

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2044

S. P. 664

In Senate, January 11, 1978

Filed by the Joint Standing Committee on Performance Audit Under Joint Rule 17.

MAY M. ROSS, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT to Encourage Early Resolution of Discrimination Complaints and to Clarify the
Subpoena Power of the Maine Human Rights Commission.

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

Sec. 1. 5 MRSA § 4566, sub-§ 4-A, is enacted to read:

4-A. Subpoena power. The commission may issue subpoenas to compel access to or production of records, documents and other evidence or possible sources of evidence or the appearance of those persons and may issue interrogatories to a respondent to the same extent as subpoenas and interrogatories issued or served in aid of a civil action in the Superior Court.

Sec. 2. 5 MRSA § 4566, sub-§ 4-B, is enacted to read:

4-B. Subpoenas; approval; contest of validity. Subpoenas issued pursuant to a hearing shall be upon application to and approval of the Superior Court. The person upon whom the subpoena is served may contest its validity. A judicial review of the subpoena shall be permissible in any Superior Court.

Sec. 3. 5 MRSA § 4612, sub-§ 1, as amended by PL 1973, c. 415, § 2, is further amended to read:

1. Predetermination resolution; investigation. Upon receipt of such a complaint, the commission or its delegated single commissioner or investigator shall endeavor to resolve the matter by informal means prior to a determination of whether there are reasonable grounds to believe that unlawful discrimination has occurred. The commission or its delegated 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. In conducting an investigation, the commission or its designated representative shall have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation. The commission may issue subpoenas to compel access to or production of such materials or the appearance of such persons, **subject to section 4566, subsection 4-A**, and may issue interrogatories to a respondent, to the same extent as subpoenas or interrogatories issued or served in aid of a civil action in the Superior Court. The commission may administer oaths.

STATEMENT OF FACT

This bill requires the Maine Human Rights Commission to obtain approval of the Superior Court in order to exercise its subpoena powers for a hearing.

The bill also requires the Maine Human Rights Commission to attempt to resolve any alleged complaint in an informal manner prior to completion of its investigation and prior to a determination by the commission as to whether or not reasonable grounds exist to believe that discrimination has occurred. Many complaints can be resolved informally by the parties once they are fully aware of their rights and obligations under the law. This bill encourages such early resolution.