

MAINE STATE LEGISLATURE

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L.D. 2239

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**STATE OF MAINE
SENATE
119TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 840, L.D. 2239, Bill, "An Act to Ensure Civil Rights and Prevent Discrimination"

Amend the bill in section 2 by striking out all of subsection 9-C and inserting in its place the following:

'9-C. Sexual orientation. "Sexual orientation" means having an orientation for heterosexuality, homosexuality or bisexuality, having a history of that orientation or being identified with that orientation. "Sexual orientation" refers to a person's actual or perceived status, condition or gender expression. This chapter is intended to ensure specific defined rights, and not to endorse or extend to any form of sexual behavior, and does not include sexual attraction to a minor by an adult.'

Further amend the bill by inserting after section 2 the following:

'Sec. 3. 5 MRSA §4553, sub-§9-D is enacted to read:

9-D. Religious entity. "Religious entity" means:

A. A religious corporation, association or society;

B. A college, school, university or other educational institution, not otherwise a religious entity, if it is in whole or substantial part funded, controlled, managed or owned by a religious corporation, association or society; or

COMMITTEE AMENDMENT

2 C. A nonprofit organization that is operated for charitable
3 purposes if it is in whole or substantial part funded,
4 controlled, managed or owned by a religious corporation,
5 association or society.'

6 Further amend the bill in section 5 by striking out all of
7 paragraph G and inserting in its place the following:

8
9 'G. Discrimination in employment, housing, public
10 accommodation and credit as defined in subchapters III, IV,
11 V and V-A, on the basis of sexual orientation, except that a
12 religious entity is exempt from these provisions with
13 respect to discrimination based on sexual orientation.'

14 Further amend the bill by inserting after section 5 the
15 following:

16
17 **'Sec. 6. 5 MRSA §4554, sub-§§4, 5 and 6 are enacted to read:**

18
19 **4. Contracts.** The exemption provision of section 4553,
20 subsection 10, paragraph G does not prohibit a state agency from
21 including provisions in a contract with any entity, including a
22 religious entity, that may require nondiscrimination on the basis
23 of sexual orientation otherwise consistent with this chapter with
24 respect to and as a condition to continuation of such a contract;
25 nor does this Act require any religious entity to enter into any
26 contract. With respect to a contract with any religious entity,
27 the employment defenses provided in section 4573-A, subsection 2
28 are applicable to any dispute arising under such a
29 nondiscrimination clause to the extent related to alleged
30 employment discrimination based on sexual orientation.

31
32 **5. Educational policy.** This Act does not mandate any
33 public or private educational institution to promote any form of
34 sexuality or sexual orientation or to include such matters in its
35 curriculum.

36
37 **6. Affirmative action.** The provisions of this Act relating
38 to sexual orientation are not intended to modify federal or state
39 requirements for affirmative action in effect as of the effective
40 date of this subsection, nor intended to create any new
41 obligations with respect to affirmative action or numerical goals
42 or quotas.'

43 Further amend the bill by inserting after section 8 the
44 following:

45
46 **'Sec. 9. 5 MRSA §4573, as amended by PL 1995, c. 393, §§15 to**
47 **20, is further amended by adding at the end a new paragraph to**
48 **read:**

2 If approved by the voters, this bill may increase the number
of civil suits filed in the court system. The additional
4 workload and administrative costs associated with the minimal
number of new cases filed can be absorbed within the budgeted
resources of the Judicial Department. The collection of
6 additional filing fees may also increase General Fund revenue by
minor amounts.

8
10 The additional costs associated with an expected increase in
the number of new cases can be absorbed by the Maine Human Rights
Commission and by the Department of the Attorney General
12 utilizing existing budgeted resources.'

14
16 **SUMMARY**

18 This amendment is the majority report of the committee. It
adds language further defining the term "sexual orientation." It
expands the exemption from the law to all religious entities,
20 including educational institutions and charitable nonprofit
organizations that are wholly or substantially funded,
22 controlled, managed or owned by a religious corporation,
association or society. It adds 3 provisions to the construction
24 section of the Maine Human Rights Act to clarify that,
notwithstanding the exemption for religious entities, a state
26 contract, including a contract with religious entities, may
require nondiscrimination as a condition of the contract. It
28 also clarifies that the bill does not require schools to
incorporate sexual orientation in curricula and does not require
30 affirmative action based on sexual orientation. The amendment
provides that the law does not require nor prohibit the provision
32 of employee benefits to an individual for the benefit of the
individual's partner. Finally, it changes the wording of the
34 referendum question to clarify it and adds a fiscal note.