

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 453

6  
7 S.P. 166

In Senate, February 6, 1985

8 Submitted by the Human Rights Commission pursuant to Joint Rule 24.  
9 Referred to the Committee on Judiciary. Sent down for concurrence and  
ordered printed.

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

Presented by Senator Andrews of Cumberland.

11 Cosponsored by Representative Lisnik of Presque Isle and Senator  
Berube of Androscoggin.

12 STATE OF MAINE  
13

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

17 AN ACT to Amend the Code of Fair Practices  
18 and Affirmative Action as the Equal  
19 Opportunity Standard for State  
20 Financed Agencies.  
21

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

24 Sec. 1. 5 MRSA §§783 to 787 and §789, as enacted  
25 by PL 1975, c. 153, §1, are amended to read:

26 §783. Appointment, assignment and promotion of per-  
27 sonnel

28 Officials and supervisory employees shall ap-  
29 point, assign and promote personnel on the basis of  
30 merit and fitness, without regard to race, color, re-  
31 ligious creed, national origin, sex, ancestry, age  
32 ~~or~~, physical handicap or mental handicap, unless re-  
33 lated to a bona fide occupational qualification. Each  
34 appointing authority shall designate an equal oppor-  
35 tunity officer. The officer must be so placed within

1 the agency's organizational structure that he or she  
2 shall have direct access to the appointing authority.  
3 Each department or agency shall prepare an affirma-  
4 tive action program for that department or agency in  
5 accordance with criteria set forth by the State De-  
6 partment of Personnel.

7 §784. State action and contracts

8 1. State action. No agency or individual employ-  
9 ee of the State or state related agencies will dis-  
10 criminate because of race, color, religious creed,  
11 sex, national origin, ancestry, age ~~or~~, physical  
12 handicap or mental handicap while providing any func-  
13 tion or service to the public, in enforcing any regu-  
14 lation, or in any education, counseling, vocational  
15 guidance, apprenticeship and on-the-job training pro-  
16 grams. Similarly, no state or state related agency  
17 contractor, subcontractor, or labor union or repre-  
18 sentative of the workers with which the contractor  
19 has an agreement, will discriminate unless based on a  
20 bona fide occupational qualification. State agencies  
21 or related agencies may withhold financial assistance  
22 to any recipient found to be in violation of the  
23 Maine Human Rights Act or the Federal Civil Rights  
24 Act. Any state agency or related agency shall decline  
25 any job order carrying a specification or limitation  
26 as to race, color, religious creed, sex, national or-  
27 igin, ancestry, age ~~or~~, physical handicap or mental  
28 handicap, unless it is related to a bona fide job re-  
29 quirement.

30 2. Public contracts. Every state or state relat-  
31 ed agency contract for public works or for services  
32 shall incorporate by reference the following provi-  
33 sions: "During the performance of this contract, the  
34 contractor agrees as follows.

35 A. The contractor will not discriminate against  
36 any employee or applicant for employment because  
37 of race, color, religious creed, sex, national  
38 origin, ancestry ~~or~~, age, physical handicap or  
39 mental handicap. Such action shall include, but  
40 not be limited to, the following: Employment,  
41 upgrading, demotions, transfers, recruitment or  
42 recruitment advertising; layoffs or terminations;  
43 rates of pay or other forms of compensation; and

1 selection for training, including apprenticeship.

2 B. The contractor will, in all solicitations or  
3 advertisements for employees placed by or on be-  
4 half of the contractor, state that all qualified  
5 applicants will receive consideration for employ-  
6 ment without regard to race, color, religious  
7 creed, sex, national origin, ancestry ~~or~~, age,  
8 physical handicap or mental handicap.

9 C. The contractor will send to each labor union  
10 or representative of the workers with which he  
11 has a collective or bargaining agreement, or oth-  
12 er contract or understanding, whereby he is fur-  
13 nished with labor for the performances of his  
14 contract, a notice, to be provided by the con-  
15 tracting department or agency, advising the said  
16 labor union or workers' representative of the  
17 contractor's commitment under this section and  
18 shall post copies of the notice in conspicuous  
19 places available to employees and to applicants  
20 for employment."

21 D. The contractor will cause the foregoing pro-  
22 visions to be inserted in all contracts for any  
23 work covered by this agreement so that such pro-  
24 visions will be binding upon each subcontractor.

25 §785. State employment services

26 Any state agency or state related agency engaged  
27 in employment, referral or placement service for pri-  
28 vate industry or public agencies shall fill all job  
29 orders on a nondiscriminatory basis, and shall de-  
30 cline any job order carrying a specification or limi-  
31 tation as to race, color, religious creed, sex, na-  
32 tional origin, ancestry ~~or~~, age, physical handicap or  
33 mental handicap, unless it relates to a bona fide job  
34 requirement.

35 §786. Training for job opportunities

36 All educational and vocational-guidance counsel-  
37 ing programs and all apprenticeship and on-the-job  
38 training programs conducted, supervised or funded by  
39 the State or state related agency shall be conducted  
40 to encourage the fullest development of interest and

1 aptitudes without regard to race, color, religious  
2 creed, sex, national origin, ancestry ~~or~~, age, physi-  
3 cal handicap or mental handicap, unless sex or age  
4 relates to a bona fide job requirement. In the event  
5 that any such programs are conducted in conjunction  
6 with private employers or private educational insti-  
7 tutions, the supervising or contracting department or  
8 agency shall insure that the provisions of this sub-  
9 chapter are complied with fully by such private em-  
10 ployer or private educational institution.

11 §787. State financial assistance

12 No state agency or state related agency shall ap-  
13 prove a grant of state financial assistance to any  
14 recipient who is engaged in discriminatory practices.  
15 All recipients of state financial assistance shall  
16 submit to the Maine Human Rights Commission, at its  
17 request, information relating to the recipient's op-  
18 erations with regard to race, color, religious creed,  
19 sex, national origin, ancestry ~~or~~, age, physical  
20 handicap or mental handicap. Such information shall  
21 be furnished on a form to be prescribed by the Maine  
22 Human Rights Commission.

23 §789. Human Rights Commission

24 All affirmative action programs, whether part of  
25 the civil service or not, shall be subject to the re-  
26 view and comment of the Human Rights Commission.

27 All powers and duties granted to the Maine Human  
28 Rights Commission under ~~sections 4551, et seq.~~ chap-  
29 ter 337, subchapter I, as amended, apply to this sec-  
30 tion. Complaints of discrimination based on race,  
31 color, religious creed, sex, national origin, age ~~or~~,  
32 physical handicap or mental handicap should be made  
33 to the Maine Human Rights Commission.

34 **Sec. 2. Effective date.** This Act shall become  
35 effective on July 1, 1986.

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STATEMENT OF FACT

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The purpose of this bill is to add physical and mental handicap to certain provisions of the Code of Fair Practices and Affirmative Action Programs.

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