

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 679

6
7 S.P. 237

In Senate, February 10, 1983

8 Referred to the Committee on Judiciary, sent down for concurrence and
9 ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Conley of Cumberland.

Cosponsors: Representative Connolly of Portland, Representative Benoit
11 of So. Portland and Representative Baker of Portland.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Include the Term "Sexual or
18 Affectional Orientation" in the Maine Human
19 Rights Act.
20

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

23 Sec. 1. 5 MRSA §4552, as repealed and replaced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

25 §4552. Policy

26 To protect the public health, safety and welfare,
27 it is declared to be the policy of this State to keep
28 continually in review all practices infringing on the
29 basic human right to a life with dignity, and the
30 causes of such these practices, so that corrective
31 measures may, where possible, be promptly recommended
32 and implemented, and to prevent discrimination in
33 employment, housing or access to public accommoda-

1 tions on account of race, color, sex, sexual or
2 affectional orientation, physical or mental handicap,
3 religion, ancestry or national origin and in employ-
4 ment, discrimination on account of age; and to pre-
5 vent discrimination in the extension of credit on ac-
6 count of age, race, color, sex, sexual or affectional
7 orientation, marital status, religion, ancestry or
8 national origin.

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

11 9-A. Sexual or affectional orientation. "Sexual
12 or affectional orientation" means having or
13 manifesting an emotional or physical attachment to
14 another consenting person or persons of either
15 gender, or having or manifesting a preference for
16 that attachment.

17 Sec. 3. 5 MRSA §4566, sub-§6, as amended by PL
18 1975, c. 770, §29, is further amended to read:

19 6. Advisory groups. To create such advisory
20 agencies and conciliation councils, local or, as will
21 aid in effectuating the purposes of this Act. The
22 commission may itself or it may empower these agen-
23 cies and councils to study the problems of discrimi-
24 nation in all or specific fields of human relation-
25 ships when based on race or color, sex, sexual or
26 affectional orientation, physical or mental handicap,
27 religion, age, ancestry or national origin, and
28 foster, through community effort or otherwise, good
29 will among the groups and elements of the population
30 of the State. ~~Such~~ These agencies and councils may
31 make recommendations to the commission for the devel-
32 opment of policies and procedures in general. Advi-
33 sory agencies and conciliation councils created by
34 the commission shall be composed of representative
35 citizens serving without pay, but with reimbursement
36 for actual and necessary traveling expenses;

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

39 10. Publications. To issue such publication and
40 such results of investigations and research as in its
41 judgment will tend to promote good will, and minimize

1 or eliminate discrimination based on race or color,
2 sex, sexual or affectional orientation, physical or
3 mental handicap, religion, age, ancestry or national
4 origin;

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

7 11. Reports. From time to time, but not less
8 than once a year, to report to the Legislature and
9 the Governor, describing the investigations, proceed-
10 ings and hearings the commission has conducted and
11 their outcome and the other work performed by it, and
12 make recommendations for such further legislation or
13 executive action concerning abuses and discrimination
14 based on race or color, sex, sexual or affectional
15 orientation, physical or mental handicap, religion,
16 age, ancestry or national origin, or other infringe-
17 ments on human rights or personal dignity, as may be
18 desirable;

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

21 §4571. Right to freedom from discrimination in
22 employment

23 The opportunity for an individual to secure
24 employment without discrimination because of race,
25 color, sex, sexual or affectional orientation, phys-
26 ical or mental handicap, religion, age, ancestry or
27 national origin is recognized as and declared to be a
28 civil right.

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

32 A. For any employer to fail or refuse to hire or
33 otherwise discriminate against any applicant for
34 employment because of race or color, sex, sexual
35 or affectional orientation, physical or mental
36 handicap, religion, ancestry or national origin
37 or age, or because of any such reason to dis-
38 charge an employee or discriminate with respect
39 to hire, tenure, promotion, transfer, compensa-
40 tion, terms, conditions or privileges of employ-

1 ment, or any other matter directly or indirectly
2 related to employment, or in recruiting of indi-
3 viduals for employment or in hiring them, to
4 utilize any employment agency which such that
5 employer knows, or has reasonable cause to know,
6 discriminates against individuals because of
7 their race or color, sex, sexual or affectional
8 orientation, physical or mental handicap, reli-
9 gion, age, ancestry or national origin;

10 B. For any employment agency to fail or refuse
11 to classify properly or refer for employment or
12 otherwise discriminate against any individual
13 because of race or color, sex, sexual or
14 affectional orientation, physical or mental hand-
15 icap, religion, age, ancestry or national origin
16 or to comply with an employer's request for the
17 referral of job applicants, if such the request
18 indicates either directly or indirectly that such
19 the employer will not afford full and equal
20 employment opportunities to individuals regard-
21 less of their race or color, sex, sexual or
22 affectional orientation, physical or mental hand-
23 icap, religion, age, ancestry or national origin;

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

26 C. For any labor organization to exclude from
27 apprenticeship or membership, or to deny full and
28 equal membership rights, to any applicant for
29 membership, because of race or color, sex, sexual
30 or affectional orientation, physical or mental
31 handicap, religion, age, ancestry or national
32 origin, or because of any such reason to deny a
33 member full and equal membership rights, expel
34 from membership, penalize or otherwise discrimi-
35 nate in any manner with respect to hire, tenure,
36 promotion, transfer, compensation, terms, condi-
37 tions or privileges of employment, representa-
38 tion, grievances or any other matter directly or
39 indirectly related to membership or employment,
40 whether or not authorized or required by the con-
41 stitution or bylaws of such that labor organiza-
42 tion or by a collective labor agreement or other
43 contract, or to fail or refuse to classify prop-
44 erly or refer for employment, or otherwise to

1 discriminate against any member because of race
2 or color, sex, sexual or affectional orientation,
3 physical or mental handicap, religion, age,
4 ancestry or national origin or to cause or
5 attempt to cause an employer to discriminate
6 against an individual in violation of this
7 section, except that it shall be lawful for labor
8 organizations and employers to adopt a maximum
9 age limitation in apprenticeship programs;

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

13 D. For any employer or employment agency or
14 labor organization, prior to employment or admis-
15 sion to membership of any individual, to:

16 (1) Elicit or attempt to elicit any infor-
17 mation directly or indirectly pertaining to
18 race or color, sex, sexual or affectional
19 orientation, physical or mental handicap,
20 religion, age, ancestry or national origin,
21 except where a physical or mental handicap
22 is determined by the employer, employment
23 agency or labor organization to be job
24 related; or where some privileged informa-
25 tion is necessary for an employment agency
26 or labor organization to make a suitable job
27 referral;

28 (2) Make or keep a record of race or color,
29 sex, sexual or affectional orientation,
30 physical or mental handicap, religion, age,
31 ancestry or national origin, except under
32 physical or mental handicap, when an
33 employer requires a physical or mental exam-
34 ination prior to employment, a privileged
35 record of such an examination is permis-
36 sible;

37 (3) Use any form of application for employ-
38 ment, or personnel or membership blank con-
39 taining questions or entries directly or
40 indirectly pertaining to race or color, sex,
41 sexual or affectional orientation, physical
42 or mental handicap, religion, age, ancestry

1 or national origin, except under physical or
2 mental handicap, where it can be determined
3 by the employer that the job or jobs to be
4 filled require ~~such~~ that information for the
5 well-being and safety of the individual; nor
6 will this section prohibit any officially
7 recognized agency from keeping necessary
8 records in order to provide free services to
9 individuals requiring rehabilitation or
10 employment assistance;

11 (4) Print or publish or cause to be printed
12 or published any notice or advertisement
13 relating to employment or membership indi-
14 cating any preference, limitation, speci-
15 fication or discrimination based upon race
16 or color, sex, sexual or affectional
17 orientation, physical or mental handicap,
18 age, ancestry or national origin, except
19 under physical or mental handicap when the
20 text of ~~such~~ the printed or published mate-
21 rial strictly adheres to this Act; or

22 (5) Establish, announce or follow a policy
23 of denying or limiting, through a quota sys-
24 tem or otherwise, employment or membership
25 opportunities of any group because of the
26 race or color, sex, sexual or affectional
27 orientation, physical or mental handicap,
28 religion, age, ancestry or national origin
29 of ~~such~~ that group; or

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

32 §4581. Decent housing

33 The opportunity for an individual to secure
34 decent housing in accordance with his ability to pay,
35 and without discrimination because of race, color,
36 sex, sexual or affectional orientation, physical or
37 mental ~~handicap~~ handicap, religion, ancestry or
38 national origin is hereby recognized as and declared
39 to be a civil right.

40 Sec. 11. 5 MRSA §4582, as repealed and replaced
41 by PL 1975, c. 770, §36, is repealed and the follow-
42 ing enacted in its place:

1 §4582. Unlawful housing discrimination

2 It shall be unlawful housing discrimination, in
3 violation of this Act:

4 1. Discrimination in sale or lease; certain
5 inquiries prohibited. For any owner, lessee,
6 sublessee, managing agent or other person having the
7 right to sell, rent, lease or manage a housing accom-
8 modation, or any agent of these, to:

9 A. Make or cause to be made any written or oral
10 inquiry concerning the race or color, sex, sexual
11 or affectional orientation, physical or mental
12 handicap, religion, ancestry or national origin
13 of any prospective purchaser, occupant or tenant
14 of that housing accommodation; or

15 B. Refuse to show or refuse to sell, rent, lease,
16 let or otherwise deny to or withhold from any
17 individual any housing accommodation because of
18 the race or color, sex, sexual or affectional
19 orientation, physical or mental handicap, reli-
20 gion, ancestry or national origin of the indi-
21 vidual; or

22 C. Issue any advertisement relating to the sale,
23 rental or lease of any housing accommodation
24 which indicates any preference, limitation,
25 specification or discrimination based upon race
26 or color, sex, sexual or affectional orientation,
27 physical or mental handicap, religion, ancestry
28 or national origin; or

29 D. Discriminate against any individual because of
30 race or color, sex, sexual or affectional
31 orientation, physical or mental handicap, reli-
32 gion, ancestry or national origin in the price,
33 terms, conditions or privileges of the sale,
34 rental or lease of any such housing accommoda-
35 tions or in the furnishing of facilities or ser-
36 vices in connection therewith; or

37 E. Evict or attempt to evict any tenant of any
38 housing accommodation because of the race or
39 color, sex, sexual or affectional orientation,
40 physical or mental handicap, religion, ancestry
41 or national origin of the tenant;

1 2. Discrimination in negotiations for sale or
2 lease. For any real estate broker or real estate
3 sales person, or agent of one of them, to:

4 A. Fail or refuse to show any applicant for a
5 housing accommodation any such accommodation
6 listed for sale, lease or rental, because of the
7 race or color, sex, sexual or affectional
8 orientation, physical or mental handicap, reli-
9 gion, ancestry or national origin of the appli-
10 cant or of any intended occupant of that accommo-
11 modation;

12 B. Misrepresent, for the purpose of discriminat-
13 ing on account of the race or color, sex, sexual
14 or affectional orientation, physical or mental
15 handicap, religion, ancestry or national origin
16 of the applicant or intended occupant, the avail-
17 ability or asking price of a housing accommoda-
18 tion listed for sale, lease or rental;

19 C. For such a reason, fail to communicate to the
20 person having the right to sell or lease the
21 housing accommodation any offer for the housing
22 accommodation made by any applicant thereof;

23 D. In any other manner discriminate against any
24 applicant for housing because of race or color,
25 sex, sexual or affectional orientation, physical
26 or mental handicap, religion, ancestry or
27 national origin of the applicant or of any
28 intended occupant of the housing accommodation;

29 E. Make or cause to be made any written or oral
30 inquiry or record concerning the race or color,
31 sex, sexual or affectional orientation, physical
32 or mental handicap, religion, ancestry or
33 national origin of any such applicant or intended
34 occupant; or

35 F. Accept for listing any housing accommodation
36 when the person having the right to sell or lease
37 the housing accommodation has directly or indi-
38 rectly indicated an intention of discriminating
39 among prospective tenants or purchasers on the
40 ground of their race or color, sex, sexual or
41 affectional orientation, physical or mental hand-

1 icap, religion, ancestry or national origin, or
2 when he knows or has reason to know that the
3 person having the right to sell or lease that
4 housing accommodation has made a practice of dis-
5 crimination since July 1, 1972;

6 3. Financial assistance; discrimination. For any
7 person to whom application is made for a loan or
8 other form of financial assistance for the acquisi-
9 tion, construction, rehabilitation, repair or mainte-
10 nance of any housing accommodation, whether secured
11 or unsecured, or agent of that person, to:

12 A. Make or cause to be made any oral or written
13 inquiry concerning the race or color, sex, sexual
14 or affectional orientation, physical or mental
15 handicap, religion, ancestry or national origin
16 of any individual seeking financial assistance,
17 or of existing or prospective occupants or ten-
18 ants of those housing accommodations; or

19 B. Discriminate in the granting of financial
20 assistance, or in the terms, conditions or privi-
21 leges relating to the obtaining or use of any
22 such financial assistance, against any applicant
23 because of the race or color, sex, sexual or
24 affectional orientation, physical or mental hand-
25 icap, religion, ancestry or national origin of
26 the applicant or of the existing or prospective
27 occupants or tenants; or

28 4. Refusal to rent to persons receiving assis-
29 tance. For any person furnishing rental premises to
30 refuse to rent or impose different terms of tenancy
31 to any individual who is a recipient of federal,
32 state or local public assistance, including medical
33 assistance, and housing subsidies solely because of
34 the individual's status as the recipient.

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

37 §4583. Application

38 Nothing in this Act shall be construed in any
39 manner to prohibit or limit the exercise of the
40 privilege of every person and the agent of any person

1 having the right to sell, rent, lease or manage a
2 housing accommodation to set up and enforce speci-
3 fications in the selling, renting, leasing or letting
4 thereof or in the furnishings of facilities or ser-
5 vices in connection therewith which are not based on
6 the race, color, sex, sexual or affectional
7 orientation, physical or mental handicap, religion or
8 country of ancestral origin, the receipt of public
9 assistance payments of any prospective or actual pur-
10 chaser, lessee, tenant or occupant thereof. Nothing
11 in this Act contained shall be construed in any man-
12 ner to prohibit or limit the exercise of the privi-
13 lege of every person and the agent of any person
14 making loans for or offering financial assistance in
15 the acquisition, construction, rehabilitation, repair
16 or maintenance of housing accommodations, to set
17 standards and preferences, terms, conditions, limita-
18 tions or specifications for the granting of ~~sueh~~
19 ~~those~~ loans or financial assistance which are not
20 based on the race, color, sex, sexual or affectional
21 orientation, physical or mental handicap, religion or
22 country of ancestral origin, the receipt of public
23 assistance payments of the applicant for ~~sueh~~ the
24 loan or financial assistance or, of any existing or
25 prospective owner, lessee, tenant or occupant of ~~sueh~~
26 the housing accommodation.

27 Sec. 13. 5 MRSA §4591, as repealed and replaced
28 by PL 1975, c. 770, §38, is amended to read:

29 §4591. Equal access to public accommodations

30 The opportunity for every individual to have
31 equal access to places of public accommodation with-
32 out discrimination because of race, color, sex,
33 sexual or affectional orientation, physical or mental
34 handicap, religion, ancestry or national origin is
35 recognized as and declared to be a civil right.

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

38 §4592. Unlawful public accommodations

39 It shall be unlawful public accommodations dis-
40 crimination, in violation of this Act:

1 For any person, being the owner, lessee, propri-
2 etor, manager, superintendent, agent or employee of
3 any place of public accommodation, to directly or
4 indirectly refuse, withhold from or deny to any
5 person, on account of race or color, sex, sexual or
6 affectional orientation, physical or mental handicap,
7 religion, ancestry or national origin, any of the ac-
8 commodatons, advantages, facilities or privileges of
9 such that place of public accommodation, or for such
10 that reason in any manner discriminate against any
11 person in the price, terms or conditions upon which
12 access to such the accommodation, advantages, facili-
13 ties and privileges may depend;

14 For any person to directly or indirectly publish,
15 circulate, issue, display, post or mail any written,
16 printed, painted or broadcast communication, notice
17 or advertisement, to the effect that any of the ac-
18 commodatons, advantages, facilities and privileges
19 of any place of public accommodation shall be
20 refused, withheld from or denied to any person on ac-
21 count of race or color, sex, sexual or affectional
22 orientation, physical or mental handicap, religion,
23 ancestry or national origin, or that the patronage or
24 custom thereat of any person belonging to or purport-
25 ing to be of any particular race or color, sex,
26 sexual or affectional orientation, physical or mental
27 handicap, religion, ancestry or national origin is
28 unwelcome, objectionable or not acceptable, desired
29 or solicited, or that the clientele thereof is re-
30 stricted to members of particular races or colors,
31 sexes, members having sexual or affectional
32 orientation, physical or mental handicap, religions,
33 ancestries or national origin. The production of any
34 such written, printed, painted or broadcast communi-
35 cation, notice or advertisement, purporting to relate
36 to any such place, shall be presumptive evidence in
37 any action that the same was authorized by its owner,
38 manager or proprietor.

39 Sec. 15. 5 MRSA §4595, as repealed and replaced
40 by PL 1975, c. 770, §40, is repealed and the follow-
41 ing enacted in its place:

42 §4595. Right to freedom from discrimination solely
43 on the basis of age, race, color, sex, sexual
44 or affectional orientation, marital status,

1 ancestry, religion or national origin in any
2 credit transaction

3 The opportunity for every individual to be
4 extended credit without discrimination solely because
5 of any one or more of the following factors: Age;
6 race; color; sex; sexual or affectional orientation;
7 marital status; ancestry; religion; or national
8 origin is recognized as and declared to be a civil
9 right.

10 Sec. 16. 5 MRSA §4596, first ¶, as repealed and
11 replaced by PL 1975, c. 770, §41, is amended to read:

12 It shall be unlawful credit discrimination for
13 any creditor to refuse the extension of credit to any
14 person solely on the basis of any one or more of the
15 following factors: Age; race; color; sex; sexual or
16 affectional orientation; marital status; ancestry;
17 religion or national origin in any credit trans-
18 action. It shall not be unlawful credit discrimina-
19 tion to comply with the terms and conditions of any
20 bona fide group credit life, accident and health
21 insurance plan, for a financial institution extending
22 credit to a married person to require both the hus-
23 band and the wife to sign a note and a mortgage and
24 to deny credit to persons under the age of 18 or to
25 consider a person's age in determining the terms upon
26 which credit will be extended.

27 STATEMENT OF FACT

28 The purpose of this bill is to extend to all cit-
29 izens regardless of their sexual or affectional
30 orientation the same protections now guaranteed to
31 others on the basis of race, creed, sex or color.
32 Discrimination in the areas of employment, housing,
33 public accommodations and credit would be prohibited.

34 2205012583