

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 679

H. P. 548

House of Representatives, February 21, 1979

Speaker laid before the House and on Motion of Mr. Violette of Van Buren, referred to the Committee on Legal Affairs. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Ms. Benoit of South Portland.

Cosponsors: Mr. Rolde of York and Mr. Tarbell of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Clarify Sex Discrimination in the Maine Human Rights Act.

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

5 MRSA § 4572-A is enacted to read:

§ 4572-A. **Unlawful employment discrimination on the basis of sex**

1. **Sex defined.** For the purpose of this Act, the word "sex" includes pregnancy and medical conditions which result from pregnancy.

2. **Pregnant women who are able to work.** It shall be unlawful employment discrimination in violation of this Act, except where based on a bona fide occupational qualification, for an employer, employment agency or labor organization to treat a pregnant woman who is able to work in a different manner from other persons who are able to work.

3. **Pregnant women who are not able to work.** It shall also be unlawful employment discrimination in violation of this Act, except where based on a bona fide occupational qualification, for an employer, employment agency or labor organization to treat a pregnant woman who is not able to work because of a disability or illness resulting from pregnancy, or from medical conditions which

result from pregnancy, in a different manner from other employees who are not able to work because of other disabilities or illnesses.

4. Employer not responsible for additional benefits. Nothing in this section shall be construed to mean that an employer, employment agency or labor organization is required to provide sick leave, a leave of absence, medical benefits or other benefits to a woman because of pregnancy or other medical conditions which result from pregnancy, if this employer, employment agency or labor organization does not also provide sick leaves, leaves of absence, medical benefits or other benefits for his other employees.

STATEMENT OF FACT

When the Maine Human Rights Act was amended in 1973 to include prohibition of discrimination on the basis of sex, 9 U.S. Circuit Courts of Appeal, 2 federal district courts and 15 other states were interpreting sex discrimination to include discrimination because of pregnancy. The Maine Human Rights Commission, the Attorney General's Office and the Department of Personnel have interpreted Maine law in the same way.

However, there has been some public confusion about this interpretation of sex discrimination. The purpose of this bill is to clarify that sex discrimination does include discrimination because of pregnancy.

The bill requires that pregnant women who are able to work shall be treated like others who are similarly able to work, and that pregnancy-related illnesses or disabilities shall be treated the same as other illnesses or disabilities.

The bill does not require an employer who has no disability plan or sick leave policy to have one. Only when an employer assumes the costs of other disabling conditions, must he do so with regard to pregnancy.

Many Maine employers already treat men and women equally in the application of sick leave policies and disability benefits, because they are required to do so in order to receive federal revenue sharing funds or health, education and welfare funds.

According to the Maine Human Rights Commission, virtually all insurance companies do provide or will provide coverage for disabilities related to pregnancy for a minimal cost. The commission has contacted several insurance companies, including Union Mutual, Aetna and Travellers and has found that the costs of covering pregnancy-related disabilities range from 70¢ to \$2.48 per month per female employee, depending on the number of employees and the percentage of women in the work force.