

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1786

S.P. 624

In Senate, December 9, 2021

An Act To Maintain Consistency among Maine's Nondiscrimination Statutes

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 7, 2021. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CARNEY of Cumberland.

Cosponsored by Representative NEWELL of the Passamaquoddy Tribe and

Senators: BAILEY of York, HICKMAN of Kennebec, LAWRENCE of York, Representatives: CARDONE of Bangor, HARNETT of Gardiner, LAROCHELLE of Augusta, RECKITT of South Portland, SHEEHAN of Biddeford.

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

2 **Sec. 1. 4 MRSA §805-A, sub-§1**, as corrected by RR 2021, c. 1, Pt. B, §23, is
3 amended to read:

4 **1. Certificate of qualification; admission.** Any person who produces a certificate of
5 qualification from the board recommending that person's admission to the bar may be
6 admitted to practice as an attorney in the courts of this State on motion in open court. A
7 person may not be denied the opportunity to qualify for admission because of actual or
8 perceived race, ~~ereed~~, color, ~~national origin or sex~~, sexual orientation, gender identity,
9 physical or mental disability, religion, ancestry or national origin, age or familial status.

10 **Sec. 2. 5 MRSA §783**, as amended by PL 2021, c. 348, §2, is further amended to
11 read:

12 **§783. Appointment, assignment and promotion of personnel**

13 Officials and supervisory employees shall appoint, assign and promote personnel on
14 the basis of merit and fitness, without regard to actual or perceived race, color, ~~religious~~
15 ~~ereed, national origin, sex, ancestry, age or~~ sexual orientation, gender identity, physical or
16 mental disability, religion, ancestry or national origin, age or familial status, unless related
17 to a bona fide occupational qualification. Each appointing authority shall designate an
18 affirmative action officer. The officer must be so placed within the agency's organizational
19 structure that the officer has direct access to the appointing authority. Each department or
20 agency shall prepare an affirmative action program for that department or agency in
21 accordance with criteria set forth by the Bureau of Human Resources.

22 **Sec. 3. 5 MRSA §784, sub-§1**, as amended by PL 2021, c. 348, §3, is further
23 amended to read:

24 **1. State action.** An agency or individual employee of the State or state-related agency
25 may not discriminate because of actual or perceived race, color, ~~religious-ereed~~, sex,
26 ~~national origin, ancestry, age or~~ sexual orientation, gender identity, physical or mental
27 disability, religion, ancestry or national origin, age or familial status while providing any
28 function or service to the public, in enforcing any regulation, or in any education,
29 counseling, vocational guidance, apprenticeship and on-the-job training programs.
30 Similarly, a state or state-related agency contractor, subcontractor, or labor union or
31 representative of the workers with which the contractor has an agreement may not
32 discriminate unless based on a bona fide occupational qualification. State agencies or
33 related agencies may withhold financial assistance to any recipient found to be in violation
34 of the Maine Human Rights Act or the federal Civil Rights Act. Any state agency or related
35 agency shall decline any job order carrying a specification or limitation as to actual or
36 perceived race, color, ~~religious-ereed~~, sex, ~~national origin, ancestry, age or~~ sexual
37 orientation, gender identity, physical or mental disability, religion, ancestry or national
38 origin, age or familial status, unless it is related to a bona fide job requirement.

39 **Sec. 4. 5 MRSA §784, sub-§2, ¶A**, as amended by PL 2021, c. 348, §4, is further
40 amended to read:

41 A. The contractor will not discriminate against any employee or applicant for
42 employment because of actual or perceived race, color, ~~religious-ereed~~, sex, ~~national~~
43 ~~origin, ancestry, age or~~ sexual orientation, gender identity, physical or mental

1 disability, religion, ancestry or national origin, age or familial status. Such action
2 includes, but is not limited to, the following: employment, upgrading, demotions,
3 transfers, recruitment or recruitment advertising; layoffs or terminations; rates of pay
4 or other forms of compensation; and selection for training, including apprenticeship.

5 **Sec. 5. 5 MRSA §784, sub-§2, ¶B**, as amended by PL 2021, c. 348, §5, is further
6 amended to read:

7 B. The contractor will, in all solicitations or advertisements for employees placed by
8 or on behalf of the contractor, state that all qualified applicants will receive
9 consideration for employment without regard to actual or perceived race, color,
10 ~~religious creed, sex, national origin, ancestry, age or~~ sexual orientation, gender identity,
11 physical or mental disability, religion, ancestry or national origin, age or familial status.

12 **Sec. 6. 5 MRSA §785**, as amended by PL 2021, c. 348, §6, is further amended to
13 read:

14 **§785. State employment services**

15 Any state agency or state-related agency engaged in employment, referral or placement
16 service for private industry or public agencies shall fill all job orders on a nondiscriminatory
17 basis, and shall decline any job order carrying a specification or limitation as to actual or
18 perceived race, color, ~~religious creed, sex, national origin, ancestry, age or~~ sexual
19 orientation, gender identity, physical or mental disability, religion, ancestry or national
20 origin, age or familial status, unless it relates to a bona fide job requirement.

21 **Sec. 7. 5 MRSA §786**, as amended by PL 2021, c. 348, §7, is further amended to
22 read:

23 **§786. Training for job opportunities**

24 All educational and vocational-guidance counseling programs and all apprenticeship
25 and on-the-job training programs conducted, supervised or funded by the State or state-
26 related agency must be conducted to encourage the fullest development of interest and
27 aptitudes without regard to actual or perceived race, color, ~~religious creed, sex, national~~
28 ~~origin, ancestry, age or~~ sexual orientation, gender identity, physical or mental disability,
29 religion, ancestry or national origin, age or familial status, unless sex or age relates to a
30 bona fide job requirement. In the event that any such programs are conducted in
31 conjunction with private employers or private educational institutions, the supervising or
32 contracting department or agency shall ~~insure~~ ensure that the provisions of this chapter are
33 complied with fully by such private employer or private educational institution.

34 **Sec. 8. 5 MRSA §787**, as amended by PL 2021, c. 348, §8, is further amended to
35 read:

36 **§787. State financial assistance**

37 A state agency or state-related agency may not approve a grant of state financial
38 assistance to any recipient who is engaged in discriminatory practices. All recipients of
39 state financial assistance shall submit to the Maine Human Rights Commission, at its
40 request, information relating to the recipient's operations with regard to actual or perceived
41 race, color, religious creed, sex, national origin, ancestry, age or sexual orientation, gender
42 identity, physical or mental disability, religion, ancestry or national origin, age or familial

1 status. Such information must be furnished on a form to be prescribed by the Maine Human
2 Rights Commission.

3 **Sec. 9. 5 MRSA §789, 2nd ¶**, as amended by PL 2021, c. 348, §9, is further
4 amended to read:

5 All powers and duties granted to the Maine Human Rights Commission under chapter
6 337 apply to this section. Complaints of discrimination based on actual or perceived race,
7 color, ~~religious creed~~, sex, ~~national origin~~, ~~age~~ or sexual orientation, gender identity,
8 physical or mental disability, religion, ancestry or national origin, age or familial status
9 should be made to the Maine Human Rights Commission.

10 **Sec. 10. 5 MRSA §1825-L, sub-§2, ¶A**, as enacted by PL 2001, c. 439, Pt. NNNN,
11 §1, is amended to read:

12 A. Comply with all applicable wage, health, labor, environmental and safety laws,
13 legal guarantees of freedom of association, building and fire codes and laws relating to
14 discrimination in hiring, promotion or compensation on the basis of actual or perceived
15 race, ~~disability, national origin, gender, color, sex,~~ sexual orientation, gender identity,
16 physical or mental disability, religion, ancestry or national origin, age or familial status
17 or affiliation with any political, nongovernmental or civic group except when federal
18 law precludes the State from attaching the procurement conditions provided in this
19 subchapter.

20 **Sec. 11. 5 MRSA §7051, sub-§2**, as enacted by PL 1985, c. 785, Pt. B, §38, is
21 amended to read:

22 **2. Discrimination prohibited.** In carrying out this chapter, ~~no~~ discrimination may
23 not be made on account of political or religious opinions or affiliations or because of actual
24 or perceived race ~~or national origin~~, color, sex ~~or marital status or age~~ or sexual orientation,
25 gender identity, physical or mental disability, religion, ancestry or national origin, age or
26 familial status, unless based upon a bona fide occupational qualification.

27 **Sec. 12. 10 MRSA §986, sub-§6**, as amended by PL 1985, c. 344, §31, is further
28 amended to read:

29 **6. Nondiscrimination.** The opportunity to receive assistance from the authority,
30 directly or indirectly, ~~shall~~ must be open to all persons regardless of actual or perceived
31 race, ~~creed~~, color, sex, ~~national origin, age,~~ sexual orientation, gender identity, physical or
32 mental ~~impairment or~~ disability, religion, ancestry or national origin, age, marital status or
33 familial status. The authority shall ~~assure~~ ensure the availability of its programs on an
34 equitable basis in all geographic areas of the State, ~~provided that~~ but this section does not
35 preclude the authority from identifying areas of the State ~~which~~ that may be better suited
36 to certain natural resource enterprises than others and does not preclude the authority from
37 recognizing the value of a critical mass of natural resource economic activity in given areas.

38 **Sec. 13. 14 MRSA §1202-A**, as amended by PL 2021, c. 348, §17 and c. 366, §25,
39 is further amended to read:

40 **§1202-A. Prohibition of discrimination**

41 A citizen may not be excluded from jury service in this State on account of actual or
42 perceived race, color, ~~religion~~, sex, sexual orientation, gender identity, ~~national origin,~~

1 ~~ancestry~~, economic status, marital status, ~~age or~~ physical disability, religion, ancestry or
2 national origin or familial status, except as provided in this chapter.

3 **Sec. 14. 17 MRSA §1301-A, first ¶**, as enacted by PL 1969, c. 371, is amended to
4 read:

5 ~~No~~ A person, firm or corporation holding a license under the State ~~of Maine~~ or any of
6 its subdivisions for the dispensing of food, or liquor or for any service or being a ~~State of~~
7 ~~Maine corporation~~ business entity organized in this State or a corporation authorized to do
8 business in the State ~~shall~~ may not withhold membership, its facilities or its services to any
9 person on account of actual or perceived race, color, sex, sexual orientation, gender
10 identity, physical or mental disability, religion, ancestry or national origin, age or familial
11 status, except such organizations ~~which~~ that are oriented to a particular religion or ~~which~~
12 that are ethnic in character.

13 **Sec. 15. 21-A MRSA §1014-B, sub-§1, ¶A**, as enacted by PL 2001, c. 416, §1, is
14 amended to read:

15 A. A list or directory is used, exclusively or in part, to select respondents belonging to
16 a particular subset or combination of subsets of the population, based on demographic
17 or political characteristics such as race, color, sex, sexual orientation, gender identity,
18 physical or mental disability, religion, ancestry or national origin, age, ethnicity,
19 familial status, party affiliation or like characteristics;

20 **Sec. 16. 21-A MRSA §1101, sub-§2**, as enacted by PL 1989, c. 802, §1, is amended
21 to read:

22 **2. The code form.** The code, printed on the form provided to candidates under
23 subsection 1, must read as follows:

24 "Maine Code of Fair Campaign Practices

25 I shall conduct my campaign and, to the extent reasonably possible, insist that my
26 supporters conduct themselves, in a manner consistent with the best Maine and
27 American traditions, discussing the issues and presenting my record and policies with
28 sincerity and candor.

29 I shall uphold the right of every qualified voter to free and equal participation in the
30 election process.

31 I shall not participate in and I shall condemn defamation of and other attacks on any
32 opposing candidate or party that I do not believe to be truthful, provable and relevant
33 to my campaign.

34 I shall not use or authorize and I shall condemn material relating to my campaign that
35 falsifies, misrepresents or distorts the facts, including, but not limited to, malicious or
36 unfounded accusations creating or exploiting doubts as to the morality, patriotism or
37 motivations of any party or candidate.

38 I shall not appeal to and I shall condemn appeals to prejudices based on actual or
39 perceived race, ~~creed~~, sex, sexual orientation, gender identity, physical or mental
40 disability, religion, ancestry or national origin, age or familial status.

1 I shall not practice and I shall condemn practices that tend to corrupt or undermine the
2 system of free election or that hamper or prevent the free expression of the will of the
3 voters.

4 I shall promptly and publicly repudiate the support of any individual or group that
5 resorts, on behalf of my candidacy or in opposition to that of an opponent, to methods
6 in violation of the letter or spirit of this code.

7 I, the undersigned, candidate for election to public office in the State of Maine, hereby
8 voluntarily endorse, subscribe to and solemnly pledge to conduct my campaign in
9 accordance with the above principles and practices.

10

Candidate for Public Office"

11

12 **Sec. 17. 24-A MRSA §2169-B, sub-§2, ¶A**, as enacted by PL 2003, c. 223, §1, is
13 amended to read:

14 A. Use an insurance score that is calculated using race, color, sex, sexual orientation,
15 gender identity, physical or mental disability, religion, ancestry or national origin, age,
16 familial status, income, gender, address, zip code, ~~ethnic group, religion, or marital~~
17 ~~status or nationality~~ of a consumer as a factor;

18 **Sec. 18. 24-A MRSA §2303, sub-§1, ¶G**, as enacted by PL 1989, c. 797, §4 and
19 affected by §§37 and 38, is amended to read:

20 G. Risks may be grouped by classifications for the establishment of rates and minimum
21 premiums. Classification rates may be modified to produce rates for individual risks
22 in accordance with rating plans that establish standards for measuring variations in
23 hazards or expense provisions, or both. These standards may measure any differences
24 among risks that may have a probable effect upon losses or expenses. No risk
25 classification may be based upon race, ~~creed,~~ sex, sexual orientation, gender identity,
26 physical or mental disability, religion, ancestry or national origin ~~or the religion, age,~~
27 ~~marital status or familial status~~ of the insured.

28 **Sec. 19. 24-A MRSA §6910, sub-§3, ¶B**, as amended by PL 2021, c. 366, §29, is
29 further amended by amending subparagraph (2) to read:

30 (2) Providers contracting with a carrier contracted to provide coverage to plan
31 enrollees do not refuse to provide services to a plan enrollee on the basis of health
32 status, medical condition, previous insurance status, or actual or perceived race,
33 ~~color, creed, age, national origin,~~ citizenship status, ~~gender~~ sex, sexual orientation,
34 gender identity, physical or mental disability, religion, ancestry or national origin,
35 age, familial status or marital status. This subparagraph may not be construed to
36 require a provider to furnish medical services that are not within the scope of that
37 provider's license; and

38 **Sec. 20. 26 MRSA §979-D, sub-§1, ¶E**, as amended by PL 1997, c. 741, §6 and
39 affected by §12, is further amended by amending subparagraph (1), division (f) to read:

40 (f) Rules for personnel administration, ~~except the following: Rules for rules~~
41 relating to applicants for employment in state or legislative service and state
42 classified employees in an initial probationary status, including any extensions

1 thereof, ~~provided~~ as long as such rules are not discriminatory by reason of an
2 applicant's actual or perceived race, color, ~~ereed~~, sex, sexual orientation,
3 gender identity, physical or mental disability, religion, ancestry or national
4 origin, age or familial status;

5 **Sec. 21. 26 MRSA §1285, sub-§1, ¶E**, as amended by PL 1989, c. 596, Pt. N, §6,
6 is further amended by amending subparagraph (6) to read:

7 (6) Rules for personnel administration, except for rules relating to applicants for
8 employment and employees in an initial probationary status, including any
9 extensions thereof, ~~provided that~~ as long as the rules are not discriminatory by
10 reason of an applicant's actual or perceived race, color, ~~ereed~~, sex, sexual
11 orientation, gender identity, physical or mental disability, religion, ancestry or
12 national origin, age or familial status.

13 **Sec. 22. 30-A MRSA §3010, sub-§6**, as amended by PL 2021, c. 348, §48, is
14 further amended to read:

15 **6. Rights of individuals.** A cable system operator may not deny service, deny access
16 or otherwise discriminate against subscribers, channel users or general citizens on the basis
17 of ~~age~~, actual or perceived race, ~~religion~~ color, sex, sexual orientation, gender identity,
18 physical or mental disability, ancestry or ~~country of natural~~ national origin, age or familial
19 status.

20 **Sec. 23. 30-A MRSA §5724, sub-§9**, as amended by PL 2003, c. 75, §3, is further
21 amended by amending the 2nd blocked paragraph to read:

22 Health and remedial services and instructional materials and equipment provided for the
23 benefit of nonpublic school pupils under this section and the admission of pupils to the
24 nonpublic schools must be provided without distinction as to actual or perceived race,
25 ~~ereed~~, color, ~~the~~ sex, sexual orientation, gender identity, physical or mental disability,
26 religion, ancestry or national origin or familial status of the pupils or of their teachers. ~~No~~
27 ~~instructional~~ Instructional materials or instructional equipment may not be loaned to pupils
28 in nonpublic schools or their parents unless similar instructional material or instructional
29 equipment is available for pupils in a public school served by a municipality.

30 **Sec. 24. 33 MRSA §124, sub-§4**, as amended by PL 2021, c. 348, §51, is further
31 amended to read:

32 **4. Class of persons to whom residential real estate may be sold.** To restrict the
33 class of persons to whom residential real estate may be sold or leased, as long as that
34 restriction does not discriminate based upon actual or perceived race, color, sex, sexual
35 orientation, gender identity, physical or mental disability, religion, ancestry or national
36 origin, age or familial status and does not otherwise contravene the Constitution of Maine
37 or the United States Constitution;

38 **Sec. 25. 34-B MRSA §3611, sub-§9, ¶B**, as amended by PL 2021, c. 366, §32, is
39 further amended to read:

40 B. A person may not be excluded from the council system or discriminated against
41 within the council system by reason of actual or perceived race, ~~ereed~~, color, ~~gender~~
42 sex, sexual orientation, gender identity, ~~age~~, marital status, homelessness, physical or

