

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

**Legislative Document**

**No. 961**

S. P. 331

In Senate, February 20, 1981

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator Conley of Cumberland.

Cosponsors: Representative Connolly of Portland, Representative Baker of Portland and Representative Benoit of South Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

**AN ACT to Include the Term "Sexual or Affectional Orientation" in the Maine Human Rights Act.**

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

**Sec. 1. 5 MRSA § 4552**, as repealed and replaced by PL 1975, c. 770, § 28, is amended to read:

**§ 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, sex, **sexual or affectional orientation**, physical or mental handicap, religion, ancestry or national origin and in employment, discrimination on account of age; and to prevent discrimination in the extension of credit on account of age, race, color, sex, **sexual or affectional orientation**, marital status, religion, ancestry or national origin.

**Sec. 2. 5 MRSA § 4553, sub-§ 9-A** is enacted to read:

**9-A. Sexual or affectional orientation. "Sexual or affectional orientation"**

means having or manifesting an emotional or physical attachment to another consenting person or persons of either gender, or having or manifesting a preference for such attachment.

Sec. 3. 5 MRSA § 4566, sub-§ 6, 2nd sentence, as repealed and replaced by PL 1975, c. 770, § 29, is amended to read:

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, sex, **sexual or affectional orientation**, physical or mental handicap, religion, age, ancestry or national origin, and foster, through community effort or otherwise, good will among the groups and elements of the population of the State.

Sec. 4. 5 MRSA § 4566, sub-§ 10, as repealed and replaced by PL 1975, c. 770, § 30, is amended to read:

10. **Publications.** To issue such publication 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, sex, **sexual or affectional orientation**, physical or mental handicap, religion, age, ancestry or national origin;

Sec. 5. 5 MRSA § 4566, sub-§ 11, as repealed and replaced by PL 1975, c. 770, § 31, is amended to read:

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, sex, **sexual or affectional orientation**, physical or mental handicap, religion, age, ancestry or national origin, or other infringements on human rights or personal dignity, as may be desirable;

Sec. 6. 5 MRSA § 4571, as repealed and replaced by PL 1975, c. 770, § 32, is amended to read:

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

The opportunity for an individual to secure employment with discrimination because of race, color, sex, **sexual or affectional orientation**, physical or mental handicap, religion, age, ancestry or national origin is recognized as and declared to be a civil right.

Sec. 7. 5 MRSA § 4572, sub-§ 1, ¶¶ A and B, as repealed and replaced by PL 1975, c. 770, § 33, are amended to read:

A. For any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of race or color, sex, **sexual or affectional orientation**, physical or mental handicap, religion, ancestry or

national origin or age, or because of any such reason to discharge an employee or discriminate 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 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, sex, **sexual or affectional orientation**, physical or mental handicap, religion, age, ancestry or national 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 race or color, sex, **sexual or affectional orientation**, physical or mental handicap, religion, age, ancestry or national 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, sex, **sexual or affectional orientation**, physical or mental handicap, religion, age, ancestry or national origin;

**Sec. 8.** 5 MRSA § 4572, sub-§ 1, ¶ C, as amended by PL 1977, c. 565, is amended to read:

**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 race or color, sex, **sexual or affectional orientation**, physical or mental handicap, religion, age, ancestry or national origin, or because of any such reason to deny a member full and equal membership rights, expel from membership, penalize or otherwise discriminate in any manner with respect to 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 race or color, sex, **sexual or affectional orientation**, physical or mental handicap, religion, age, ancestry or national origin or to cause or attempt to cause an employer to discriminate against an individual in violation of this section, except that it shall be lawful for labor organizations and employers to adopt a maximum age limitation in apprenticeship programs;

**Sec. 9.** 5 MRSA § 4572, sub-§ 1, ¶ D, as repealed and replaced by PL 1975, c. 770, § 33, is amended to read:

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

(1) Elicit or attempt to elicit any information directly or indirectly pertaining to race or color, sex, **sexual or affectional orientation**, physical or

mental handicap, religion, age, ancestry or national origin, except where a physical or mental handicap is determined by the employer, employment agency or labor organization to be job related; or where some privileged information is necessary for an employment agency or labor organization to make a suitable job referral;

(2) Make or keep a record of race or color, sex, **sexual or affectional orientation**, physical or mental handicap, religion, age, ancestry or national origin, except under physical or mental handicap, when an employer requires a physical or mental examination prior to employment, a privileged record of such an examination is permissible;

(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, sex, **sexual or affectional orientation**, physical or mental handicap, religion, age, ancestry or national origin, except under physical or mental handicap, where it can be determined by the employer that the job or jobs to be filled require such information for the well-being and safety of the individual; nor will this section prohibit any officially recognized agency from keeping necessary records in order to provide free services to individuals requiring rehabilitation or employment assistance;

(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, sex, **sexual or affectional orientation**, physical or mental handicap, age, ancestry or national origin, except under physical or mental handicap when the text of such printed or published material strictly adheres to this Act; or

(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, sex, **sexual or affectional orientation**, physical or mental handicap, religion, age, ancestry or national origin of such group; or

Sec. 10. 5 MRSA § 4581, as repealed and replaced by PL 1975, c. 770, § 35, is amended to read:

**§ 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, sex, **sexual or affectional orientation**, physical or mental ~~handicap~~ handicap, religion, ancestry or national origin is hereby recognized as and declared to be a civil right.

Sec. 11. 5 MRSA § 4582, as repealed and replaced by PL 1975, c. 770, § 36, is repealed and the following enacted in its place:

**§ 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, sex, sexual or affectional orientation, physical or mental handicap, religion, ancestry or national origin of any prospective purchaser, occupant or tenant of that housing accommodation; or to refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold from any individual any housing accommodation because of the race or color, sex, sexual or affectional orientation, physical or mental handicap, religion, ancestry or national origin of the individual; or to issue any advertisement relating to the sale, rental or lease of any housing accommodation which indicates any preference, limitation, specification or discrimination based upon race or color, sex, sexual or affectional orientation, physical or mental handicap, religion, ancestry or national origin; or to discriminate against any individual because of race or color, sex, sexual or affectional orientation, physical or mental handicap, religion, ancestry or national 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, sex, sexual or affectional orientation, physical or mental handicap, religion, ancestry or national origin of the tenant;**

**For any real estate broker or real estate sales person, or agent of one of them, to fail or refuse to show any applicant for a housing accommodation any such accommodation listed for sale, lease or rental, because of the race or color, sex, sexual or affectional orientation, physical or mental handicap, religion, ancestry or national origin of the applicant or of any intended occupant of that accommodation, or to misrepresent, for the purpose of discriminating on account of the race or color, sex, sexual or affectional orientation, physical or mental handicap, religion, ancestry or national origin of the applicant or intended occupant, the availability or asking price of a housing accommodation listed for sale, lease or rental; or for such a reason to fail to communicate to the person having the right to sell or lease the 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, sex, sexual or affectional orientation, physical or mental handicap, religion, ancestry or national origin of the 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, sex, sexual or affectional orientation, physical or mental handicap, religion, ancestry or national 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, sex, sexual or affectional orientation, physical or mental handicap, religion, ancestry or national origin, or when he knows or has reason to know that**

the person having the right to sell or lease that housing accommodation has made a practice of discrimination since 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 that person, to make or cause to be made any oral or written inquiry concerning the race or color, sex, sexual or affectional orientation, physical or mental handicap, religion, ancestry or national origin of any individual seeking financial assistance, or of existing or prospective occupants or tenants of those housing accommodations; or to discriminate in the granting of 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, sex, sexual or affectional orientation, physical or mental handicap, religion, ancestry or national origin of the applicant or of the existing or prospective occupants or tenants; or

For any person furnishing rental premises to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, state or local public assistance, including medical assistance, and housing subsidies solely because of the individual's status as the recipient.

Sec. 12. 5 MRSA § 4583, as repealed and replaced by PL 1975, c. 770, § 37, is amended to read:

**§ 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, sex, **sexual or affectional orientation**, physical or mental handicap, religion or country of ancestral origin, the receipt of public assistance payments 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, sex, **sexual or affectional orientation**, physical or mental handicap, religion, or country of ancestral origin, the receipt of public assistance payments 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. 13. 5 MRSA § 4591, as repealed and replaced by PL 1975, c. 770, § 38, is amended to read:

**§ 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, sex, **sexual or affectional orientation**, physical or mental handicap, religion, ancestry or national origin is recognized as and declared to be a civil right.

**Sec. 14. 5 MRSA § 4592**, as repealed and replaced by PL 1975, c. 770, § 39, is amended to read:

**§ 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, sex, **sexual or affectional orientation**, physical or mental handicap, religion, ancestry or national 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, sex, **sexual or affectional orientation**, physical or mental handicap, religion, ancestry or national origin, or that the patronage or custom thereof of any person belonging to or purporting to be of any particular race or color, sex, **sexual or affectional orientation**, physical or mental handicap, religion, ancestry or national origin is unwelcome, objectionable or not acceptable, desired or solicited, or that the clientele thereof is restricted to members of particular races or colors, sexes, **members having sexual or affectional orientation**, physical or mental handicap, religions, ancestries or national 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.

**Sec. 15. 5 MRSA § 4595**, as repealed and replaced by PL 1975, c. 770, § 40, is repealed and the following enacted in its place:

**§ 4595. Right to freedom from discrimination solely on the basis of age, race, color, sex, sexual or affectional orientation, marital status, ancestry, religion or national origin in any credit transaction**

The opportunity for every individual to be extended credit without discrimination solely because of any one or more of the following factors: Age;

race; color; sex; sexual or affectional orientation; marital status; ancestry; religion; or national origin is recognized as and declared to be a civil right.

**Sec. 16.** 5 MRS § 4596, first sentence, as repealed and replaced by PL 1975, c. 770, § 41, is repealed and the following enacted in its place:

**It shall be unlawful credit discrimination for any creditor to refuse the extension of credit to any person solely on the basis of any one or more of the following factors: Age; race; color; sex; sexual or affectional orientation; marital status; ancestry; religion; or national origin in any credit transaction.**

**Sec. 17.** 5 MRS § 4612, sub-§ 1, ¶A, as amended by PL 1975, c. 358, § 15, is further amended to read:

**A.** 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, sex, **sexual or affectional orientation**, physical or mental handicap, religious, nationality group or age 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.

#### STATEMENT OF FACT

The purpose of this bill is to extend to all citizens regardless of their sexual or affectional orientation the same protections now guaranteed to others on the basis of race, creed, sex, color, etc. Discrimination in the areas of employment, housing, public accommodations and credit would be prohibited.