

# MAINE STATE LEGISLATURE

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R.S.

12/27/00

L.D. 2239

DATE: 4/3/2000

(Filing No. S-624)

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STATE OF MAINE  
SENATE  
119TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 840, L.D. 2239, Bill, "An Act to Ensure Civil Rights and Prevent Discrimination"

Amend the bill in section 2 by striking out all of subsection 9-C and inserting in its place the following:

'9-C. Sexual orientation. "Sexual orientation" means having an orientation for heterosexuality, homosexuality or bisexuality, having a history of that orientation or being identified with that orientation. "Sexual orientation" refers to a person's actual or perceived status, condition or gender expression. This chapter is intended to ensure specific defined rights, and not to endorse or extend to any form of sexual behavior, and does not include sexual attraction to a minor by an adult.'

Further amend the bill by inserting after section 2 the following:

'Sec. 3. 5 MRSA §4553, sub-§9-D is enacted to read:

9-D. Religious entity. "Religious entity" means:

A. A religious corporation, association or society;

B. A college, school, university or other educational institution, not otherwise a religious entity, if it is in whole or substantial part funded, controlled, managed or owned by a religious corporation, association or society; or

COMMITTEE AMENDMENT

2 C. A nonprofit organization that is operated for charitable  
3 purposes if it is in whole or substantial part funded,  
4 controlled, managed or owned by a religious corporation,  
5 association or society.'

6 Further amend the bill in section 5 by striking out all of  
7 paragraph G and inserting in its place the following:

8  
9 'G. Discrimination in employment, housing, public  
10 accommodation and credit as defined in subchapters III, IV,  
11 V and V-A, on the basis of sexual orientation, except that a  
12 religious entity is exempt from these provisions with  
13 respect to discrimination based on sexual orientation.'

14 Further amend the bill by inserting after section 5 the  
15 following:

16  
17 **'Sec. 6. 5 MRSA §4554, sub-§§4, 5 and 6 are enacted to read:**

18  
19 **4. Contracts.** The exemption provision of section 4553,  
20 subsection 10, paragraph G does not prohibit a state agency from  
21 including provisions in a contract with any entity, including a  
22 religious entity, that may require nondiscrimination on the basis  
23 of sexual orientation otherwise consistent with this chapter with  
24 respect to and as a condition to continuation of such a contract;  
25 nor does this Act require any religious entity to enter into any  
26 contract. With respect to a contract with any religious entity,  
27 the employment defenses provided in section 4573-A, subsection 2  
28 are applicable to any dispute arising under such a  
29 nondiscrimination clause to the extent related to alleged  
30 employment discrimination based on sexual orientation.

31  
32 **5. Educational policy.** This Act does not mandate any  
33 public or private educational institution to promote any form of  
34 sexuality or sexual orientation or to include such matters in its  
35 curriculum.

36  
37 **6. Affirmative action.** The provisions of this Act relating  
38 to sexual orientation are not intended to modify federal or state  
39 requirements for affirmative action in effect as of the effective  
40 date of this subsection, nor intended to create any new  
41 obligations with respect to affirmative action or numerical goals  
42 or quotas.'

43 Further amend the bill by inserting after section 8 the  
44 following:

45  
46 **'Sec. 9. 5 MRSA §4573, as amended by PL 1995, c. 393, §§15 to**  
47 **20, is further amended by adding at the end a new paragraph to**  
48 **read:**



2 If approved by the voters, this bill may increase the number  
of civil suits filed in the court system. The additional  
4 workload and administrative costs associated with the minimal  
number of new cases filed can be absorbed within the budgeted  
6 resources of the Judicial Department. The collection of  
additional filing fees may also increase General Fund revenue by  
minor amounts.

8  
10 The additional costs associated with an expected increase in  
the number of new cases can be absorbed by the Maine Human Rights  
12 Commission and by the Department of the Attorney General  
utilizing existing budgeted resources.'

14  
16 **SUMMARY**

18 This amendment is the majority report of the committee. It  
adds language further defining the term "sexual orientation." It  
20 expands the exemption from the law to all religious entities,  
including educational institutions and charitable nonprofit  
22 organizations that are wholly or substantially funded,  
controlled, managed or owned by a religious corporation,  
24 association or society. It adds 3 provisions to the construction  
section of the Maine Human Rights Act to clarify that,  
26 notwithstanding the exemption for religious entities, a state  
contract, including a contract with religious entities, may  
28 require nondiscrimination as a condition of the contract. It  
also clarifies that the bill does not require schools to  
30 incorporate sexual orientation in curricula and does not require  
affirmative action based on sexual orientation. The amendment  
32 provides that the law does not require nor prohibit the provision  
of employee benefits to an individual for the benefit of the  
34 individual's partner. Finally, it changes the wording of the  
referendum question to clarify it and adds a fiscal note.