

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

5
ROFS

L.D. 1703

Date: 6/18/19

Majority

(Filing No. H-643)

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1218, L.D. 1703, Bill, "An Act To Improve Consistency within the Maine Human Rights Act"

Amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 5 MRSA §1825-L, sub-§2, ¶A, as enacted by PL 2001, c. 439, Pt. NNNN, §1, is amended to read:

A. Comply with all applicable wage, health, labor, environmental and safety laws, legal guarantees of freedom of association, building and fire codes and laws relating to discrimination in hiring, promotion or compensation on the basis of race, disability, national origin, gender, sexual orientation, gender identity or affiliation with any political, nongovernmental or civic group except when federal law precludes the State from attaching the procurement conditions provided in this subchapter.'

Amend the bill in section 1 in §4552 in the first paragraph in the 8th line (page 1, line 12 in L.D.) by striking out the following: "housing."

Amend the bill by adding after section 24 the following:

'Sec. 25. 5 MRSA §4684-A, as enacted by PL 1993, c. 379, §1, is amended to read:

§4684-A. Civil rights

For purposes of this chapter and Title 17, section 2931, a person has the right to engage in lawful activities without being subject to physical force or violence, damage or destruction of property, trespass on property or the threat of physical force or violence, damage or destruction of property or trespass on property motivated by reason of race, color, religion, sex, ancestry, national origin, physical or mental disability or, sexual orientation or gender identity.

COMMITTEE AMENDMENT

ROFS

1 **Sec. 26. 5 MRSA §17057, sub-§5, ¶B**, as enacted by PL 2011, c. 449, §2, is
2 amended to read:

3 B. Personal information. Records containing the following information are
4 confidential, except that the records may be examined by the employee to whom they
5 relate when the examination is permitted or required by law:

6 (1) Medical information of any kind, including information pertaining to
7 diagnosis or treatment of mental or emotional disorders;

8 (2) Performance evaluations and personal references submitted in confidence;

9 (3) Information pertaining to the creditworthiness of a named employee;

10 (4) Information pertaining to the personal history, general character or conduct
11 of members of the employee's immediate family;

12 (5) Personal information pertaining to the employee's race, color, religion, sex,
13 national origin, ancestry, age, physical disability, mental disability, marital status
14 and, sexual orientation and gender identity; social security number; personal
15 contact information as provided in Title 1, section 402, subsection 3, paragraph
16 O; and personal employment choices pertaining to elected payroll deductions,
17 deferred compensation, savings plans, pension plans, health insurance and life
18 insurance; and

19 (6) Complaints, charges or accusations of misconduct, replies to those
20 complaints, charges or accusations and any other information or materials that
21 may result in disciplinary action. If disciplinary action is taken, the final written
22 decision relating to that action is no longer confidential after the decision is
23 completed if it imposes or upholds discipline. If an arbitrator completely
24 overturns or removes disciplinary action from an employee personnel file, the
25 final written decision is public except that the employee's name must be deleted
26 from the final written decision and kept confidential. If the employee whose
27 name was deleted from the final written decision discloses that the employee is
28 the person who is the subject of the final written decision, the entire final written
29 decision, with regard to that employee, is public.

30 For purposes of this subparagraph, "final written decision" means:

31 (a) The final written administrative decision that is not appealed pursuant to
32 a grievance arbitration procedure; or

33 (b) If the final written administrative decision is appealed to arbitration, the
34 final written decision of a neutral arbitrator.

35 A final written administrative decision that is appealed to arbitration is no longer
36 confidential 120 days after a written request for the decision is made to the
37 employer if the final written decision of the neutral arbitrator is not issued and
38 released before the expiration of the 120 days.

39 This paragraph does not preclude a union representative from having access to
40 personnel records that are necessary for the bargaining agent to carry out collective

ROFS

1 bargaining responsibilities. Any records available to union representatives that are
2 otherwise covered by this paragraph remain confidential and are not open for public
3 inspection;

4 **Sec. 27. 14 MRSA §1202-A**, as corrected by RR 2017, c. 1, §6, is amended to
5 read:

6 **§1202-A. Prohibition of discrimination**

7 A citizen may not be excluded from jury service in this State on account of race,
8 color, religion, sex, sexual orientation as defined in Title 5, section 4553, subsection 9-C,
9 gender identity, national origin, ancestry, economic status, marital status, age or physical
10 handicap, except as provided in this chapter.

11 **Sec. 28. 17-A MRSA §1501, sub-§8, ¶B**, as enacted by PL 2019, c. 113, Pt. A,
12 §2, is amended to read:

13 B. The selection by the person of the victim or of the property that was damaged or
14 otherwise affected by the crime because of the race, color, religion, sex, ancestry,
15 national origin, physical or mental disability, sexual orientation, gender identity or
16 homelessness of the victim or of the owner or occupant of that property; and

17 **Sec. 29. 20-A MRSA §2404, sub-§3**, as enacted by PL 2011, c. 414, §5, is
18 amended to read:

19 **3. Discrimination prohibited.** A public charter school may not discriminate on the
20 basis of race, ethnicity, national origin, religion, gender, sexual orientation, gender
21 identity, income level, disabling condition, proficiency in the English language or
22 academic or athletic ability, except that nothing in this subsection may be construed to
23 limit the formation of a public charter school that is dedicated to focusing education
24 services on at-risk pupils, students with disabilities and students who pose such severe
25 disciplinary problems that they warrant a specific education program.

26 **Sec. 30. 20-A MRSA §2412, sub-§4, ¶A**, as enacted by PL 2011, c. 414, §5, is
27 amended to read:

28 A. A public charter school may not discriminate against any person on the basis of
29 race, color, sex, sexual orientation, gender identity, physical or mental disability,
30 religion, age, ancestry or national origin or on any other basis that would be unlawful
31 if done by a noncharter public school.

32 **Sec. 31. 24-A MRSA §6910, sub-§3, ¶B**, as corrected by RR 2003, c. 1, §22, is
33 amended to read:

34 B. Ensure that:

35 (1) Providers contracting with a carrier contracted to provide coverage to plan
36 enrollees do not charge plan enrollees or 3rd parties for covered health care
37 services in excess of the amount allowed by the carrier the provider has
38 contracted with, except for applicable copayments, deductibles or coinsurance or
39 as provided in section 4204, subsection 6;

40 (2) Providers contracting with a carrier contracted to provide coverage to plan
41 enrollees do not refuse to provide services to a plan enrollee on the basis of

RE DFS

COMMITTEE AMENDMENT "A" to H.P. 1218, L.D. 1703

1 health status, medical condition, previous insurance status, race, color, creed, age,
2 national origin, citizenship status, gender, sexual orientation, gender identity,
3 disability or marital status. This subparagraph may not be construed to require a
4 provider to furnish medical services that are not within the scope of that
5 provider's license; and

6 (3) Providers contracting with a carrier contracted to provide coverage to plan
7 enrollees are reimbursed at the negotiated reimbursement rates between the
8 carrier and its provider network.

9 **Sec. 32. 25 MRSA §1544, 2nd ¶**, as amended by PL 2001, c. 399, §6, is further
10 amended to read:

11 The bureau shall establish a category for abuse by adults of family or household
12 members, a category for cruelty to animals and a category for crimes that manifest
13 evidence of prejudice based on race, religion, disability, sexual orientation, gender
14 identity or ethnicity that are supplementary to its other reported information. The bureau
15 shall prescribe the information to be submitted in the same manner as for all other
16 categories of the uniform crime reports.

17 **Sec. 33. 30-A MRSA §4706, sub-§5, ¶B**, as enacted by PL 2017, c. 234, §8, is
18 amended to read:

19 B. Authority records pertaining to an identifiable employee and containing the
20 following:

21 (1) Medical information of any kind, including information pertaining to
22 diagnosis or treatment of mental or emotional disorders;

23 (2) Performance evaluations and personal references submitted in confidence;

24 (3) Information pertaining to the creditworthiness of a named employee;

25 (4) Information pertaining to the personal history, general character or conduct
26 of members of the employee's immediate family;

27 (5) Complaints, charges or accusations of misconduct, replies to those
28 complaints, charges or accusations and any other information or materials that
29 may result in disciplinary action. If disciplinary action is taken, the final written
30 decision relating to that action is no longer confidential after the decision is
31 completed if it imposes or upholds discipline. The decision must state the
32 conduct or other facts on the basis of which disciplinary action is being imposed
33 and the conclusions of the acting authority as to the reasons for that action; and

34 (6) Personal information, including that which pertains to the employee's:

35 (a) Age;

36 (b) Ancestry, ethnicity, genetic information, national origin, race or skin
37 color;

38 (c) Marital status;

39 (d) Mental or physical disabilities;

ROFS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39

- (e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;
- (f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, saving plans, pension plans, health insurance and life insurance;
- (g) Religion;
- (h) Sex ~~or~~, sexual orientation as defined in Title 5, section 4553, subsection 9-C or gender identity; or
- (i) Social security number; and

Sec. 34. 34-B MRSA §3611, sub-§9, ¶B, as enacted by PL 2007, c. 592, §2, is amended to read:

B. A person may not be excluded from the council system or discriminated against within the council system by reason of race, creed, color, gender, sexual orientation, gender identity, age, marital status, homelessness, national origin, disability or status as a consumer of mental health services.

Sec. 35. 34-B MRSA §15002, sub-§6, as enacted by PL 1997, c. 790, Pt. A, §1 and affected by §3, is amended to read:

6. Rights protections; cultural sensitivity. The program must protect the rights of children to receive care without regard to race, religion, ancestry or national origin, gender, physical or mental disability ~~or~~, sexual orientation or gender identity.

Sec. 36. 36 MRSA §5122, sub-§2, ¶O, as amended by PL 2001, c. 679, §3 and affected by §6, is further amended to read:

O. A Holocaust victim settlement payment received by a Holocaust victim to the extent included in federal adjusted gross income. This paragraph applies only to a taxpayer who is the first recipient of a Holocaust victim settlement payment. For purposes of this paragraph, the following terms have the following meanings.

(1) "Holocaust victim" means an individual who died, lost property or was a victim of persecution as a result of discriminatory laws, policies or actions targeted against discrete groups of individuals based on race, religion, ethnicity, sexual orientation, gender identity or national origin, whether or not the individual was actually a member of any of those groups, or because the individual assisted or allegedly assisted any of those groups, between January 1, 1929 and December 31, 1945, in Nazi Germany or in any European country allied with or occupied by Nazi Germany. "Holocaust victim" includes the spouse or descendant of such an individual.

- (2) "Holocaust victim settlement payment" means a payment received:
 - (a) As a result of the taxpayer's status as a Holocaust victim;
 - (b) As a result of the settlement of any other Holocaust claim, including an insurance claim, a claim relating to looted art, a claim relating to looted

ROFS

COMMITTEE AMENDMENT "A" to H.P. 1218, L.D. 1703

1 financial assets, a claim relating to slave labor wages or a class action lawsuit
2 claim against Swiss banks; or

3 (c) As interest on any payment under division (a) or (b) accumulated or
4 accrued through the date of payment;

5 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
6 section number to read consecutively.

7 **SUMMARY**

8 This amendment removes housing from the list in the policy section of activities for
9 which it is illegal to discriminate on the basis of age. The bill clarifies the Maine Human
10 Rights Act by adding "or gender identity" where the phrase "sexual orientation" currently
11 is in place; the amendment does the same throughout the rest of the Maine Revised
12 Statutes.

13 **FISCAL NOTE REQUIRED**

14 (See attached)

COMMITTEE AMENDMENT



129th MAINE LEGISLATURE

LD 1703

LR 2283(02)

An Act To Improve Consistency within the Maine Human Rights Act

Fiscal Note for Bill as Amended by Committee Amendment *A(H-643)*

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund
Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system.

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional filing fees may increase General Fund and other dedicated revenue by minor amounts.

Fiscal Detail and Notes

Any additional costs to the Maine Human Rights Commission due to an increase in complaints filed are expected to be minor and can be absorbed within existing budgeted resources.