
37 college. Data from the National Center for Education Statistics
38 found Black and Latino students were more underrepresented at
39 the nation's top colleges and universities in 2017 than they had
40 been 35 years before; and

1 WHEREAS, Innovative technologies for hiring and promotion,
2 including artificial intelligence and algorithm-based technologies,
3 have the potential to reduce bias and discrimination in hiring and
4 promotion based on protected characteristics, as well as helping
5 where appropriate to reduce bias based on unprotected
6 characteristics, such as socioeconomic status or status as a formerly
7 incarcerated person. At the same time, these technologies can help
8 employers reach larger and more diverse pools of qualified talent
9 and better identify candidates with the right skills and abilities to
10 succeed; and

11 WHEREAS, California should be the leader in the appropriate
12 standards that are necessary to ensure that the technologies being
13 developed and used will reduce employment bias and
14 discrimination, while achieving better employment outcomes and
15 ensuring equal opportunity to economic mobility; now, therefore,
16 be it

17 *Resolved by the Assembly of the State of California, the Senate*
18 *thereof concurring*, That the Legislature urges policymakers in
19 federal and state government to explore ways to promote the
20 development and use of new technologies that will reduce bias
21 and discrimination in hiring, help employers find the best-suited
22 candidates based on objective factors, and help ensure that all
23 persons who seek, obtain, and hold employment in this state are
24 able to do so free of discrimination; and be it further

25 *Resolved*, That the Chief Clerk of the Assembly transmit copies
26 of this resolution to the author for appropriate distribution.