

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
118TH LEGISLATURE  
FIRST SPECIAL SESSION

HOUSE AMENDMENT "A" to S.P. 338, L.D. 1116, Bill, "An Act to Prevent Discrimination"

Amend the bill by inserting after section 5 the following:

'Sec. 6. 5 MRSA §4634 is enacted to read:

§4634. Provisions relating to sexual orientation

1. Religious corporation, association or organization. For the purposes of discrimination based on sexual orientation, "religious corporation, association or organization" includes:

A. A college, school, university or other education institution not otherwise a religious organization if:

(1) It is in whole or substantial part controlled, managed, owned or supported by a religious corporation, association or organization; or

(2) Its curriculum is directed toward the propagation of a particular religion; and

B. A nonprofit organization that is operated for charitable purposes if it is in whole or substantial part controlled, managed, owned or supported by a religious corporation, association or organization.

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2. Freedom of conscience. A person may not be subject to action under this Act for expressing an opinion about or for refusing to support, assist or endorse any form of sexual conduct, behavior or life-style as long as that person does not violate the laws of this State or another person's legally recognized rights found outside of this Act.

3. Benefits. The provisions of this Act relating to sexual orientation do not require the provision of employee benefits to an individual for the benefit of that individual's partner.

4. Adoptive and foster parents. Notwithstanding any other provision of this Act, a state agency or a child-placing agency may consider the sexual orientation of the prospective adoptive or foster parents when placing a child for adoption or in foster care. This Act may not be construed to require the placement of a child for adoption or foster care with a prospective adoptive or foster parent or parents who are homosexual or bisexual.

5. Youth organizations. A nonprofit nongovernmental service organization, which has as its primary purpose providing services to children under 18 years of age, is not subject to legal action under this Act based on a claim of sexual orientation discrimination.

6. Disparate impact. The fact that a policy or practice has a disparate impact on the basis of sexual orientation does not establish a prima facie violation of this Act.

7. Construction of statutes. This Act may not be construed:

A. To mean the State condones homosexual or bisexual behavior, conduct or lifestyle;

B. To authorize the promotion of homosexuality or bisexuality in education institutions or require the teaching in education institutions of homosexuality or bisexuality as an acceptable lifestyle; or

C. To authorize or permit the use of numerical goals or quotas or other types of affirmative action programs with respect to homosexuality or bisexuality.'

**SUMMARY**

This amendment expands the entities to which the sexual orientation discrimination provisions do not apply to include schools, colleges and other educational institutions that are

2 either supported, owned or controlled, at least in substantial  
3 part, by religious organizations, or whose curriculum is directed  
4 toward the propagation of a particular religion. It also exempts  
5 nonprofit organizations operated for charitable purposes if they  
6 are supported, owned or controlled, at least in substantial part,  
7 by a religious organization.

8 This amendment protects a person, including an organization,  
9 from action under the Maine Human Rights Act for expressing an  
10 opinion about or for refusing to support or condone any form of  
11 sexual conduct, behavior or lifestyle, as long as that person is  
12 not violating any other laws or rights of another person.

13 This amendment clarifies that an employer is not required to  
14 extend employee benefits to the partner of an employee.

15 State agencies and child-placing agencies may take the  
16 sexual orientation of prospective adoptive and foster parents  
17 into consideration when making child placements. The Maine Human  
18 Rights Act may not be construed to require the placement of a  
19 child with adoptive or foster parents who are homosexual or  
20 bisexual.

21 Nonprofit, nongovernmental organizations whose primary  
22 purpose is providing services to children under 18 years of age  
23 may not be the subject of an action for a claim of discrimination  
24 based on sexual orientation.

25 A prima facie case of discrimination on the basis of sexual  
26 orientation is not established by the fact that a practice or  
27 policy has a disparate impact on the basis of sexual orientation.

28 The prohibitions on discrimination on the basis of sexual  
29 orientation may not be construed to mean the State condones  
30 homosexual or bisexual conduct. The Maine Human Rights Act may  
31 not be construed as authorizing the teaching of homosexuality or  
32 bisexuality as an acceptable lifestyle. The Act may not be  
33 construed to authorize or permit numerical goals or quotas or  
34 other types of affirmative action programs with respect to  
35 homosexuality or bisexuality.

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