

MAINE STATE LEGISLATURE

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(New Draft of H.P. 841, L.D.1091)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1653

H.P. 1241

House of Representatives, May 20, 1983

Reported by the Majority from the Committee on Education and printed under Joint Rule 2.

Original bill presented by Representative Benoit of So. Portland.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

AN ACT to Insure State Enforcement of
Equal Opportunity in State-supported
Educational Programs.

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

Sec. 1. 5 MRSA §4553, sub-§2-A is enacted to read:

2-A. Educational institution. "Educational institution" means any public school or educational program, any public post-secondary institution, any private school or educational program approved for tuition purposes if both male and female students are admitted and the governing body of each such school or program.

Sec. 2. 5 MRSA §4553, sub-§10, as enacted by PL 1971, c. 501, §1, is amended to read:

1 10. Unlawful discrimination. "Unlawful discrimi-
2 nation" includes:

3 A. Unlawful employment discrimination as defined
4 and limited by subchapter III;

5 B. Unlawful housing discrimination as defined
6 and limited by subchapter IV;

7 C. Unlawful public accommodations discrimination
8 as defined by subchapter V;

9 D. Aiding, abetting, inciting, compelling or
10 coercing another to do any of such types of
11 unlawful discrimination; obstructing or prevent-
12 ing any person from complying with this Act or
13 any order issued ~~hereunder~~ in this subsection;
14 attempting to do any act of unlawful discrimina-
15 tion; and punishing or penalizing, or attempting
16 to punish or penalize, any person for seeking to
17 exercise any of the civil rights declared by this
18 Act or for complaining of a violation of this Act
19 or for testifying in any proceeding brought ~~here-~~
20 ~~under~~ in this subsection; and

21 E. In determining whether any person is acting
22 as an agent or employee of another person so as
23 to make such other person responsible for his
24 acts, the question of whether the specific acts
25 performed were actually authorized or subse-
26 quently ratified shall not be controlling; and

27 F. Unlawful educational discrimination as de-
28 defined and limited by subchapter V-B.

29 Sec. 3. 5 MRSA c. 337, sub-c. V-B is enacted to
30 read:

31 SUBCHAPTER V-B

32 EDUCATIONAL OPPORTUNITY

33 §4601. Right to freedom from discrimination in edu-
34 cation

35 The opportunity for an individual at an educa-
36 tional institution to participate in all educational,

1 counseling, vocational guidance programs and all
2 apprenticeship and on-the-job training programs with-
3 out discrimination because of sex is recognized and
4 declared to be a civil right.

5 §4602. Unlawful educational discrimination

6 1. Unlawful educational discrimination. It is
7 unlawful educational discrimination in violation of
8 this Act, on the basis of sex, to:

9 A. Exclude a person from participation in, deny
10 a person the benefits of, or subject a person to,
11 discrimination in any academic extracurricular,
12 research, occupational training or other program
13 or activity;

14 B. Deny a person equal opportunity in athletic
15 programs;

16 C. Apply any rule concerning the actual or
17 potential family or marital status of a person or
18 to exclude any person from any program or activi-
19 ty because of pregnancy or related conditions;

20 D. Deny admission to the institution or program
21 or to fail to provide equal access to and infor-
22 mation about an institution or program through
23 recruitment; or

24 E. Deny financial assistance availability and
25 opportunity.

26 §4603. Rulemaking

27 The Commissioner of Educational and Cultural Ser-
28 vices shall have joint rule-making authority with the
29 commission to effectuate this subchapter.

30 §4604. Enforcement.

31 The Commissioner of Educational and Cultural Ser-
32 vices, or his designee, may participate in
33 predetermination resolution and conciliation efforts
34 of the commission as follows:

1 Total \$25,104 \$28,061

2 Sec. 5. Report The Maine Human Rights Commis-
3 sion and the Department of Educational and Cultural
4 Services shall report to the Joint Standing Committee
5 on Education at the beginning of the First Regular
6 Session of the 112th Legislature concerning the
7 implementation of this Act, the number of cases
8 handled and the continuing need for the positions
9 provided in section 4.

10 STATEMENT OF FACT

11 The purpose of this new draft is to eliminate
12 discriminatory practices in state educational insti-
13 tutions and programs, and thereby to recognize the
14 benefit to the State and the Nation of equal educa-
15 tional opportunities for all students.

16 Specifically, the intent of this new draft is to
17 codify in the Revised Statutes the provisions of the
18 Federal Education Amendment of 1972, Title IX, in
19 order to provide, at the state level, administrative
20 procedures for arbitrating complaints of discrimina-
21 tion on the basis of sex and enforcing compliance.

22 This new draft does not prohibit any educational
23 institution from maintaining separate toilet facili-
24 ties, locker rooms or living facilities for different
25 sexes so long as comparable facilities are provided
26 for each.

27 As an addition to the Maine Human Rights Act,
28 Title 5, chapter 337, subchapter V-B on educational
29 opportunity will be enforced by the same procedures
30 as other provisions of the Act. The Commissioner of
31 Educational and Cultural Services shall have joint
32 rule-making powers with the commission and may partic-
33 ipate in conciliation proceedings involving public
34 schools and programs and private schools and programs
35 approved for tuition purposes. The appropriation in
36 this new draft is to provide for one commission staff
37 person and appropriate fringe benefits and travel,
38 and one staff person in the Department of Educational
39 and Cultural Services.

1 The Human Rights Commission and the Department of
2 Educational and Cultural Services shall report to the
3 Joint Standing Committee on Education on the imple-
4 mentation of this Act. The report shall include an
5 analysis of the tasks performed by the individuals
6 filling the positions provided in section 4 and an
7 assessment as to what degree their duties could be
8 taken over by other members of the commission or
9 department and as to whether the position could be
10 eliminated or reduced to part time.

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