



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on January 19–20, 2017

Title

Judicial Branch Administration: Restriction
on State-Funded Travel to States With
Discriminatory Laws

Agenda Item Type

Action Required

Effective Date

January 20, 2017

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

December 13, 2016

Recommended by

Judicial Council staff
Doug Kauffroath, Director
Branch Accounting and Procurement

Contact

Doug Kauffroath, 916-263-2872
doug.kauffroath@jud.ca.gov

Executive Summary

Staff of the Judicial Council recommend the Judicial Council approve a policy to voluntarily comply with Government Code section 11139.8. The new statute prohibits state-funded or state-sponsored travel to states that have implemented discriminatory laws after June 26, 2015. Such a policy would conform the judicial branch to the practice in place for the executive and legislative branches of California government.

Recommendation

Staff of the Judicial Council recommend the Judicial Council approve a policy to voluntarily comply with Government Code section 11139.8. The new statute prohibits state-funded or state-sponsored travel to states that have implemented discriminatory laws after June 26, 2015. Such a policy would conform the judicial branch to the practice in place for the executive and legislative branches of California government.

Assembly Bill 1887 (Stats. 2016, ch. 687), enacted September 27, 2016, added section 11139.8 to the Government Code, restricting state-funded or state-sponsored travel to states with

discriminatory laws. Pursuant to subdivision (b) of section 11139.8, this law applies to a state agency, department, board, authority, or commission, including an agency, department, board, authority, or commission of the University of California, the Board of Regents of the University of California, or the California State University, and the Legislature. Subdivision (c) provides exceptions for a number of specified purposes, including travel that is required for the enforcement of California law and for litigation.

Previous Council Action

None.

Rationale for Recommendation

By adopting this policy, the Judicial Council finds that it is appropriate to operate under the same policy as the other branches of California government in regard to state-funded travel to states with discriminatory laws.

Comments, Alternatives Considered, and Policy Implications

No comments or alternatives were sought for this item. If the Judicial Council chooses not to implement this restriction, courts will not be able to use the CalTravelStore—the travel management service provider for all State of California government travel, or Concur—the state’s authorized online travel reservation system, to travel to restricted states as the state is implementing automated controls within the state’s travel software to prevent state-funded travel to those states with discriminatory laws.

Implementation Requirements, Costs, and Operational Impacts

To implement these restrictions, travel coordinators will need to be aware of which states have implemented discriminatory laws. At the time this report was written, that information had not yet been posted on the California Attorney General’s website. Staff believe Mississippi, North Carolina, and Tennessee currently meet these travel restriction criteria.

Attachments and Links

1. Government Code section 11139.8, at pages 3–4

Government Code § 11139.8.

- (a) The Legislature finds and declares all of the following:
- (1) California is a leader in protecting civil rights and preventing discrimination.
 - (2) California's robust nondiscrimination laws include protections on the basis of sexual orientation, gender identity, and gender expression, among other characteristics.
 - (3) Religious freedom is a cornerstone of law and public policy in the United States, and the Legislature strongly supports and affirms this important freedom.
 - (4) The exercise of religious freedom should not be a justification for discrimination.
 - (5) California must take action to avoid supporting or financing discrimination against lesbian, gay, bisexual, and transgender people.
 - (6) It is the policy of the State of California to promote fairness and equality and to combat discrimination.
- (b) A state agency, department, board, authority, or commission, including an agency, department, board, authority, or commission of the University of California, the Board of Regents of the University of California, or the California State University, and the Legislature shall not do either of the following:
- (1) Require any of its employees, officers, or members to travel to a state that, after June 26, 2015, has enacted a law that voids or repeals, or has the effect of voiding or repealing, existing state or local protections against discrimination on the basis of sexual orientation, gender identity, or gender expression or has enacted a law that authorizes or requires discrimination against same-sex couples or their families or on the basis of sexual orientation, gender identity, or gender expression, including any law that creates an exemption to antidiscrimination laws in order to permit discrimination against same-sex couples or their families or on the basis of sexual orientation, gender identity, or gender expression.
 - (2) Approve a request for state-funded or state-sponsored travel to a state that, after June 26, 2015, has enacted a law that voids or repeals, or has the effect of voiding or repealing, existing state or local protections against discrimination on the basis of sexual orientation, gender identity, or gender expression, or has enacted a law that authorizes or requires discrimination against same-sex couples or their families or on the basis of sexual orientation, gender identity, or gender expression, including any law that creates an exemption to antidiscrimination laws in order to permit discrimination against same-sex couples or their families or on the basis of sexual orientation, gender identity, or gender expression.
- (c) Subdivision (b) shall not apply to travel that is required for any of the following purposes:
- (1) Enforcement of California law, including auditing and revenue collection.
 - (2) Litigation.

- (3) To meet contractual obligations incurred before January 1, 2017.
 - (4) To comply with requests by the federal government to appear before committees.
 - (5) To participate in meetings or training required by a grant or required to maintain grant funding.
 - (6) To complete job-required training necessary to maintain licensure or similar standards required for holding a position, in the event that comparable training cannot be obtained in California or a different state not affected by subdivision (b).
 - (7) For the protection of public health, welfare, or safety, as determined by the affected agency, department, board, authority, or commission, or by the affected legislative office, as described in subdivision (b).
- (d) The prohibition on state-funded travel described in this section shall continue while any law specified in subdivision (b) remains in effect.
- (e) (1) The Attorney General shall develop, maintain, and post on his or her Internet Web site a current list of states that, after June 26, 2015, have enacted a law that voids or repeals, or has the effect of voiding or repealing, an existing state or local protection against discrimination on the basis of sexual orientation, gender identity, or gender expression, or have enacted a law that authorizes or requires discrimination against same-sex couples or their families or on the basis of sexual orientation, gender identity, or gender expression, including any law that creates an exemption to antidiscrimination laws in order to permit discrimination against same-sex couples or their families or on the basis of sexual orientation, gender identity, or gender expression.
- (2) It shall be the responsibility of an agency, department, board, authority, or commission described in subdivision (b) to consult the list on the Internet Web site of the Attorney General in order to comply with the travel and funding restrictions imposed by this section.