

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 279

H.P. 177

House of Representatives, January 26, 2023

An Act to Protect Against Discrimination by Public Entities

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, reading "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Speaker TALBOT ROSS of Portland.
Cosponsored by Senator BEEBE-CENTER of Knox and
Representatives: MOONEN of Portland, PLUECKER of Warren, PRINGLE of Windham,
Senators: CARNEY of Cumberland, NANGLE of Cumberland.

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

2 **Sec. 1. 5 MRSA §4553, sub-§8-D, ¶B,** as amended by PL 2019, c. 464, §1, is
3 repealed.

4 **Sec. 2. 5 MRSA §4553, sub-§8-D,** as amended by PL 2019, c. 464, §1, is further
5 amended by repealing the 2nd blocked paragraph.

6 **Sec. 3. 5 MRSA §4553, sub-§10, ¶F,** as amended by PL 2005, c. 10, §5, is further
7 amended to read:

8 F. Unlawful educational discrimination as defined and limited by subchapter 5-B; ~~and~~

9 **Sec. 4. 5 MRSA §4553, sub-§10, ¶G,** as amended by PL 2021, c. 366, §3, is further
10 amended to read:

11 G. Discrimination in employment, housing, public accommodation, credit and
12 educational opportunity on the basis of sexual orientation or gender identity, except
13 that a religious corporation, association or organization that does not receive public
14 funds is exempt from this provision with respect to:

15 (1) Employment, as is more fully set forth in section 4553, subsection 4 and section
16 4573-A;

17 (2) Housing; and

18 (3) Educational opportunity.

19 Any for-profit organization owned, controlled or operated by a religious association or
20 corporation and subject to the provisions of the United States Internal Revenue Code
21 of 1986, 26 United States Code, Section 511(a) is not covered by the exemptions set
22 forth in this paragraph; and

23 **Sec. 5. 5 MRSA §4553, sub-§10, ¶H** is enacted to read:

24 H. Unlawful discrimination by public entities as described in section 4630.

25 **Sec. 6. 5 MRSA §4592, sub-§1, ¶C,** as enacted by PL 1995, c. 393, §22, is
26 amended to read:

27 C. A failure to take steps that may be necessary to ensure that no individual with a
28 disability is excluded, denied services, segregated or otherwise treated differently than
29 other individuals because of the absence of auxiliary aids and services, unless, in the
30 case of a private entity, the private entity can demonstrate that taking those steps would
31 fundamentally alter the nature of the good, service, facility, privilege, advantage or
32 accommodation being offered or would result in an undue burden; and

33 **Sec. 7. 5 MRSA §4592, sub-§1, ¶D,** as amended by PL 2021, c. 366, §13, is further
34 amended to read:

35 D. A private entity's failure to remove architectural barriers and communication
36 barriers that are structural in nature in existing facilities and transportation barriers in
37 existing vehicles and rail passenger cars used by an establishment for transporting
38 individuals, not including barriers that can be removed only through the retrofitting of
39 vehicles or rail passenger cars by the installation of a hydraulic or other lift, where the
40 removal is readily achievable.

1 When the entity can demonstrate that the removal of a barrier under this paragraph is
2 not readily achievable, a failure to make the goods, services, facilities, privileges,
3 advantages or accommodations available through alternative methods if alternative
4 methods are readily achievable; and

5 **Sec. 8. 5 MRSA §4592, sub-§1, ¶E**, as enacted by PL 1995, c. 393, §22, is
6 repealed.

7 **Sec. 9. 5 MRSA §4630** is enacted to read:

8 **§4630. Discrimination by public entities prohibited**

9 **1. Unlawful discrimination.** A public entity may not discriminate against an
10 individual, exclude an individual from participation in a service, program or activity of that
11 public entity or otherwise deny to an individual the benefits of a service, program or activity
12 of that public entity by reason of the individual's race or color, sex, sexual orientation or
13 gender identity, age, physical or mental disability, religion, ancestry or national origin.

14 **2. Continued applicability.** This section does not diminish the applicability of other
15 provisions of this chapter to public entities acting as employers, providing public
16 accommodations or education or acting as providers of credit or housing.

17 **SUMMARY**

18 This bill creates a new section in the Maine Human Rights Act that states it is unlawful
19 discrimination for a public entity to discriminate against an individual, exclude an
20 individual from participation in a service, program or activity of that public entity or
21 otherwise deny to an individual the benefits of a service, program or activity of that public
22 entity by reason of the individual's race or color, sex, sexual orientation or gender identity,
23 age, physical or mental disability, religion, ancestry or national origin. It amends existing
24 sections of the Maine Human Rights Act to create consistency with the new section.