## MAINE STATE LEGISLATURE

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## 116th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1994

Legislative Document

No. 1878

S.P. 692

In Senate, February 15, 1994

An Act to Improve Methods of Dispute Resolution of the Maine Human Rights Commission.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26. Reference to the Committee on Judiciary suggested and ordered printed.

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator CLEVELAND of Androscoggin. Cosponsored by Senator: CONLEY of Cumberland, Representatives: COTE of Auburn, FARNSWORTH of Hallowell. 2

Sec. 1. 5 MRSA §4612, sub-§3, as amended by PL 1985, c. 585, §2, is further amended to read:

- Informal methods; conciliation. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, but finds no emergency of the sort contemplated in subsection 4, paragraph B, it shall endeavor to eliminate such discrimination informal means such 10 by as conciliation, 3rd-party neutral mediation and persuasion. Nothing said or done as part of such endeavors may be made public without 12 the written consent of the parties to the proceeding, nor used as evidence in any subsequent proceeding, civil or criminal, except 14 in a civil action alleging a breach of agreement filed by the commission or a party. If the case is disposed of by such 16 informal means in a manner satisfactory to a majority of the commission, it shall dismiss the proceeding. 18
- Sec. 2. Establish mediation procedures. The Maine Human Rights Commission shall establish a 3rd-party neutral mediation program to be in place and operational by January 1, 1995 that must, at a minimum, include guidelines for:

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- 1. Standards for contracting with mediators who have appropriate training and experience;
- Authorizing a mediator to establish mediation fees and to accept payment from any source;

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- 3. Criteria for evaluation of the training and experience of a mediator;
- 34 4. A process to determine which cases are appropriate for mediation;

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- Providing appropriate facilities and support services, such as notices and mailings;
- 6. Collecting and maintaining statistical data regarding the mediation program, which must list the number of cases mediated and those successfully mediated to the agreement of all parties;

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- 7. Procedures to protect the rights of the charging party in the matter being mediated;
- 8. Requiring that both parties must agree to mediation early in the process and must reach mutual agreement of the decision:

| 2  | 9. Developing a process for documenting the agreement when   |
|----|--|
| 4  | the Maine Human Rights Commission:   |
| 6  | A. Approves the agreement;   |
| 8  | B. Has authority to enforce the agreement; or  |
| 10 | C. Begins regular investigatory and hearing procedures if<br>agreement can not be reached or enforced;                             |
| 12 | 10. Allowing a party to terminate the mediation; and   |
| 14 | 11. Establishing confidentiality of the information<br>gathered or generated during the mediation and preventing that              |
| 16 | information from being used in a later procedure as evidence.  |
| 18 | Sec. 3. Effective date. That section of this Act that amends the Maine Revised Statutes, Title 5, section 4612, subsection 3       |
| 20 | takes effect January 1, 1995.  |
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| 24 | STATEMENT OF FACT  |
| 26 | This bill directs the Maine Human Rights Commission to provide for 3rd-party neutral mediation as an alternative to the            |
| 28 | current methods of dispute resolution. The bill also directs the commission to set guidelines for the mediation process that would |
| 30 | be in effect by January 1, 1995.   |
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| 36 | This document has not yet been reviewed to determine the need for cross-reference, stylistic and other technical                   |
| 38 | amendments to conform existing law to current drafting standards.  |