

MAINE STATE LEGISLATURE

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(Governor's Bill)
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1470

S. P. 530

In Senate, March 25, 1981

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator Bustin of Kennebec.

Cosponsors: Representative Connolly of Portland, Representative
Murphy of Kennebunk and Senator Hichens of York.

STATE OF MAINE

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

AN ACT to Protect Persons with Children against Discrimination in Fair Housing.

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

Sec. 1. 5 MRSA § 4581, as repealed and replaced by PL 1975, c. 770, § 35, is amended to read: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, physical or mental ~~handicap~~ **handicap**, religion, ancestry or national origin **or because the individual has a child or children who shall occupy leased or rented premises with that person** is hereby recognized as and declared to be a civil right.

Sec. 2. 5 MRSA § 4582-A is enacted to read:

§ 4582-A. **Unlawful housing discrimination because of the presence of children**

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

A. For any owner, lessee, sublessee, managing agent or other person having the right to 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 existence of children of any prospective occupant or tenant of such housing accommodation or to refuse to show or refuse to rent or lease to any individual such housing accommodation because the individual has a child or children who shall occupy the leased or rented premises with that person or to issue any advertisement relating to the rental or lease of such housing accommodation which indicates any preference, limitation, specification or discrimination based upon the presence or absence of children or to discriminate against any individual because the individual has a child or children who shall occupy the leased or rented premises with that person in the price, terms, conditions or privileges of the 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 the tenant has a child or children;

B. 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 lease or rental because the applicant or intended occupant has a child or children who shall occupy the leased or rented premises with that person or to misrepresent, for the purpose of discrimination because the applicant or intended occupant has a child or children who shall occupy the leased or rented premises with that person, the availability or asking price of a housing accommodation listed for lease or rental, or for such a reason to fail to communicate to the person having the right to rent 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 rental housing because the applicant or intended occupant has a child or children who shall occupy the leased or rented premises with that person, or to make or cause to be made any written or oral inquiry or record concerning whether or not the applicant or intended occupant has a child or children who shall occupy the leased or rented premises with that person, or to accept for listing any housing accommodation when the person having the right to rent or lease the same has directly or indirectly indicated an intention of discriminating among prospective tenants because they do or do not have a child or children who shall occupy the leased or rented premises with them; or

C. For any person to whom application is made for a loan or other form of financial assistance for the acquisition, lease, 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 whether these persons have a child or children who shall occupy the housing accommodation, 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 the applicant or existing or prospective occupants or tenants have a child or children who shall occupy the premises with that person.

2. Not unlawful housing discrimination. The following do not constitute unlawful housing discrimination.

A. The prohibition against discriminating in fair housing because an applicant for or existing or prospective lessee, tenant or occupant of a housing accommodation has a child or children who shall occupy the leased or rented premises with that person shall not apply to publicly assisted or publicly subsidized developments, buildings or apartments designated by the administering public agency for persons over 62 years of age or for privately owned developments, buildings or apartments which are designated by the owner for persons over 62 years of age and all units of which are, in fact, occupied by households, the head of which, or spouse, is over 62 years of age.

B. The denial of a housing accommodation to an applicant who has a child or children who shall occupy the rented premises with that person shall not be a violation of this section if the denial of the accommodation is required by the provisions of the Lead Poisoning Control Act, Title 22, chapter 252.

C. Nothing in this section shall prohibit an owner, lessee, sublessee, managing agent or other person having the right to rent, lease or manage a housing accommodation from imposing limitations on the number of persons occupying a rented dwelling unit.

STATEMENT OF FACT

This bill makes it unlawful discrimination for a landlord to refuse to rent to an individual solely because that individual has a child or children.

Currently, many families in Maine are finding it more and more difficult to find decent housing because of the widespread practice of refusing rentals to families with children. In addition, exclusionary policies have been increasing, so that in 1981 approximately one out of every 4 rental units are unavailable solely because a family has children.

This practice places an unfair burden on many Maine families, forcing them to look longer for housing, an average of 2 1/2 months, to pay higher rents and to live in less desirable housing situations. These policies also inflict serious emotional and economic burdens on families.

The policy and practice of refusing to rent to families with children is contradictory to current state and federal emphasis on the family as evidenced by the recent Blaine House and White House Conferences on Families and resulting resolutions relating to the refusal to rent to families with children.

In addition, these exclusionary policies are in opposition to existing state policy regarding housing adopted by the Governor in 1977, calling for an end to discrimination in housing because of children and calling for legislation to remedy this situation. See: Public Policy and Maine Housing, Maine State Planning Office, August 1977, page 26.

This bill amends the Maine Human Rights Act. Exemptions contained in the Act, Title 5, section 4553, subsection 6, apply to this legislation. They include:

1. The rental of a one-family unit of a 2-family dwelling, one unit of which is occupied by the owner;
2. The rental of not more than 4 rooms of a one-family dwelling which is occupied by the owner; and
3. The rental of any dwelling owned, controlled or operated for other than a commercial purpose, by a religious corporation to its membership, unless such membership is restricted on account of race, color or national origin.

In addition, both public and private housing for the elderly is exempted. Exemption is also made in this bill for denial of a housing accommodation if required by provisions of the Lead Poisoning Control Act.

Under this bill, landlords may impose limitations on the number of persons occupying a housing unit.