

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1752

H. P. 1328

House of Representatives, April 2, 1973

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Connolly of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

**AN ACT to Amend the Human Rights Act to Prohibit Invidious
Discrimination against Ex-offenders.**

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

Sec. 1. R. S., T. 5, § 4552, amended. Section 4552 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971, is amended to read as follows:

§ 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, a **prior conviction**, ancestry or national origin and in employment, discrimination on account of age.

Sec. 2. R. S., T. 5, § 4553, sub-§ 11, additional. Section 4553 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971, is amended by adding a new subsection 11, to read as follows:

11. Prior conviction. "Prior conviction" includes a prior conviction in any court for an offense, a misdemeanor or a felony.

Sec. 3. R. S., T. 5, §§ 4571 and 4572, amended. Sections 4571 and 4572 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971, are amended to read as follows:

§ 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, a **prior conviction**, 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, a **prior conviction**, 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, discriminates against individuals because of their race or color, religion, a **prior conviction**, age or country of ancestral origin ;

B. For any employment agency to fail or refuse to classify properly or refer for employment or otherwise discriminate against any individual because of his race or color, religion, a **prior conviction**, 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, a **prior conviction**, 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, a **prior conviction**, age or country of ancestral 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, a **prior conviction**, 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.

Sec. 4. R. S., T. 5, § 4581, amended. Section 4581 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971, is amended to read as follows:

§ 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, a **prior conviction**, ancestry or national original is hereby recognized as and declared to be a civil right.

Sec. 5. R. S., T. 5, § 4582, amended. Section 4582 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 and as amended by section 20 of chapter 622, both of the public laws of 1971, is further amended to read as follows:

§ 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, **prior conviction**, 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, **prior conviction**, 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, **prior conviction**, religion or country of ancestral origin; or to discriminate against any individual because of his race or color, **prior conviction**, 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, **prior conviction**, 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, **prior conviction**, 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, **prior conviction**, 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 a 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, **prior conviction**, 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, **prior conviction**, 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, **prior conviction**, 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~~ July 1, 1972;

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, **prior conviction**, 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, **prior conviction**, religion or country of ancestral origin of such applicant or of the existing or prospective occupants or tenants.

Sec. 6. R. S., T. 5, § 4583, amended. Section 4583 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971, is amended to read as follows:

§ 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, **prior conviction**, 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, **prior conviction**, 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.

Sec. 7. R. S., T. 5, §§ 4591 and 4592, amended. Sections 4591 and 4592 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971, are amended to read as follows:

§ 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, **a prior conviction**, 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, **a prior conviction**, 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, **a prior**

conviction, religion or country of ancestral origin, or that the patronage or custom thereat of any person **having a prior conviction or** 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 a class of persons with no prior conviction or** 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.

STATEMENT OF FACT

The purpose of this bill is first to recognize that, if ex-offenders are unreasonably discriminated against in the important areas of jobs, housing and public accommodations, rehabilitation will be impossible. If rehabilitation of ex-offenders cannot be achieved, the State can reasonably expect to pay increasing amounts of money to maintain custody of the ex-offenders.

The second purpose of this bill is to give jurisdiction to a state agency, the Human Rights Commission, to investigate and hear charges of unreasonable discrimination.