

MAINE STATE LEGISLATURE

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(New Draft of S.P. 390, L.D. 1209)

FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1850

S.P. 629

In Senate, June 12, 1987

Reported by the Majority for the Committee on Education and printed under Joint Rule 2. Original Bill sponsored by Senator Andrews of Cumberland. Cosponsored by: Senator Randall of Washington, Representative O'Gara of Westbrook, Senator Gauvreau of Androscoggin.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

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

AN ACT to Enhance Educational Opportunity for
Disabled Students.

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

Sec. 1. 5 MRSA §4552, as repealed and replaced by PL 1975, c. 770, §28, is amended to read:

§4552. Policy

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

1 plemented, and to prevent discrimination in employ-
2 ment, housing or access to public accommodations on
3 account of race, color, sex, physical or mental hand-
4 icap, religion, ancestry or national origin and in
5 employment, discrimination on account of age; and to
6 prevent discrimination in the extension of credit on
7 account of age, race, color, sex, marital status, re-
8 ligion, ancestry or national origin; and to prevent
9 discrimination in education on account of sex or
10 physical or mental handicap.

11 **Sec. 2. 5 MRSA §4553, sub-§8, as amended by PL**
12 **1983, c. 437, §1, is further amended to read:**

13 **8. Place of public accommodation.** "Place of pub-
14 lic accommodation" means any establishment which in
15 fact caters to, or offers its goods, facilities or
16 services to, or solicits or accepts patronage from,
17 the general public; and it includes, but is not lim-
18 ited to: Inns, taverns, roadhouses, hotels, whether
19 conducted for the entertainment or accommodation of
20 transient guests or of those seeking health, recre-
21 ation or rest, restaurant, eating houses or any place
22 where food is sold for consumption on the premises;
23 buffets, saloons, barrooms or any store, park or en-
24 closure where spirituous or malt liquors are sold;
25 ice cream parlors, confectioneries, soda fountains
26 and all stores where beverages of any kind are
27 retailed for consumption on the premises; retail
28 stores and establishments; dispensaries, clinics,
29 hospitals, rest rooms, bathhouses, barber shops,
30 beauty parlors, theatres, motion picture houses, mu-
31 sic halls, airdromes, roof gardens, race courses,
32 skating rinks, amusement and recreation parks, fairs,
33 bowling alleys, golf courses, gymnasiums, shooting
34 galleries, billiard and pool parlors, swimming pools,
35 seashore accommodations and boardwalks, public li-
36 braries, garages and gasoline stations; all public
37 conveyances operated on land, water or in the air as
38 well as the stations and terminals thereof; public
39 halls and public elevators of buildings occupied by 2
40 or more tenants or by the owner and one or more ten-
41 ants; and educational institutions.

42 **Sec. 3. 5 MRSA §4601, as enacted by PL 1983, c.**
43 **578, §3, is amended to read:**

1 §4601. Right to freedom from discrimination in edu-
2 cation

3 The opportunity for an individual at an educa-
4 tional institution to participate in all educational,
5 counseling, vocational guidance programs and all ap-
6 prenticeship and on-the-job training programs without
7 discrimination because of sex or a physical or mental
8 handicap is recognized and declared to be a civil
9 right.

10 Sec. 4. 5 MRSA §4602, as amended by PL 1985, c.
11 797, §1, is further amended to read:

12 §4602. Unlawful educational discrimination

13 1. Unlawful educational discrimination on the
14 basis of sex. It is unlawful educational discrimina-
15 tion in violation of this Act, on the basis of sex,
16 to:

17 A. Exclude a person from participation in, deny
18 a person the benefits of, or subject a person to,
19 discrimination in any academic, extracurricular,
20 research, occupational training or other program
21 or activity;

22 B. Deny a person equal opportunity in athletic
23 programs;

24 C. Apply any rule concerning the actual or po-
25 tential family or marital status of a person or
26 to exclude any person from any program or activi-
27 ty because of pregnancy or related conditions;

28 D. Deny admission to the institution or program
29 or to fail to provide equal access to and infor-
30 mation about an institution or program through
31 recruitment; or

32 E. Deny financial assistance availability and
33 opportunity.

34 2. Unlawful educational discrimination on the
35 basis of physical or mental handicap. It is unlawful
36 educational discrimination in violation of this Act
37 solely on the basis of physical or mental handicap
38 to:

1. A. Exclude from participation in, deny the bene-
2. fits of or subject to discrimination under any
3. educational program or activity any otherwise
4. qualified handicapped individual;

5. B. Deny any person equal opportunity in athletic
6. programs, provided that no educational institu-
7. tion may be required under this subsection to
8. provide separate athletic programs to serve the
9. handicapped;

10. C. Deny admission to any institution or program
11. or fail to provide equal access to and informa-
12. tion about an institution or program through re-
13. ruitment; or

14. D. Deny financial assistance availability and
15. opportunity.

16. Nothing in this subsection may be construed to cover
17. the rights of exceptional students to special educa-
18. tion programs under state or federal law.

19. **Sec. 5. Report.** The Maine Human Rights Commis-
20. sion and the Department of Educational and Cultural
21. Services shall report to the Joint Standing Committee
22. on Education at the Second Regular Session of the
23. 113th Legislature concerning the implementation of
24. the physical and mental handicap provisions of this
25. Act.

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STATEMENT OF FACT

2 This new draft clarifies the intent of the origi-
3 nal bill to make it a violation of the State's human
4 rights act to discriminate in the area of education
5 on the basis of an individual's physical or mental
6 handicap. The new draft clarifies that it is a vio-
7 lation to both deny physical access to educational
8 facilities and to discriminate in the provisions of
9 educational programs and services on the basis of
10 physical or mental handicap. Provisions are added on
11 the new draft to clarify that this bill does not af-
12 fect the rights and remedies of special education
13 students under the federal and state laws. The De-
14 partment of Educational and Cultural Services and the
15 Maine Human Rights Commission shall jointly adopt
16 rules to implement this new draft and shall report
17 back to the Joint Standing Committee on Education in
18 the Second Regular Session of the 113th Legislature.
19 The Maine Human Rights Commission will be able to ab-
20 sorb any budgetary increases resulting from this new
21 draft.

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