

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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**Legislative Document**

**No. 659**

H. P. 507

House of Representatives, February 5, 1971

Referred to Committee on State Government. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. McTeague of Brunswick.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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**AN ACT Establishing a Human Rights Commission.**

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Be it enacted by the People of the State of Maine, as follows:

Sec. 10. R. S., T. 5, part 10, additional. Title 5 of the Revised Statutes is amended by adding a new part 10, to read as follows:

**PART 10**

**HUMAN RIGHTS**

**CHAPTER 317**

**HUMAN RIGHTS ACT**

**SUBCHAPTER I**

**GENERAL PROVISIONS**

§ 4551. Title

This Act may be known and cited as the Maine Human Rights Act.

§ 4552. Policy

To protect the public health, safety and welfare, it is declared to be the policy of this State to keep continually in review all practices infringing on the basic human right to a life with dignity, and the causes of such practices, so that corrective measures may, where possible, be promptly recommended and implemented; and to prevent discrimination in employment, housing or access to public accommodations on account of race, color, religion, ancestry or national origin and in employment, discrimination on account of age.

**§ 4553. Definitions**

As used in this Act, unless the context otherwise indicates, the following words shall have the following meanings:

1. **Commission.** "Commission" means the Maine Human Rights Commission established by this Act.
2. **Discriminate.** "Discriminate" includes, without limitation, segregate or separate.
3. **Employee.** "Employee" does not include any individual employed by his parents, spouse or child.
4. **Employer.** "Employer" includes any person in this State employing any number of employees, whatever the place of employment of such employees, and any person outside this State employing any number of employees whose usual place of employment is in this State; any person acting in the interest of any employer, directly or indirectly; and labor organizations, whether or not organized on a religious, fraternal or sectarian basis, with respect to their employment of employees; but does not include a religious or fraternal corporation or association, not organized for private profit and in fact not conducted for private profit, with respect to employment of its members of the same religion, sect or fraternity.
5. **Employment agency.** "Employment agency" includes any person undertaking with or without compensation to procure opportunities to work, or to procure, recruit, refer or place employees; it includes, without limitation, placement services, training schools and centers, and labor organizations, to the extent that they act as employee referral sources; and it includes any agent of such person.
6. **Housing accommodation.** "Housing accommodation" includes any building or structure or portion thereof, or any parcel of land, developed or undeveloped, which is occupied, or is intended to be occupied or to be developed for occupancy, for residential purposes excepting:
  - A. **Two-family dwellings.** The rental of a one-family unit of a 2-family dwelling, one unit of which is occupied by the owner;
  - B. **One-family dwellings.** The rental of not more than 4 rooms of a one-family dwelling which is occupied by the owner;
  - C. **The rental of any dwelling owned or controlled by a religious or fraternal corporation not organized for private profit and not in fact conducted for private profit.**
7. **Person.** "Person" includes one or more individuals, partnerships, associations, organizations, corporations, municipal corporations, legal representatives, trustees, trustees in bankruptcy, receivers and other legal representatives, and includes the State and all agencies thereof, excepting all law enforcement agencies and courts of this State and the United States.
8. **Place of public accommodation.** "Place of public accommodation" means any establishment which in fact caters to, or offers its goods, facilities or services to, or solicits or accepts patronage from, the general public; and

it includes, but is not limited to: Inns, taverns, roadhouses, hotels, whether conducted for the entertainment or accommodation of transient guests or of those seeking health, recreation or rest, restaurant, eating houses or any place where food is sold for consumption on the premises; buffets, saloons, bar rooms or any store, park or enclosure where spirituous or malt liquors are sold; ice cream parlors, confectioneries, soda fountains, and all stores where beverages of any kind are retailed for consumption on the premises; retail stores and establishments; dispensaries, clinics, hospitals, rest rooms, bath houses, barber shops, beauty parlors, theatres, motion picture houses, music halls, airdromes, roof gardens, race courses, skating rinks, amusement and recreation parks, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiard and pool parlors, swimming pools, seashore accommodations and boardwalks, public libraries, garages and gasoline stations; all public conveyances operated on land, water or in the air as well as the stations and terminals thereof; public halls and public elevators of buildings occupied by 2 or more tenants or by the owner and one or more tenants; and public housing projects.

9. Real estate broker and salesman. "Real estate broker" and "real estate salesman" have the same definitions as are given respectively in Title 32, section 4001, subsections 2 and 3; but include all persons meeting those definitions, whether or not they are licensed or required to be licensed.

10. Unlawful discrimination. "Unlawful discrimination" includes:

A. Unlawful employment discrimination as defined and limited by subchapter III;

B. Unlawful housing discrimination as defined and limited by subchapter IV;

C. Unlawful public accommodations discrimination as defined by subchapter V;

D. Aiding, abetting, inciting, compelling or coercing another to do any of such types or unlawful discrimination; obstructing or preventing any person from complying with this Act or any order issued hereunder; attempting to do any act of unlawful discrimination; and punishing or penalizing, or attempting to punish or penalize, any person for seeking to exercise any of the civil rights declared by this Act or for complaining of a violation of this Act or for testifying in any proceeding brought hereunder; and

E. In determining whether any person is acting as an agent or employee of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

## SUBCHAPTER II COMMISSION

### § 4561. Members

There is established an independent commission to be known as the "Maine Human Rights Commission." It shall consist of a total of 5 members, no

more than 3 of which shall be of the same political party, to be appointed by the Governor with the advice and consent of the Council and who shall designate one member to be its chairman.

§ 4562. Terms of office

The members of the commission shall be appointed for terms of 5 years each, except that of those first appointed, the Governor shall designate one whose term shall be only one year, one whose term shall be only 2 years, one whose term shall be only 3 years and one whose term shall be only 4 years.

A member of the commission appointed to fill a vacancy occurring otherwise than by expiration of term shall be appointed only for the unexpired term of the member whom he shall succeed.

§ 4563. Quorum

Three members of the commission shall constitute a quorum. A vacancy in the commission shall not impair the power of the remaining members to exercise all the powers of the commission.

§ 4564. Compensation; reappointment

Each member of the commission shall receive compensation of \$25 for each day or part thereof necessarily spent in the discharge of his official duties, with a maximum of \$1,000 a year, and shall be entitled to his expenses actually and necessarily incurred by him in the performance of his duties. All members of the commission shall be eligible for reappointment.

§ 4565. Removal from office

Any member of the commission may be removed by the Governor for inefficiency, neglect of duty, misconduct or malfeasance in office, after being given a written statement of the charges and an opportunity to be heard publicly thereon, with right of cross-examination, before the Executive Council. Each removal shall be effective only if  $\frac{2}{3}$  of the Executive Council concurs therein after such hearing.

§ 4566. Powers and duties of the commission

The commission has the duty of investigating all conditions and practices within the State which allegedly detract from the enjoyment, by each inhabitant of the State, of full human rights and personal dignity. Without limiting the generality of the foregoing; it has the duty of investigating all forms of invidious discrimination, whether carried out legally or illegally, and whether by public agencies or private persons, excepting law enforcement agencies and courts of this State and the United States. Based on its investigations, it has the further duty to recommend measures calculated to promote the full enjoyment of human rights and personal dignity by all the inhabitants of this State.

To carry out these duties, the commission shall have the power:

1. Office. To establish and maintain a principal office, and such other offices within the State as it may deem necessary;

2. Meetings. To meet and function at any place within the State;

3. Executive Secretary. To appoint a full-time executive secretary to the commission and determine his remuneration; and to appoint such other personnel including, but not limited to investigators, attorneys and secretaries, as it shall deem necessary to effectuate the purposes of this Act, and to determine their compensation;

4. Hearings. To hold hearings, administer oaths and to take testimony of any person under oath. There shall be no executive privilege in such investigations and hearings, but law enforcement officers, prosecution officers and judges of this State and of the United States shall be privileged from compulsory testimony or production of documents before the commission. Such hearings and testimony may relate to general investigations concerning the effectiveness of this Act and the existence of practices of discrimination not prohibited by it, as well as to investigations of other alleged infringements upon human rights and personal dignity. The commission may make rules as to the administration of oaths, and the holding of preliminary and general investigations by panels of commissioners and by the executive secretary.

5. Services. To utilize voluntary and uncompensated services of private individuals and organizations as may from time to time be offered and needed;

6. Advisory groups. To create such advisory agencies and conciliation councils, local or statewide, as will aid in effectuating the purposes of this Act. The commission may itself, or it may empower these agencies and councils to study the problems of discrimination in all or specific fields of human relationships when based on race or color, religion or country of ancestral origin, and foster, through community effort or otherwise, good will among the groups and elements of the population of the State. Such agencies and councils may make recommendations to the commission for the development of policies and procedures in general. Advisory agencies and conciliation councils created by the commission shall be composed of representative citizens serving without pay, but with reimbursement for actual and necessary traveling expenses;

7. Rules and regulations. To adopt, amend and rescind rules and regulations to effectuate this Act, such adoption, amendment and rescission to be made in the manner provided by section 2351;

8. Appearance. To appear in court and before other administrative bodies by its own attorneys;

9. Notices and forms. To require the posting of notices or the adoption of forms by businesses subject to this Act, to effectuate the purposes of this Act;

10. Publications. To issue such publications and such results of investigations and research as in its judgment will tend to promote good will, and

minimize or eliminate discrimination based on race or color, religion or country of ancestral origin.

11. Reports. From time to time, but not less than once a year, to report to the Legislature and the Governor, describing the investigations, proceedings and hearings the commission has conducted and their outcome and the other work performed by it, and make recommendations for such further legislation or executive action concerning abuses and discrimination based on race or color, religion or country of ancestral origin, or other infringements on human rights or personal dignity, as may be desirable;

12. Other acts. To do such other things as are set out in the other sub-chapters, and everything reasonably necessary to perform its duties under this Act.

### SUBCHAPTER III FAIR EMPLOYMENT

#### § 4571. Right to freedom from discrimination in employment

The opportunity for an individual to secure employment without discrimination because of race, color, religious creed, age, ancestry or national origin is recognized as and declared to be a civil right.

#### § 4572. Unlawful employment discrimination

1. Unlawful employment. It shall be unlawful employment discrimination, in violation of this Act, except where based on a bona fide occupational qualification:

A. For any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of his race or color, religion, country of ancestral origin or age, or because of any such reason, to discharge an employee or discriminate against him with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, or any other matter directly or indirectly related to employment, or in the recruiting of individuals for employment or in hiring them, to utilize any employment agency which such employer knows, or has reasonable cause to know, discriminate against individuals because of their race or color, religion, age or country of ancestral origin;

B. For any employment agency to fail or refuse to classify properly or refer to employment or otherwise discriminate against any individual because of his race or color, religion, age or country of ancestral origin or to comply with an employer's request for the referral of job applicants if such request indicates either directly or indirectly that such employer will not afford full and equal employment opportunities to individuals regardless of their race or color, religion, age or country of ancestral origin;

C. For any labor organization to exclude from apprenticeship or membership, or to deny full and equal membership rights, to any applicant for membership, because of his race or color, religion, age or country of ances-

tral origin, or because of any such reason, to deny a member full and equal membership rights, expel him from membership, penalize him or otherwise discriminate in any manner against him with respect to his hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, representation, grievances or any other matter directly or indirectly related to membership or employment, whether or not authorized or required by the constitution or bylaws of such labor organization or by a collective labor agreement or other contract, or to fail or refuse to classify properly or refer for employment, or otherwise to discriminate against any member because of his race or color, religion, age or country of ancestral origin or to cause or attempt to cause an employer to discriminate against an individual in violation of this section;

D. For any employer or employment agency or labor organization, prior to employment or admission to membership of any individual, to

- (1) Elicit or attempt to elicit any information directly or indirectly pertaining to his race or color, religion or country of ancestral origin;
- (2) Make or keep a record of his race or color, religion or country of ancestral origin;
- (3) Use any form of application for employment, or personnel or membership blank containing questions or entries directly or indirectly pertaining to race or color, religion or country of ancestral origin;
- (4) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon race or color, religion or country of ancestral origin;
- (5) Establish, announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race or color, religion or country of ancestral origin of such group;

E. For an employer or employment agency or labor organization to discriminate in any manner against any individual because he has opposed any practice which would be a violation of this Act, or because he has made a charge, testified or assisted in any manner in any investigation, proceeding or hearing under this Act.

#### § 4573. Not unlawful employment discrimination

It shall not be unlawful employment discrimination:

1. Age. To discriminate on account of age, so as to:

A. Termination. Terminate employment in compliance with the terms or conditions of any bona fide retirement or pension plan; or

B. Retirement plan. Observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension or insurance plan;



C. Insurance plan. Comply with the terms or conditions of any bona fide group or employee insurance plan; or

D. Child labor laws. To comply with the state or federal laws relating to the employment of minors.

2. Records. After employment or admission to membership, to make a record of such features of an individual as are needed in good faith for the purpose of identifying him, provided such record is intended and used in good faith solely for such identification, and not for the purpose of discrimination in violation of this Act.

3. Required records. To record any data required by law, or by the rules and regulations of any state or federal agency, provided such records are kept in good faith for the purpose of complying with law, and are not used for the purpose of discrimination in violation of this Act.

#### SUBCHAPTER IV

#### FAIR HOUSING

##### § 4581. Decent housing

The opportunity for an individual to secure decent housing in accordance with his ability to pay, and without discrimination because of race, color, religious creed, ancestry or national origin is hereby recognized as and declared to be a civil right.

##### § 4582. Unlawful housing discrimination

It shall be unlawful housing discrimination, in violation of this Act:

For any owner, lessee, sublessee, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation, or any agent of these to make or cause to be made any written or oral inquiry concerning the race or color, religion or country of origin of any prospective purchaser, occupant or tenant of such housing accommodation; or to refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold from any individual such housing accommodation because of the race or color, religion or country of ancestral origin of such individual; or to issue any advertisement relating to the sale, rental or lease of such housing accommodation which indicates any preference, limitation, specification or discrimination based upon race or color, religion or country of ancestral origin; or to discriminate against any individual because of his race or color, religion, or country of ancestral origin in the price, terms, conditions or privileges of the sale, rental or lease of any such housing accommodations or in the furnishing of facilities or services in connection therewith, or to evict or attempt to evict any tenant of any housing accommodation because of the race or color, religion, or country of ancestral origin of such tenant.

For any real estate broker or real estate salesman, or agent of one of them, to fail or refuse to show any applicant for a housing accommodation any such accommodation listed with him for sale, lease or rental, because of the

race or color, religion or country of ancestral origin of such applicant or of any intended occupant of such accommodation, or to misrepresent, for the purpose of discriminating on account of the race or color, religion or country of ancestral origin of such applicant or intended occupant, the availability or asking price of a housing accommodation listed with him for sale, lease or rental; or for such reason to fail to communicate to the person having the right to sell or lease such housing accommodation any offer for the same made by any applicant thereof; or in any other manner to discriminate against any applicant for housing because of race or color, religion or country of ancestral origin of such applicant or of any intended occupant of the housing accommodation, or to make or cause to be made any written or oral inquiry or record concerning the race or color, religion or country of ancestral origin of any such applicant or intended occupant, or to accept for listing any housing accommodation when the person having the right to sell or lease the same has directly or indirectly indicated an intention of discriminating among prospective tenants or purchasers on the ground of their race or color, religion or country of ancestral origin, or when he knows or has reason to know that the person having the right to sell or lease such housing accommodation has made a practice of such discrimination since the effective date of this Act.

For any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured, or agent of such person, to make or cause to be made any oral or written inquiry concerning the race or color, religion or country of ancestral origin of any individual seeking such financial assistance, or of existing or prospective occupants or tenants of such housing accommodations; or to discriminate in the granting of such financial assistance, or in the terms, conditions, or privileges relating to the obtaining or use of any such financial assistance, against any applicant because of the race or color, religion or country of ancestral origin of such applicant or of the existing or prospective occupants or tenants.

#### § 4583. Application

Nothing in this Act shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent, lease or manage a housing accommodation to set up and enforce specifications in the selling, renting, leasing or letting thereof or in the furnishings of facilities or services in connection therewith which are not based on the race, color, religion or country of ancestral origin of any prospective or actual purchaser, lessee, tenant or occupant thereof. Nothing in this Act contained shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person making loans for or offering financial assistance in the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations, to set standards and preferences, terms, conditions, limitations or specifications for the granting of such loans or financial assistance which are not based on the race, color, religion or country of origin of the applicant for such

loan or financial assistance or, of any existing or prospective owner, lessee, tenant or occupant of such housing accommodation.

## SUBCHAPTER V

### PUBLIC ACCOMMODATIONS

#### § 4591. Equal access to public accommodations

The opportunity for every individual to have equal access to places of public accommodation without discrimination because of race, color, religious creed, ancestry or national origin is recognized as and declared to be a civil right.

#### § 4592. Unlawful public accommodations

It shall be unlawful public accommodations discrimination, in violation of this Act:

For any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, to directly or indirectly refuse, withhold from or deny to any person, on account of race or color, religion or country of ancestral origin, any of the accommodations, advantages, facilities or privileges of such place of public accommodation, or for such reason in any manner discriminate against any person in the price, terms or conditions upon which access to such accommodation, advantages, facilities and privileges may depend.

For any person to directly or indirectly publish, circulate, issue, display, post or mail any written, printed, painted or broadcast communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any place of public accommodation shall be refused, withheld from or denied to any person on account of race or color, religion or country of ancestral origin, or that the patronage or custom thereof of any person belonging to or purporting to be of any particular race or color, religion or country of ancestral origin is unwelcome, objectionable or not acceptable, desired or solicited, or that the clientele thereof is restricted to members of particular races or colors, religions or countries of ancestral origin. The production of any such written, printed, painted or broadcast communication, notice or advertisement, purporting to relate to any such place shall be presumptive evidence in any action that the same was authorized by its owner, manager or proprietor.

## SUBCHAPTER VI

### COMMISSION ACTION

#### § 4611. Complaint

Any person who has been subject to unlawful discrimination, or any employee of the commission, may file a complaint under oath with the commission stating the facts concerning the alleged discrimination.

**§ 4612. Procedure on complaints**

1. Investigation. Upon receipt of such a complaint, the commission or its delegated single commissioner or investigator shall conduct such brief preliminary investigation as it deems necessary to determine whether there are reasonable grounds to believe that unlawful discrimination has occurred.

2. Order of dismissal. If the commission does not find reasonable grounds to believe that unlawful discrimination has occurred, it shall enter an order so finding, and dismiss the proceeding.

3. Informal methods, conciliation. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, but finds no emergency of the sort contemplated in subsection 4, paragraph B, it shall endeavor to eliminate such discrimination by informal means such as conference, conciliation and persuasion. Nothing said or done as part of such endeavors may be made public without the written consent of the parties to the proceeding, nor used as evidence in any subsequent proceeding, civil or criminal. If the case is disposed of by such informal means in a manner satisfactory to a majority of the commission, it shall dismiss the proceeding.

**4. Civil action by commission**

A. Filing. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, and further believes that irreparable injury or great inconvenience will be caused the victim of such discrimination or to members of a racial, color, religious or nationality group if relief is not immediately granted; or if conciliation efforts under subsection 3 have not succeeded, the commission shall file, in the Superior Court, a civil action seeking such relief as is appropriate, including temporary restraining orders.

B. Grounds. Grounds for the filing of such an action before attempting conciliation include, but are not limited to:

(1) In unlawful housing discrimination, that the housing accommodation sought is likely to be sold or rented to another during the pendency of proceedings, or that an unlawful eviction is about to occur;

(2) In unlawful employment discrimination, that the victim of the discrimination has lost or is threatened with the loss of his job and income as a result of such discrimination;

(3) In unlawful public accommodations discrimination, that such discrimination is causing inconvenience to many persons;

(4) In any unlawful discrimination, that the victim of the discrimination is suffering or is in danger of suffering severe financial loss in relation to his circumstances, severe hardship or personal danger as a result of such discrimination.

**§ 4613. Procedure in Superior Court**

1. Actions filed by commission. Any such action filed by the commission shall be heard by the Superior Court and may be advanced on the docket and

receive priority over other civil cases where the court shall determine that the interests of justice so require. Except as otherwise provided herein, the court shall hear the case and grant relief as in other civil actions for injunctions. Any such action shall be brought in the name of the commission for the use of the victim of the alleged discrimination or of a described class, and the commission shall furnish counsel for the prosecution thereof. Any person aggrieved by the alleged discrimination may intervene in such an action. In no such action brought by the commission shall any injunction bond be required, nor shall damages be assessed for the wrongful issuance of an injunction.

2. All actions under this Act. In any action filed under this Act by the commission or by any other person:

A. Where any person who has been the subject of alleged unlawful housing discrimination has not acquired substitute housing, temporary injunctions against the sale or rental to others of the housing accommodation as to which the violation allegedly occurred, and against the sale or rental of other housing accommodations controlled by the alleged violator shall be liberally granted in the interests of furthering the purposes of this Act, when it appears probable that the plaintiff will succeed upon final disposition of the case.

B. Remedy. If the court finds that unlawful discrimination occurred, its judgment shall specify an appropriate remedy or remedies therefor. Such remedies may include, but are not limited to:

- (1) An order to cease and desist from the unlawful practices specified in the order;
- (2) An order to employ or reinstate a victim of unlawful employment discrimination, with or without back pay;
- (3) An order to accept or reinstate such a person in a union;
- (4) An order to rent or sell a specified housing accommodation, or one substantially identical thereto if controlled by the respondent, to a victim of unlawful housing discrimination;
- (5) An order requiring the disclosure of the locations and descriptions of all housing accommodations which the violator has the right to sell, rent, lease or manage; and further, forbidding the sale, rental or lease of any such housing accommodations until the violator has given security to assure his compliance with any order entered against him and with all provisions of this Act. Such an order may continue the court's jurisdiction until the violator has demonstrated compliance, and may defer decision on some or all relief until after a probationary period and a further hearing on the violator's conduct during such period;
- (6) An order to pay in cases of unlawful price discrimination the victim thereof 3 times the amount of any excessive price demanded and paid by reason of such unlawful discrimination;

(7) An order to pay to the complainant civil penal damages not in excess of \$100 in the case of the first order under this Act against the respondent, not in excess of \$250 in the case of a 2nd such order against the respondent, and not in excess of \$1,000 in the case of a 3rd or subsequent such order against the respondent.

C. The action shall be commenced not more than one year after the act of unlawful discrimination complained of.

## SUBCHAPTER VII

### CIVIL ACTIONS BY AGGRIEVED PERSONS

#### § 4621. Civil action

Within the time limited above, a person who has been subject to unlawful discrimination may file a civil action in the Superior Court against the person or persons who committed the unlawful discrimination.

#### § 4622. Procedure

If the plaintiff alleges and establishes, to the satisfaction of the court, that he or someone acting on his behalf filed a complaint concerning the alleged unlawful discrimination with the commission at least 30 days prior to the filing of his civil action, the action may be advanced on the docket and given priority over other civil actions, and the plaintiff may, in the court's sound discretion, be entitled to any of the relief provided for in this Act. If the plaintiff fails to allege and establish, to the satisfaction of the court, that he or someone acting on his behalf filed a complaint with the commission at least 30 days prior to the filing of his civil action, then except in extraordinary cases, to prevent irreparable injury or where good cause is shown, the action shall be heard in its ordinary course on the docket, and the plaintiff should not be granted attorneys' fees nor exemplary damages.

#### § 4623. Consolidation of cases

If it appears during the pendency of such private action that the commission has commenced an action against the same defendant, based on the same facts, the court shall, except for good cause shown, order consolidation of the cases, on such terms as justice may require.

## SUBCHAPTER VIII

### MISCELLANEOUS

#### § 4631. Burden of proof

In any civil action under this Act, the burden shall be on the person seeking relief to prove, by a fair preponderance of the evidence, that the alleged unlawful discrimination occurred.

Sec. 2. R. S., T. 17, § 1301, repealed. Section 1301 of Title 17 of the Revised Statutes, as amended, is repealed.

**Sec. 3.** R. S., T. 26, §§ 861 - 864, repealed. Sections 861 to 864 of Title 26 of the Revised Statutes, as enacted by section 47 of chapter 513 of the public laws of 1965, are repealed.

**Sec. 4. Effect of repeal.** No civil or criminal action or penalty accrued prior to the effective date of this Act shall be barred, abated or otherwise affected by the passage of this Act.

**Sec. 5. Appropriation.** There is appropriated from the General Fund to the Executive Department, Human Rights Commission the sum of \$62,794 to carry out the purposes of this Act. The breakdown shall be as follows:

	1971-72		1972-73
EXECUTIVE DEPARTMENT			
Human Rights Commission			
Personal Services	(2) \$17,527	(2)	\$18,242
All Other	12,525		12,525
Capital Expenditures	1,825		150
	<hr/>		<hr/>
	\$31,877		\$30,917

Provides funds for the establishment of a 7-member Human Rights Commission, one Chief Investigator and one clerk-stenographer with funds for legal counsel and related operating expense and equipment

#### STATEMENT OF FACT

This bill prohibits discrimination in the areas of housing and employment and public accommodations. It changes the emphasis of our present laws in these areas, which are criminal, to an informal civil remedy. The Human Rights Commission is established to serve as a conciliation and mediation agency.