

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1242

S.P. 457

In Senate, April 19, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MATTHEWS of Kennebec.

Cosponsored by Representative KETOVER of Portland, Representative PRIEST of Brunswick and Representative KILKELLY of Wiscasset.

STATE OF MAINE

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

An Act to Amend the Maine Human Rights Act with Regard to Housing
Discrimination against Families with Children.

(EMERGENCY)



1 **Emergency preamble.** Whereas, Acts of the Legislature do not
2 become effective until 90 days after adjournment unless enacted
3 as emergencies; and

5 **Whereas,** the United States Congress recently passed
6 amendments to Title VIII of the United States Civil Rights Act
7 with regard to prohibiting discrimination against families with
8 children; and

9 **Whereas,** Maine law already prohibits discrimination against
10 families with children, but allows different exemptions; and

13 **Whereas,** there is need to bring Maine's laws into conformity
14 with the new federal amendments which go into effect March 12,
15 1989, so that Maine landlords, building managers and realtors
16 will not be in violation of Maine law while attempting to adhere
17 to federal amendments; and

19 **Whereas,** in the judgment of the Legislature, these facts
20 create an emergency within the meaning of the Constitution of
21 Maine and require the following legislation as immediately
22 necessary for the preservation of the public peace, health and
23 safety; now, therefore,

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

27 **Sec. 1. 5 MRSA §4552,** as amended by PL 1987, c. 478, §1, is
28 further amended to read:

29 **§4552. Policy**

31
32 To protect the public health, safety and welfare, it is
33 declared to be the policy of this State to keep continually in
34 review all practices infringing on the basic human right to a
35 life with dignity, and the causes of such these practices, so
36 that corrective measures may, where possible, be promptly
37 recommended and implemented, and to prevent discrimination in
38 employment, housing or access to public accommodations on account
39 of race, color, sex, physical or mental handicap, religion,
40 ancestry or national origin; and in employment, discrimination on
41 account of age and in housing because of familial status; and to
42 prevent discrimination in the extension of credit on account of
43 age, race, color, sex, marital status, religion, ancestry or
44 national origin; and to prevent discrimination in education on
45 account of sex or physical or mental handicap.

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

49 **5-A. Familial status.** "Familial status" means that a
50 family unit may contain one or more individuals who have not
51 attained the age of 18 years and are living with:

1 A. A parent or another person having legal custody of the
2 individual or individuals; or

3
4 B. The designee of the parent or other person having
5 custody, with the written permission of the parent or other
6 person.

7
8 The protections afforded against discrimination on the basis of
9 familial status shall apply to any person who is pregnant or who
10 is in the process of securing legal custody of any individual who
11 has not attained the age of 18 years.

12 **Sec. 3. 5 MRSA §4581**, as repealed and replaced by PL 1975, c.
13 770, §35, is amended to read:

14 **§4581. Decent housing**

15
16 The opportunity for an individual to secure decent housing
17 in accordance with his the individual's ability to pay, and
18 without discrimination because of race, color, sex, physical or
19 mental ~~handicap~~ handicap, religion, ancestry ~~or~~, national origin
20 or familial status is hereby recognized as and declared to be a
21 civil right.
22

23
24 1. Number of occupants. Nothing in this subchapter limits
25 the applicability of any reasonable local, state or federal
26 restrictions regarding the maximum number of occupants permitted
27 to occupy a dwelling. Nor does any provision in this subsection
28 regarding familial status apply with respect to housing for older
29 persons.

30
31 2. Definition. As used in this section, "housing for older
32 persons" means housing:

33
34 A. Provided under any state or federal program that is
35 specifically designed and operated to assist elderly persons
36 as defined in the state or federal program;

37
38 B. Intended for, and solely occupied by, persons 62 years
39 of age or older; or

40
41 C. Intended and operated for occupancy by at least one
42 person 55 years of age or older per unit. In determining
43 whether housing qualifies as housing for older persons under
44 this subsection, regulations adopted by the United States
45 Department of Housing and Urban Development shall be used
46 which require at least the following factors:

47
48 (1) The existence of significant facilities and
49 services specifically designed to meet the physical or
50 social needs of older persons, or if the provision of
51 the facilities and services is not practicable, that

1 the housing is necessary to provide important housing
3 opportunities for older persons;

5 (2) That at least 80% of the dwellings are occupied by
7 at least one person 55 years of age or older per unit;
9 and

11 (3) The publication of, and adherence to, policies and
13 procedures which demonstrate an intent by the owner or
15 manager to provide housing for persons 55 years of age
17 or older.

19 3. Requirements. Housing shall not fail to meet the
21 requirements for "housing for older persons" by reason of:

23 A. Persons residing in the housing as of the date of
25 enactment of this subsection who do not meet the
27 requirements of subsection 2, paragraph B or C, provided
29 that new occupants of the housing shall meet the age
31 requirements of subsection 2, paragraphs B and C; or

33 B. Unoccupied units, provided that the units are reserved
35 for occupancy by persons who meet the age requirements of
37 subsection 2, paragraphs B and C.

39 Sec. 4. 5 MRSA §4582, as amended by PL 1987, c. 730, §1, is
41 further amended to read:

43 **§4582. Unlawful housing discrimination**

45 It shall be unlawful housing discrimination, in violation of
47 this Act:

49 For any owner, lessee, sublessee, managing agent or other
51 person having the right to sell, rent, lease or manage a housing
53 accommodation, or any agent of these to make or cause to be made
55 any written or oral inquiry concerning the race or color, sex,
57 physical or mental handicap, religion, ancestry ~~or~~, national
59 origin or familial status of any prospective purchaser, occupant
61 or tenant of such the housing accommodation; or to refuse to show
63 or refuse to sell, rent, lease, let or otherwise deny to or
65 withhold from any individual such housing accommodation because
67 of the race or color, sex, physical or mental handicap, religion,
69 ancestry ~~or~~, national origin or familial status of such the
71 individual; or to issue any advertisement relating to the sale,
73 rental or lease of such the housing accommodation which indicates
75 any preference, limitation, specification or discrimination based
77 upon race or color, sex, physical or mental handicap, religion,
79 ancestry ~~or~~, national origin or familial status; or to
81 discriminate against any individual because of race or color,
83 sex, physical or mental handicap, religion, ancestry ~~or~~, national
85 origin or familial status in the price, terms, conditions or

1 privileges of the sale, rental or lease of any such housing
3 accommodations or in the furnishing of facilities or services in
5 connection therewith, or to evict or attempt to evict any tenant
7 of any housing accommodation because of the race or color, sex,
physical or mental handicap, religion, ancestry or, national
origin or familial status of such the tenant;

9 For any real estate broker or real estate sales person, or
11 agent of one of them, to fail or refuse to show any applicant for
13 a housing accommodation any such accommodation listed for sale,
15 lease or rental, because of the race or color, sex, physical or
17 mental handicap, religion, ancestry or, national origin or
19 familial status of such the applicant or of any intended occupant
21 of such the accommodation, or to misrepresent, for the purpose of
23 discriminating on account of the race or color, sex, physical or
25 mental handicap, religion, ancestry or, national origin or
27 familial status of such the applicant or intended occupant, the
29 availability or asking price of a housing accommodation listed
31 for sale, lease or rental; or for such a reason to fail to
33 communicate to the person having the right to sell or lease such
35 the housing accommodation any offer for the same made by any
37 applicant thereof; or in any other manner to discriminate against
39 any applicant for housing because of race or color, sex, physical
or mental handicap, religion, ancestry or, national origin or
familial status of such the applicant or of any intended occupant
of the housing accommodation, or to make or cause to be made any
written or oral inquiry or record concerning the race or color,
sex, physical or mental handicap, religion, ancestry or, national
origin or familial status of any such applicant or intended
occupant, or to accept for listing any housing accommodation when
the person having the right to sell or lease the same has
directly or indirectly indicated an intention of discriminating
among prospective tenants or purchasers on the ground of their
race or color, sex, physical or mental handicap, religion,
ancestry or, national origin or familial status, or when he the
broker knows or has reason to know that the person having the
right to sell or lease such the housing accommodation has made a
practice of such discrimination since July 1, 1972;

41 For any person to whom application is made for a loan or
43 other form of financial assistance for the acquisition,
45 construction, rehabilitation, repair or maintenance of any
47 housing accommodation, whether secured or unsecured, or agent of
49 such the person, to make or cause to be made any oral or written
51 inquiry concerning the race or color, sex, physical or mental
handicap, religion, ancestry or, national origin or familial
status of any individual seeking such financial assistance, or of
existing or prospective occupants or tenants of such housing
accommodations; or to discriminate in the granting of such
financial assistance, or in the terms, conditions or privileges
relating to the obtaining or use of any such financial
assistance, against any applicant because of the race or color,

1 sex, physical or mental handicap, religion, ancestry or national
3 origin or familial status of such the applicant or of the
existing or prospective occupants or tenants;

5 For any person furnishing rental premises or public
7 accommodations to refuse to rent or impose different terms of
tenancy to any individual who is a recipient of federal, state or
9 local public assistance, including medical assistance and housing
subsidies primarily because of such the individual's status as
such recipient; or

11 For any form of public housing or any housing that is
13 financed in whole or in part with public funds offering housing
accommodations, containing 20 or more units, constructed on or
15 after January 1, 1984, or begun to be remodeled or enlarged at an
estimated total cost of more than \$100,000 after January 1, 1984,
17 to not have at least one unit for each multiple of 20 those units
designed so as to be accessible to and useable by handicapped
19 persons. Plans to reconstruct, remodel or enlarge an existing
building when the estimated total cost exceeds \$100,000 shall be
21 subject to this section, when the proposed reconstruction,
remodeling or enlargement will substantially affect that portion
23 of the building normally accessible to the public. For purposes
of this section, a newly constructed housing unit is deemed
25 accessible to and useable by handicapped persons if it meets the
requirements of the 1981 standards of construction, Section 4.34,
27 Dwelling Units, adopted pursuant to Title 25, chapter 331. A
remodeled, renovated or enlarged housing unit is deemed
29 accessible to and useable by handicapped persons if it meets the
requirements of the following 4 parts of the 1981 standards of
31 construction adopted pursuant to Title 25, chapter 331:

- 33 1. Accessible route. 4.3 accessible route;
- 35 2. Doors. 4.13 doors;
- 37 3. Adaptable bathrooms. 4.34.5 adaptable bathrooms; and
- 39 4. Tactile warnings. 4.29.3 tactile warnings on doors to
41 hazardous areas.

43 With respect to any form of public housing or any housing
that is financed in whole or in part with public funds offering
45 housing accommodations containing 20 or more units for which
construction is begun after October 1, 1988, no less than 10% of
47 the ground level units and a minimum of 10% of the upper story
units connected by an elevator shall be accessible to and useable
49 by physically handicapped persons. For purposes of this section,
a newly constructed housing unit is deemed accessible to and
51 useable by handicapped persons if it meets the requirements of
the 1986 standards set forth by the American National Standards
Institute in the publication, "Specifications for Making

1 Buildings Accessible to and Useable by Physically Handicapped
3 People," ANSI A 117.1-1986. A remodeled, renovated or enlarged
5 housing unit where the remodeling, renovating or enlarging is
7 begun after October 1, 1988, is deemed accessible to and useable
9 by handicapped persons if it meets the requirements of the
following 4 parts of the 1986 American National Standards
Institute standards: 4.3 accessible routes; 4.23 doors; 4.34.5
adaptable bathrooms; and 4.29.3 tactile warnings on doors to
hazardous areas.

11 **Sec. 5. 5 MRSA §4583**, as repealed and replaced by PL 1975, c.
13 770, §37 is amended to read:

15 **§4583. Application**

17 Nothing in this Act shall be construed in any manner to
19 prohibit or limit the exercise of the privilege of every person
21 and the agent of any person having the right to sell, rent, lease
23 or manage a housing accommodation to set up and enforce
25 specifications in the selling, renting, leasing or letting
27 thereof or in the furnishings of facilities or services in
29 connection therewith which are not based on the race, color, sex,
31 physical or mental handicap, religion ~~or~~ country of ancestral
33 origin, familial status or the receipt of public assistance
35 payments of any prospective or actual purchaser, lessee, tenant
37 or occupant thereof. Nothing in this Act ~~contained~~ shall be
39 construed in any manner to prohibit or limit the exercise of the
privilege of every person and the agent of any person making
loans for or offering financial assistance in the acquisition,
construction, rehabilitation, repair or maintenance of housing
accommodations, to set standards and preferences, terms,
conditions, limitations or specifications for the granting of
such loans or financial assistance which are not based on the
race, color, sex, physical or mental handicap, religion ~~or~~
country of ancestral origin, familial status or the receipt of
public assistance payments of the applicant for such a loan or
financial assistance or, of any existing or prospective owner,
lessee, tenant or occupant of such housing accommodation.

41 **Sec. 6. 14 MRSA §6027**, as amended by PL 1987, c. 770, §§1,2
and 3, is repealed.

43 **Emergency clause.** In view of the emergency cited in the
45 preamble, this Act shall take effect when approved.

47

49 **STATEMENT OF FACT**

51 This bill amends the Maine Human Rights Act with regard to
housing discrimination against families with children to bring
Maine's laws into conformance with federal laws.