

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

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Augusta, Maine
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PUBLIC LAWS
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this section and its rules is not technologically feasible or would result in excessive and unreasonable costs without any substantial benefit to ~~physically handicapped~~ persons with physical disability, it may provide for modification of, or substitution for, these standards. In all petitions for variance or waiver, the burden of proof is on the party requesting a variance or waiver to justify its allowance.

Requests for waivers or variances for buildings covered by mandatory plan review are heard by a representative of the commission and a designee of the Office of the State Fire Marshal. A decision must be provided in writing to the party requesting the waiver or variance.

Sec. 27. 5 MRSA §4601, as amended by PL 1989, c. 725, §1, is further 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, a physical or mental ~~handicap~~ disability, or national origin, is recognized and declared to be a civil right.

Sec. 28. 5 MRSA §4602, sub-§2, as enacted by PL 1987, c. 478, §4, is amended to read:

2. Unlawful educational discrimination on the basis of physical or mental disability. It is unlawful educational discrimination in violation of this Act solely on the basis of physical or mental ~~handicap~~ disability 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 with physical or mental disability;
- 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~~ persons with physical or mental disability;
- 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. 29. 5 MRSA §4612, sub-§4, ¶A, as amended by PL 1975, c. 358, §15, is further amended to read:

- A. 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 or mental ~~handicap~~ disability, 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. 30. 5 MRSA §4612, sub-§4, ¶B, as amended by PL 1973, c. 347, §13, is further amended to read:

B. Grounds for the filing of such an action before attempting conciliation include, but are not limited to:

- (1) In unlawful housing discrimination, that the housing accommodation sought is likely to be sold or rented to another during the pendency of proceedings, or that an unlawful eviction is about to occur;
- (2) In unlawful employment discrimination, that the victim of the discrimination has lost or is threatened with the loss of job and income as a result of such discrimination;
- (3) In unlawful public accommodations discrimination, that such discrimination is causing inconvenience to many persons;
- (4) In any unlawful discrimination, that the victim of the discrimination is suffering or is in danger of suffering severe financial loss in relation to ~~his~~ circumstances, severe hardship or personal danger as a result of such discrimination.

See title page for effective date.

CHAPTER 100

H.P. 341 - L.D. 471

An Act to Amend the Maine Human Rights Act to Prohibit Educational Discrimination on the Basis of Race

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

Sec. 1. 5 MRSA §4601, as amended by PL 1989, c. 725, §1, is further 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,

a physical or mental handicap, ~~or~~ national origin; or race is recognized and declared to be a civil right.

Sec. 2. 5 MRSA §4602, sub-§3, as enacted by PL 1989, c. 725, §2, is amended to read:

3. Unlawful educational discrimination on the basis of national origin or race. It is unlawful educational discrimination in violation of this Act, on the basis of national origin; or race, 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 admission to the institution or program or to fail to provide equal access to and information about an institution or program through recruitment; or

C. Deny financial assistance availability and opportunity.

See title page for effective date.

CHAPTER 101

H.P. 621 - L.D. 891

An Act to Clarify the Obligation of District Attorneys to Pay for Physical Examinations of Certain Crime Victims

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

30-A MRSA §287, sub-§§1 and 2, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are repealed and the following enacted in their place:

1. Payment of expenses by district attorney. Except as provided in subsection 2, in all cases reported to a law enforcement officer of sexual abuse of minors, assault when serious bodily injury has been inflicted and gross sexual assault, the office of the district attorney of the county in which the alleged crime occurred shall pay the expenses of a physical examination of the victim conducted for the purpose of obtaining evidence for the prosecution.

2. Limitation. The district attorney is required to pay the expenses for the physical examination of a victim in accordance with subsection 1 only in the absence of medical insurance or other 3rd-party coverage of the expenses of examination and only from a fund or account appropriated for that purpose. The office of the district attorney is not liable for the payment of any charges, costs or fees for an examination under subsection 1 until the district attorney has received copies of all reports and records pertaining to the examination, if the copies have been requested.

See title page for effective date.

CHAPTER 102

S.P. 276 - L.D. 735

An Act to Amend the Laws Concerning Removal or Destruction of Landmark Locations by State Departments

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

14 MRSA §7554-A, sub-§2, as enacted by PL 1973, c. 81, is amended to read:

2. Payment. The appropriate department may make reasonable payment to affected property owners ~~not to exceed \$100 as a landmark location allowance~~ for the cost of reestablishing the landmark location.

See title page for effective date.

CHAPTER 103

H.P. 517 - L.D. 745

An Act to Amend the Laws Regarding State Assistance to Mass Transportation

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

23 MRSA §4209, sub-§3, 1B, as amended by PL 1985, c. 174, Pt. E, is further amended to read:

B. Capital assistance to transportation providers for up to ~~42~~ 100% of the nonfederal share required by federal assistance programs;

See title page for effective date.

CHAPTER 104

H.P. 391 - L.D. 565

An Act to Clarify the Licensing Status of Acute Care Units at State Mental Health Institutes

Emergency preamble. **Whereas**, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the conditional licenses of the state mental health hospitals expire on July 1, 1991; and

Whereas, the Department of Human Services may not extend the conditional licenses without legislative approval; and