

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

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Chapters 1-542

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Twin City Printery
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PUBLIC LAWS

OF THE

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Sec. 1. 1 MRSA §402, sub-§2, ¶C, as amended by PL 1977, c. 164, §1, is further amended to read:

C. Any board, commission, agency or authority of any county, municipality, school district or any regional or other political or administrative subdivision.

Sec. 2. 1 MRSA §405, sub-§6, ¶A is amended to read:

A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:

- (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the reputation or the individual's right to privacy would be violated;
- (2) Any person charged or investigated shall be permitted to be present at an executive session if he so desires;
- (3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against him be conducted in open session. A request, if made to the agency, must be honored; and
- (4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion shall be permitted to be present.

This subsection paragraph does not apply to discussion of a budget or budget proposal;

Sec. 3. 1 MRSA §405, sub-§6, ¶C, as enacted by PL 1975, c. 758, is amended to read:

C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency;

Sec. 4. 1 MRSA §406, as repealed and replaced by PL 1975, c. 758, is amended to read:

§406. Public notice

Public notice shall be given for all public proceedings as defined in section 402, if these proceedings are a meeting of a body or agency consisting of 3 or more persons ~~and the body or agency will deal with the expenditure of public funds or taxation, or will adopt policy at the meeting.~~ This notice shall be given in ample time to al-

low public attendance and shall be disseminated in a manner reasonably calculated to notify the general public in the jurisdiction served by the body or agency concerned. In the event of an emergency meeting, local representatives of the media shall be notified of the meeting, whenever practical, the notification to include time and location, by the same or faster means used to notify the members of the agency conducting the public proceeding.

Sec. 5. 1 MRSA §409, sub-§1, as enacted by PL 1975, c. 758, is amended to read:

1. Records. If any body or agency or official, who has custody or control of any public record, shall refuse permission to so inspect or copy or abstract a public record, this denial shall be made by the body or agency or official in writing, stating the reason for the denial, within ~~10~~ 5 working days of the request for inspection by any person. Any person aggrieved by denial may appeal therefrom, within ~~10~~ 5 working days of the receipt of the written notice of denial, to any Superior Court within the State. If a court, after a trial de novo, determines such denial was not for just and proper cause, it shall enter an order for disclosure. Appeals shall be privileged in respect to their assignment for trial over all other actions except writs of habeas corpus and actions brought by the State against individuals.

Sec. 6. 1 MRSA §410, as enacted by PL 1975, c. 758, is repealed and the following enacted in its place:

§410. Violations

For every willful violation of this subchapter, the state government agency or local government entity whose officer or employee committed the violation shall be liable for a civil violation for which a forfeiture of not more than \$500 may be adjudged.

Effective September 29, 1987.

CHAPTER 478

S.P. 629 — L.D. 1850

AN ACT to Enhance Educational Opportunity for Disabled Students.

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

Sec. 1. 5 MRSA §4552, as repealed and replaced by PL 1975, c. 770, §28, is amended to read:

§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 or mental handicap, religion, ancestry or national origin and in employment, discrimination on account of age; and to prevent discrimination in the extension of credit on account of age, race, color, sex, marital status, religion, ancestry or national origin; and to prevent discrimination in education on account of sex or physical or mental handicap.

Sec. 2. 5 MRSA §4553, sub-§8, as amended by PL 1983, c. 437, §1, is further amended to read:

8. Place of public accommodation. "Place of public accommodation" means any establishment which in fact caters to, or offers its goods, facilities or services to, or solicits or accepts patronage from, the general public; and it includes, but is not limited to: Inns, taverns, roadhouses, hotels, whether conducted for the entertainment or accommodation of transient guests or of those seeking health, recreation or rest, restaurant, eating houses or any place where food is sold for consumption on the premises; buffets, saloons, barrooms or any store, park or enclosure where spirituous or malt liquors are sold; ice cream parlors, confectioneries, soda fountains and all stores where beverages of any kind are retailed for consumption on the premises; retail stores and establishments; dispensaries, clinics, hospitals, rest rooms, bathhouses, barber shops, beauty parlors, theatres, motion picture houses, music halls, airdromes, roof gardens, race courses, skating rinks, amusement and recreation parks, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiard and pool parlors, swimming pools, seashore accommodations and boardwalks, public libraries, garages and gasoline stations; all public conveyances operated on land, water or in the air as well as the stations and terminals thereof; public halls and public elevators of buildings occupied by 2 or more tenants or by the owner and one or more tenants; and educational institutions.

Sec. 3. 5 MRSA §4601, as enacted by PL 1983, c. 578, §3, is amended to read:

§4601. Right to freedom from discrimination in education

The opportunity for an individual at an educational institution to participate in all educational, counseling, vocational guidance programs and all apprenticeship and on-the-job training programs without discrimination because of sex or a physical or mental handicap is recognized and declared to be a civil right.

Sec. 4. 5 MRSA §4602, as amended by PL 1985, c. 797, §1, is further amended to read:

§4602. Unlawful educational discrimination

1. Unlawful educational discrimination on the basis of sex. It is unlawful educational discrimination in vio-

lation of this Act, on the basis of sex, to:

A. Exclude a person from participation in, deny a person the benefits of, or subject a person to, discrimination in any academic, extracurricular, research, occupational training or other program or activity;

B. Deny a person equal opportunity in athletic programs;

C. Apply any rule concerning the actual or potential family or marital status of a person or to exclude any person from any program or activity because of pregnancy or related conditions;

D. Deny admission to the institution or program or to fail to provide equal access to and information about an institution or program through recruitment; or

E. Deny financial assistance availability and opportunity.

2. Unlawful educational discrimination on the basis of physical or mental handicap. It is unlawful educational discrimination in violation of this Act solely on the basis of physical or mental handicap to:

A. Exclude from participation in, deny the benefits of or subject to discrimination under any educational program or activity any otherwise qualified handicapped individual;

B. Deny any person equal opportunity in athletic programs, provided that no educational institution may be required under this subsection to provide separate athletic programs to serve the handicapped;

C. Deny admission to any institution or program or fail to provide equal access to and information about an institution or program through recruitment; or

D. Deny financial assistance availability and opportunity.

Nothing in this subsection may be construed to cover the rights of exceptional students to special education programs under state or federal law.

Sec. 5. **Report.** The Maine Human Rights Commission and the Department of Educational and Cultural Services shall report to the Joint Standing Committee on Education at the Second Regular Session of the 113th Legislature concerning the implementation of the physical and mental handicap provisions of this Act.

Effective September 29, 1987.

CHAPTER 479

S.P. 514 — L.D. 1557