

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature
1ST SPECIAL SESSION
JANUARY 2, 1974 TO MARCH 29, 1974
AND BY THE
One Hundred and Seventh Legislature
REGULAR SESSION
JANUARY 1, 1975 TO JULY 2, 1975

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH THE REVISED STATUTES OF 1964, TITLE 3,
SECTION 164, SUBSECTION 6.

THE KNOWLTON AND MCLEARY COMPANY
FARMINGTON, MAINE
1975

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Sixth Legislature

AT THE
SPECIAL SESSION

January 2, 1974

to

March 29, 1974

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

Effective February 26, 1974

CHAPTER 704

AN ACT to Repeal Certain Due Process of Law Provisions by Governmental Agencies.

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

Sec. 1. R. S., T. 1, § 404-A, sub-§ 1, amended. The first sentence of subsection 1 of section 404-A of Title 1 of the Revised Statutes, as enacted by section 2 of chapter 433 of the public laws of 1973, is amended to read as follows:

Every state, quasi-state, county, municipal and quasi-municipal office, agency, department, bureau, district, commission or other entity thereof, hereinafter in this subchapter called "agency," shall make a written record of every decision involving the conditional approval ~~granting~~ or denial of an application, license, certificate or any other type of permit.

Sec. 2. R. S., T. 1, § 404-A, sub-§ 3, repealed. Subsection 3 of section 404-A of Title 1 of the Revised Statutes, as enacted by section 2 of chapter 433 of the public laws of 1973, is repealed.

Effective June 28, 1974

CHAPTER 705

AN ACT to Prevent Physical Handicap Discrimination under Human Rights Act.

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

Sec. 1. R. S., T. 5, § 4552, amended. Section 4552 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971 and as amended by section 1 of chapter 347 of the public laws of 1973, is further amended to read as follows:

§ 4552. Policy

To protect the public health, safety and welfare, it is declared to be the policy of this State to keep continually in review all practices infringing on the basic human right to a life with dignity, and the causes of such practices, so that corrective measures may, where possible, be promptly recommended and implemented; and to prevent discrimination in employment, housing or access to public accommodations on account of race, color, sex, physical handicap, religion, ancestry or national origin and in employment, discrimination on account of age.

Sec. 2. R. S., T. 5, § 4566, sub-§ 6, amended. The 2nd sentence of subsection 6 of section 4566 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971 and as amended by section 2 of chapter 347 of the public laws of 1973, is further amended to read as follows:

The commission may itself or it may empower these agencies and councils to study the problems of discrimination in all or specific fields of human relationships when based on race or color, sex, **physical handicap**, religion or country of ancestral origin, and foster, through community effort or otherwise, good will among the groups and elements of the population of the State.

Sec. 3. R. S., T. 5, § 4566, sub-§ 10, amended. Subsection 10 of section 4566 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971 and as amended by section 3 of chapter 347 of the public laws of 1973, is further amended to read as follows:

10. Publications. To issue such publications and such results of investigations and research as in its judgment will tend to promote good will, and minimize or eliminate discrimination based on race or color, sex, **physical handicap**, religion or country of ancestral origin;

Sec. 4. R. S., T. 5, § 4566, sub-§ 11, amended. Subsection 11 of section 4566 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971 and as amended by section 4 of chapter 347 of the public laws of 1973, is further amended to read as follows:

11. Reports. From time to time, but not less than once a year, to report to the Legislature and the Governor, describing the investigations, proceedings and hearings the commission has conducted and their outcome and the other work performed by it, and make recommendations for such further legislation or executive action concerning abuses and discrimination based on race or color, sex, **physical handicap**, religion or country of ancestral origin, or other infringements on human rights or personal dignity, as may be desirable.

Sec. 5. R. S., T. 5, § 4571, amended. Section 4571 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971 and as amended by section 5 of chapter 347 of the public laws of 1973, is further amended to read as follows:

§ 4571. Right to freedom from discrimination in employment

The opportunity for an individual to secure employment without discrimination because of race, color, sex, **physical handicap**, religious creed, age, ancestry or national origin is recognized as and declared to be a civil right.

Sec. 6. R. S., T. 5, § 4572, sub-§ 1, ¶¶ A, B, C and D, amended. Paragraphs A, B, C and D of subsection 1 of section 4572 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971 and as amended by section 6 of chapter 347 of the public laws of 1973, are further amended to read as follows:

A. For any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of race or color, sex, **physical handicap**, religion, country of ancestral origin or age, or because of

any such reason to discharge an employee or discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, or any other matter directly or indirectly related to employment, or in the recruiting of individuals for employment or in hiring them, to utilize any employment agency which such employer knows, or has reasonable cause to know, discriminates against individuals because of their race or color, sex, **physical handicap**, religion, age or country of ancestral origin;

B. For any employment agency to fail or refuse to classify properly or refer for employment or otherwise discriminate against any individual because of race or color, sex, **physical handicap**, religion, age or country of ancestral origin or to comply with an employer's request for the referral of job applicants, if such request indicates either directly or indirectly that such employer will not afford full and equal employment opportunities to individuals regardless of their race or color, sex, **physical handicap**, religion, age or country of ancestral origin;

C. For any labor organization to exclude from apprenticeship or membership, or to deny full and equal membership rights, to any applicant for membership, because of race or color, sex, **physical handicap**, religion, age or country of ancestral origin, or because of any such reason to deny a member full and equal membership rights, expel from membership, penalize or otherwise discriminate in any manner with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, representation, grievances or any other matter directly or indirectly related to membership or employment, whether or not authorized or required by the constitution or bylaws of such labor organization or by a collective labor agreement or other contract, or to fail or refuse to classify properly or refer for employment, or otherwise to discriminate against any member because of race or color, sex, **physical handicap**, religion, age or country of ancestral origin or to cause or attempt to cause an employer to discriminate against an individual in violation of this section;

D. For any employer or employment agency or labor organization, prior to employment or admission to membership of any individual, to

(1) Elicit or attempt to elicit any information directly or indirectly pertaining to race or color, sex, **physical handicap**, religion or country of ancestral origin, **except where a physical handicap is determined to be job related and some privileged information is necessary for a suitable job referral;**

(2) Make or keep a record of race or color, sex, **physical handicap**, religion or country of ancestral origin, **except under physical handicap, when an employer requires a physical examination prior to employment, a privileged record of such an examination is permissible;**

(3) Use any form of application for employment, or personnel or membership blank containing questions or entries directly or indirectly pertaining to race or color, sex, **physical handicap**, religion or country of ancestral origin, **except under physical handicap, where it can be determined by the employer that the job or jobs to be filled require such information for the well-being and safety of the individual; nor will this section prohibit any officially recognized agency from keeping necessary**

records in order to provide free services to individuals requiring rehabilitation or employment assistance ;

(4) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon race or color, sex, **physical handicap**, religion or country of ancestral origin, **except under physical handicap when the text of such printed or published material strictly adheres to the provisions of this Act ;**

(5) Establish, announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race or color, sex, **physical handicap**, religion or country of ancestral origin of such group ;

Sec. 7. R. S., T. 5, § 4581, amended. Section 4581 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971 and as amended by section 8 of chapter 347 of the public laws of 1973, is further amended to read as follows :

§ 4581. Decent housing

The opportunity for an individual to secure decent housing in accordance with his or her ability to pay, and without discrimination because of race, color, sex, **physical handicap**, religious creed, ancestry or national origin is hereby recognized as and declared to be a civil right.

Sec. 8. R. S., T. 5, § 4582, amended. Section 4582 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971, and as amended, is further amended to read as follows :

§ 4582. Unlawful housing discrimination

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

For any owner, lessee, sublessee, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation, or any agent of these to make or cause to be made any written or oral inquiry concerning the race or color, sex, **physical handicap**, religion or country of origin of any prospective purchaser, occupant or tenant of such housing accommodation ; or to refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold from any individual such housing accommodation because of the race or color, sex, **physical handicap**, religion or country of ancestral origin of such individual ; or to issue any advertisement relating to the sale, rental or lease of such housing accommodation which indicates any preference, limitation, specification or discrimination based upon race or color, sex, **physical handicap**, religion or country of ancestral origin ; or to discriminate against any individual because of race or color, sex, **physical handicap**, religion, or country of ancestral origin in the price, terms, conditions or privileges of the sale, rental or lease of any such housing accommodations or in the furnishing of facilities or services in connection therewith, or to evict or attempt to evict any tenant of any housing accommodation because of the race or color, sex, **physical handicap**, religion, or country of ancestral origin of such tenant ;

For any real estate broker or real estate sales person, or agent of one of them, to fail or refuse to show any applicant for a housing accommodation any such accommodation listed for sale, lease or rental, because of the race or color, sex, **physical handicap**, religion or country of ancestral origin of such applicant or of any intended occupant of such accommodation, or to misrepresent, for the purpose of discriminating on account of the race or color, sex, **physical handicap**, religion or country of ancestral origin of such applicant or intended occupant, the availability or asking price of a housing accommodation listed for sale, lease or rental; or for such a reason to fail to communicate to the person having the right to sell or lease such housing accommodation any offer for the same made by any applicant thereof; or in any other manner to discriminate against any applicant for housing because of race or color, sex, **physical handicap**, religion or country of ancestral origin of such 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 handicap**, religion or country of ancestral origin 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 handicap**, religion or country of ancestral origin, or when he knows or has reason to know that the person having the right to sell or lease such housing accommodation has made a practice of such discrimination since July 1, 1972;

For any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured, or agent of such person, to make or cause to be made any oral or written inquiry concerning the race or color, sex, **physical handicap**, religion or country of ancestral origin 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, sex, **physical handicap**, religion or country of ancestral origin of such applicant or of the existing or prospective occupants or tenants.

Sec. 9. R. S., T. 5, § 4583, amended. Section 4583 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971, and as amended by section 10 of chapter 347 of the public laws of 1973, is further amended to read as follows:

§ 4583. Application

Nothing in this Act shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent, lease or manage a housing accommodation to set up and enforce specifications in the selling, renting, leasing or letting thereof or in the furnishings of facilities or services in connection therewith which are not based on the race, color, sex, **physical handicap**, religion or country of ancestral origin of any prospective or actual purchaser, lessee, tenant or occupant thereof. Nothing in this Act contained shall be 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 handicap**, religion or country of origin of the applicant for such loan or financial assistance or, of any existing or prospective owner, lessee, tenant or occupant of such housing accommodation.

Sec. 10. R. S., T. 5, § 4592, amended. Section 4592 of Title 5 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1971 and as amended by section 12 of chapter 347 of the public laws of 1973, is further amended to read as follows:

§ 4592. Unlawful public accommodations

It shall be unlawful public accommodations discrimination, in violation of this Act:

For any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, to directly or indirectly refuse, withhold from or deny to any person, on account of race or color, sex, **physical handicap**, religion or country of ancestral origin, any of the accommodations, advantages, facilities or privileges of such place of public accommodation, or for such reason in any manner discriminate against any person in the price, terms or conditions upon which access to such accommodation, advantages, facilities and privileges may depend;

For any person to directly or indirectly publish, circulate, issue, display, post or mail any written, printed, painted or broadcast communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any place of public accommodation shall be refused, withheld from or denied to any person on account of race or color, sex, **physical handicap**, religion or country of ancestral origin, or that the patronage or custom thereof of any person belonging to or purporting to be of any particular race or color, sex, **physical handicap**, religion or country of ancestral origin is unwelcome, objectionable or not acceptable, desired or solicited, or that the clientele thereof is restricted to members of particular races or colors, sexes, **physical handicap**, religions or countries of ancestral origin. The production of any such written, printed, painted or broadcast communication, notice or advertisement, purporting to relate to any such place, shall be presumptive evidence in any action that the same was authorized by its owner, manager or proprietor.

Nothing in this Act shall prohibit an employer from refusing to hire or discharging a physically handicapped employee, or subject an employer to any legal liability resulting from the refusing to employ or the discharge of a physically handicapped employee, where the employee, because of the physical handicap, is unable to perform his or her duties or perform those duties in a manner which would not endanger the health or safety of the employee or the health or safety of others or to be at, remain or go to or from the place where the duties of employment are to be performed.

Sec. 11. R. S., T. 5, § 4612, sub-§ 4, ¶ A, amended. Paragraph A of subsection 4 of section 4612 of Title 5 of the Revised Statutes, as enacted by

section 1 of chapter 501 of the public laws of 1971 and as amended, is further amended to read as follows:

A. Filing. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, and further believes that irreparable injury or great inconvenience will be caused the victim of such discrimination or to members of a racial, color, sex, **physical handicap**, religious, nationality group or age group if relief is not immediately granted; or if conciliation efforts under subsection 3 have not succeeded, the commission shall file in the Superior Court a civil action seeking such relief as is appropriate, including temporary restraining orders.

Sec. 12. R. S., T. 5, § 4593, additional. Title 5 of the Revised Statutes is amended by adding a new section 4593 to read as follows:

§ 4593. Existing facilities

1. Public accommodations. Nothing in section 4591 or 4592 related to equal access to public accommodations or indirectly denying access to the physical handicap shall apply to existing structures, structures under construction or proposed construction submitted for bid before September 1, 1974. For any building or facility constructed specifically as a place of public accommodation on or after September 1, 1974 there shall be:

A. At least one public walk not less than 40 inches wide with a slope not greater than one foot rise in 12 feet leading directly to a primary entrance;

B. A door at such primary entrance with a clear opening of no less than 32 inches and operable by a single effort. If doors at a primary entrance are in a series, they shall have a space between them of not less than 84 inches measured from their closed positions; and each shall open in the same direction so that swings do not conflict;

C. Rest room facilities should have at least one stall that is not less than 3 feet wide, 5 feet in depth, a 32-inch wide door that swings out, handrails on each side mounted 33 inches from the floor, and a water closet with a seat 20 inches high;

D. Doors that are not intended for normal use, and that are dangerous if a blind person were to enter or exit by them, shall be made identifiable to touch by knurling the handle or knob.

In any building designed and constructed specifically for public housing or accommodations, the bathroom facilities and all accompanying fixtures shall be arranged to permit access and use by a person in a wheelchair in at least 1% of the living units. Such units shall be constructed on ground level and shall comply with paragraph C.

2. Places of employment. Existing places of employment or structures to be used for this purpose currently under construction or where proposed construction has been submitted for bid before September 1, 1974, are exempt from the requirements of this chapter as they relate to accessibility for the physical handicap. For any building or facility constructed specifically as a place of employment on or after September 1, 1974, or when the estimated total costs for remodeling or enlarging an existing building exceeds \$100,000,

the public accommodation provisions relating to walks, entries, rest room facilities and doors shall apply.

Effective June 28, 1974

CHAPTER 706

AN ACT Relating to the Expunging of Certain Records of Arrest.

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

R. S., T. 16, § 600, repealed and replaced. Section 600 of Title 16 of the Revised Statutes, as enacted by chapter 460 of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 600. Expungement of records of arrest

Any person having been acquitted of a crime in any court or having had a complaint, information or indictment against him dismissed by any court shall be entitled to expungement of any records or recordings of any arrest and detention in connection with such charge, complaint, information or indictment.

The granting of an acquittal of a crime or the dismissal of a complaint, information or indictment shall mean that the person shall, for all purposes, be considered as never having been arrested for such charge or crime. No person, firm, corporation or employer shall use information concerning an offense for which an acquittal or dismissal has been granted in any manner to the detriment of the person who is acquitted or against whom charges have been dismissed.

1. Effect. The effect of expungement of criminal records as outlined in this section shall be the following:

A. Distribution. To prohibit the distribution or dissemination of any record so expunged;

B. Civil rights. To restore to such persons all civil rights or privileges lost or forfeited as a result of any arrest or detention, the records with respect to which have been expunged;

C. Use. To prohibit the use of any such record for purposes of impeaching the testimony of any person with respect to whom such order was issued in any civil or other action;

D. Inquiry. To prohibit the use, dissemination or distribution of any such record so expunged in connection with an inquiry related to credit purchases or access to educational programs.

2. Responsibility to inform. It is the responsibility of the clerk of the court, where such dismissal or acquittal occurs, to notify all law enforcement agencies, regulatory or licensing agencies, correctional institutions, courts and