

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 602

S.P. 221

In Senate, March 3, 1987

Reference to the Committee on Judiciary suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate
Presented by Senator ANDREWS of Cumberland.

Cosponsored by Representative CONNOLLY of Portland,
Representative O'GARA of Westbrook, Representative RYDELL of
Brunswick.

STATE OF MAINE

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

1 AN ACT to Include the Term "Sexual
2 Orientation" in the Maine Human Rights
3 Act.
4

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

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 §4552, as repealed and replaced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

9 §4552. Policy

10 To protect the public health, safety and welfare,
11 it is declared to be the policy of this State to keep
12 continually in review all practices infringing on the
13 basic human right to a life with dignity, and the
14 causes of such these practices, so that corrective
15 measures may, where possible, be promptly recommended

1 and implemented, and to prevent discrimination in em-
2 ployment, housing or access to public accommodations
3 on account of race, color, sex, sexual orientation,
4 physical or mental handicap, religion, ancestry or
5 national origin and in employment, discrimination on
6 account of age; and to prevent discrimination in the
7 extension of credit on account of age, race, color,
8 sex, sexual orientation, marital status, religion,
9 ancestry or national origin.

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

12 9-A. Sexual orientation. "Sexual orientation"
13 means having a preference for heterosexuality,
14 homosexuality or bisexuality, having a history of
15 such a preference or being identified with such a
16 preference.

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 orien-
26 tation, physical or mental handicap, religion, age,
27 ancestry or national origin, and foster, through com-
28 munity effort or otherwise, good will among the
29 groups and elements of the population of the State.
30 ~~Such~~ These agencies and councils may make recommenda-
31 tions to the commission for the development of poli-
32 cies and procedures in general. Advisory agencies and
33 conciliation councils created by the commission shall
34 be composed of representative citizens serving with-
35 out pay, but with reimbursement for actual and neces-
36 sary 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 orientation, physical or mental handicap,
3 religion, age, ancestry or national origin;

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

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

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

19 §4571. Right to freedom from discrimination in em-
20 ployment

21 The opportunity for an individual to secure em-
22 ployment without discrimination because of race, col-
23 or, sex, sexual orientation, physical or mental hand-
24 icap, religion, age, ancestry or national origin is
25 recognized as and declared to be a civil right.

26 Sec. 7. 5 MRSa §4572, sub-§1, ¶¶A and B, as re-
27 pealed and replaced by PL 1975, c. 770, §33, are
28 amended to read:

29 A. For any employer to fail or refuse to hire or
30 otherwise discriminate against any applicant for
31 employment because of race or color, sex, sexual
32 orientation, physical or mental handicap, reli-
33 gion, ancestry or national origin or age, or be-
34 cause of any such reason to discharge an employee
35 or discriminate with respect to hire, tenure,
36 promotion, transfer, compensation, terms, condi-
37 tions or privileges of employment, or any other
38 matter directly or indirectly related to employ-
39 ment, or in recruiting of individuals for employ-

1 ment or in hiring them, to utilize any employment
2 agency which sueh that employer knows, or has
3 reasonable cause to know, discriminates against
4 individuals because of their race or color, sex,
5 sexual orientation, physical or mental handicap,
6 religion, age, ancestry or national origin;

7 B. For any employment agency to fail or refuse
8 to classify properly or refer for employment or
9 otherwise discriminate against any individual be-
10 cause of race or color, sex, sexual orientation,
11 physical or mental handicap, religion, age, an-
12 cestry or national origin or to comply with an
13 employer's request for the referral of job appli-
14 cants, if sueh the request indicates either di-
15 rectly or indirectly that sueh the employer will
16 not afford full and equal employment opportuni-
17 ties to individuals regardless of their race or
18 color, sex, sexual orientation, physical or men-
19 tal handicap, religion, age, ancestry or national
20 origin;

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

23 C. For any labor organization to exclude from
24 apprenticeship or membership, or to deny full and
25 equal membership rights, to any applicant for
26 membership, because of race or color, sex, sexual
27 orientation, physical or mental handicap, reli-
28 gion, age, ancestry or national origin, or be-
29 cause of any such reason to deny a member full
30 and equal membership rights, expel from member-
31 ship, penalize or otherwise discriminate in any
32 manner with respect to hire, tenure, promotion,
33 transfer, compensation, terms, conditions or
34 privileges of employment, representation, griev-
35 ances or any other matter directly or indirectly
36 related to membership or employment, whether or
37 not authorized or required by the constitution or
38 bylaws of sueh that labor organization or by a
39 collective labor agreement or other contract, or
40 to fail or refuse to classify properly or refer
41 for employment, or otherwise to discriminate
42 against any member because of race or color, sex,
43 sexual orientation, physical or mental handicap,
44 religion, age, ancestry or national origin or to

1 cause or attempt to cause an employer to discrim-
2 inate against an individual in violation of this
3 section, except that it shall be lawful for labor
4 organizations and employers to adopt a maximum
5 age limitation in apprenticeship programs;

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

9 D. For any employer or employment agency or la-
10 bor organization, prior to employment or admis-
11 sion to membership of any individual, to:

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

23 (2) Make or keep a record of race or color,
24 sex, sexual orientation, physical or mental
25 handicap, religion, age, ancestry or nation-
26 al origin, except under physical or mental
27 handicap, when an employer requires a phys-
28 ical or mental examination prior to employ-
29 ment, a privileged record of such an exami-
30 nation is permissible;

31 (3) Use any form of application for employ-
32 ment, or personnel or membership blank con-
33 taining questions or entries directly or in-
34 directly pertaining to race or color, sex,
35 sexual orientation, physical or mental hand-
36 icap, religion, age, ancestry or national
37 origin, except under physical or mental
38 handicap, where it can be determined by the
39 employer that the job or jobs to be filled
40 require such that information for the well-
41 being and safety of the individual; nor will
42 this section prohibit any officially recog-

1 nized agency from keeping necessary records
2 in order to provide free services to indi-
3 viduals requiring rehabilitation or employ-
4 ment assistance;

5 (4) Print or publish or cause to be printed
6 or published any notice or advertisement re-
7 lating to employment or membership indicat-
8 ing any preference, limitation, specifica-
9 tion or discrimination based upon race or
10 color, sex, sexual orientation, physical or
11 mental handicap, age, ancestry or national
12 origin, except under physical or mental
13 handicap when the text of such the printed
14 or published material strictly adheres to
15 this Act; or

16 (5) Establish, announce or follow a policy
17 of denying or limiting, through a quota sys-
18 tem or otherwise, employment or membership
19 opportunities of any group because of the
20 race or color, sex, sexual orientation,
21 physical or mental handicap, religion, age,
22 ancestry or national origin of such that
23 group; or

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

26 §4581. Decent housing

27 The opportunity for an individual to secure de-
28 cent housing in accordance with his ability to pay,
29 and without discrimination because of race, color,
30 sex, sexual orientation, physical or mental ~~handicap~~
31 handicap, religion, ancestry or national origin is
32 hereby recognized as and declared to be a civil
33 right.

34 Sec. 11. 5 MRSA §4582, as amended by PL 1985, c.
35 638, §1, is repealed and the following enacted in its
36 place:

37 §4582. Unlawful housing discrimination

38 It shall be unlawful housing discrimination, in
39 violation of this Act:

1 For any owner, lessee, sublessee, managing agent
2 or other person having the right to sell, rent, lease
3 or manage a housing accommodation or any agent of
4 these to make or cause to be made any written or oral
5 inquiry concerning the race or color, sex, sexual
6 orientation, physical or mental handicap, religion,
7 ancestry or national origin of any prospective pur-
8 chaser, occupant or tenant of that housing accommoda-
9 tion; or to refuse to show or refuse to sell, rent,
10 lease, let or otherwise deny to or withhold from any
11 individual that housing accommodation because of the
12 race or color, sex, sexual orientation, physical or
13 mental handicap, religion, ancestry or national ori-
14 gin of that individual; or to issue any advertisement
15 relating to the sale, rental or lease of that housing
16 accommodation which indicates any preference, limita-
17 tion, specification or discrimination based upon race
18 or color, sex, sexual orientation, physical or mental
19 handicap, religion, ancestry or national origin; or
20 to discriminate against any individual because of
21 race or color, sex, sexual orientation, physical or
22 mental handicap, religion, ancestry or national ori-
23 gin in the price, terms, conditions or privileges of
24 the sale, rental or lease of any such housing accom-
25 modations or in the furnishing of facilities or ser-
26 vices in connection with that housing, or to evict or
27 attempt to evict any tenant of any housing accommoda-
28 tion because of the race or color, sex, sexual orien-
29 tation, physical or mental handicap, religion, ances-
30 try or national origin of that tenant;

31 For any real estate broker or real estate sales
32 person, or agent of one of them, to fail or refuse to
33 show any applicant for a housing accommodation any
34 such accommodation listed for sale, lease or rental,
35 because of the race or color, sex, sexual orienta-
36 tion, physical or mental handicap, religion, ancestry
37 or national origin of that applicant or of any in-
38 tended occupant of that accommodation, or to misrep-
39 resent, for the purpose of discriminating on account
40 of the race or color, sex, sexual orientation, physi-
41 cal or mental handicap, religion, ancestry or nation-
42 al origin of that applicant or intended occupant, the
43 availability or asking price of a housing accommoda-
44 tion listed for sale, lease or rental; or for such a
45 reason to fail to communicate to the person having
46 the right to sell or lease that housing accommodation

1 any offer for the same made by any applicant thereof;
2 or in any other manner to discriminate against any
3 applicant for housing because of race or color, sex,
4 sexual orientation, physical or mental handicap, re-
5 ligion, ancestry or national origin of that applicant
6 or of any intended occupant of the housing accommoda-
7 tion, or to make or cause to be made any written or
8 oral inquiry or record concerning the race or color,
9 sex, sexual orientation, physical or mental handicap,
10 religion, ancestry or national origin of any such ap-
11 plicant or intended occupant, or to accept for list-
12 ing any housing accommodation when the person having
13 the right to sell or lease the same has directly or
14 indirectly indicated an intention of discriminating
15 among prospective tenants or purchasers on the ground
16 of their race or color, sex, sexual orientation,
17 physical or mental handicap, religion, ancestry or
18 national origin, or when he knows or has reason to
19 know that the person having the right to sell or
20 lease that housing accommodation has made a practice
21 of that discrimination since that discrimination has
22 been prohibited by law;

23 For any person to whom application is made for a
24 loan or other form of financial assistance for the
25 acquisition, construction, rehabilitation, repair or
26 maintenance of any housing accommodation, whether se-
27 cured or unsecured, or agent of that person, to make
28 or cause to be made any oral or written inquiry con-
29 cerning the race or color, sex, sexual orientation,
30 physical or mental handicap, religion, ancestry or
31 national origin of any individual seeking that finan-
32 cial assistance, or of existing or prospective occu-
33 pants or tenants of that housing accommodations; or
34 to discriminate in the granting of that financial as-
35 sistance, or in the terms, conditions or privileges
36 relating to the obtaining or use of any such finan-
37 cial assistance, against any applicant because of the
38 race or color, sex, sexual orientation, physical or
39 mental handicap, religion, ancestry or national ori-
40 gin of that applicant or of the existing or prospec-
41 tive occupants or tenants;

42 For any person furnishing rental premises to
43 refuse to rent or impose different terms of tenancy
44 to any individual who is a recipient of federal,
45 state or local public assistance, including medical

1 assistance and housing subsidies solely because of
2 that individual's status as the recipient; or

3 For any form of public housing or any housing
4 that is financed in whole or in part with public
5 funds offering housing accommodations, containing 20
6 or more units, constructed on or after January 1,
7 1984, or begun to be remodeled or enlarged at an es-
8 timated total cost of more than \$100,000 after Janu-
9 ary 1, 1984, to not have at least one unit for each
10 multiple of 20 of those units designed so as to be
11 accessible to and useable by handicapped persons.
12 Plans to reconstruct, remodel or enlarge an existing
13 building when the estimated total cost exceeds
14 \$100,000 shall be subject to this section, when the
15 proposed reconstruction, remodeling or enlargement
16 will substantially affect that portion of the build-
17 ing normally accessible to the public. For purposes
18 of this section, a newly constructed housing unit is
19 deemed accessible to and useable by handicapped per-
20 sons if it meets the requirements of the 1981 stan-
21 dards of construction, concerning dwelling units,
22 adopted pursuant to Title 25, chapter 331. A
23 remodeled, renovated or enlarged housing unit is
24 deemed accessible to and useable by handicapped per-
25 sons if it meets the requirements of the following
26 parts of the 1981 standards of construction adopted
27 pursuant to Title 25, chapter 331:

28 1. Accessible route. Concerning accessible
29 route;

30 2. Doors. Concerning doors;

31 3. Adaptable bathrooms. Concerning adaptable
32 bathrooms; and

33 4. Tactile warnings. Concerning tactile warn-
34 ings on doors to hazardous areas.

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 priv-

1 illeg of every person and the agent of any person
2 having the right to sell, rent, lease or manage a
3 housing accommodation to set up and enforce specifi-
4 cations in the selling, renting, leasing or letting
5 thereof or in the furnishings of facilities or ser-
6 vices in connection therewith which are not based on
7 the race, color, sex, sexual orientation, physical or
8 mental handicap, religion or country of ancestral or-
9 gin, the receipt of public assistance payments of
10 any prospective or actual purchaser, lessee, tenant
11 or occupant thereof. Nothing in this Act contained
12 shall be construed in any manner to prohibit or limit
13 the exercise of the privilege of every person and the
14 agent of any person making loans for or offering fi-
15 nancial assistance in the acquisition, construction,
16 rehabilitation, repair or maintenance of housing ac-
17 commodatons, to set standards and preferences,
18 terms, conditions, limitations or specifications for
19 the granting of ~~sueh~~ those loans or financial assist-
20 ance which are not based on the race, color, sex,
21 sexual orientation, physical or mental handicap, re-
22 ligion or country of ancestral origin, the receipt of
23 public assistance payments of the applicant for ~~sueh~~
24 the loan or financial assistance or, of any existing
25 or prospective owner, lessee, tenant or occupant of
26 ~~sueh~~ 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, sexu-
33 al orientation, physical or mental handicap, reli-
34 gion, ancestry or national origin is recognized as
35 and declared to be a civil right.

36 Sec. 14. 5 MRSA §4592, 2nd ¶, as repealed and
37 replaced by PL 1975, c. 770, §39, is amended to read:

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

40 For any person, being the owner, lessee, proprie-
41 tor, manager, superintendent, agent or employee of
42 any place of public accommodation, to directly or in-

1 directly refuse, withhold from or deny to any person,
2 on account of race or color, sex, sexual orientation,
3 physical or mental handicap, religion, ancestry or
4 national origin, any of the accommodations, advan-
5 tages, facilities or privileges of such that place of
6 public accommodation, or for such that reason in any
7 manner discriminate against any person in the price,
8 terms or conditions upon which access to such the ac-
9 commodation, advantages, facilities and privileges
10 may depend;

11 Sec. 15. 5 MRSA §4592, 3rd ¶, as amended by PL
12 1985, c. 638, §2, is further amended to read:

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

37 Sec. 16. 5 MRSA §4595, as repealed and replaced
38 by PL 1975, c. 770, §40, is repealed and the follow-
39 ing enacted in its place:

40 §4595. Right to freedom from discrimination solely
41 on the basis of age, race, color, sex, sexual
42 orientation, marital status, ancestry, reli-
43 gion or national origin in any credit trans-
44 action

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

7 Sec. 17. 5 MRSA §4596, as repealed and replaced
8 by PL 1975, c. 770, §41, is amended to read:

9 §4596. Unlawful credit extension discrimination

10 It shall be unlawful credit discrimination for
11 any creditor to refuse the extension of credit to any
12 person solely on the basis of any one or more of the
13 following factors: Age; race; color; sex; sexual ori-
14 entation; marital status; ancestry; religion or na-
15 tional origin in any credit transaction. It shall
16 not be unlawful credit discrimination to comply with
17 the terms and conditions of any bona fide group cred-
18 it life, accident and health insurance plan, for a
19 financial institution extending credit to a married
20 person to require both the husband and the wife to
21 sign a note and a mortgage and to deny credit to per-
22 sons under the age of 18 or to consider a person's
23 age in determining the terms upon which credit will
24 be extended.

25 STATEMENT OF FACT

26 The purpose of this bill is to extend to all cit-
27 izens regardless of their sexual orientation the same
28 protections now guaranteed to others on the basis of
29 race, color, religion, sex, age, national origin,
30 physical or mental handicap. Discrimination in the
31 areas of employment, housing, public accommodations
32 and credit would be prohibited.

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