

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
129<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON JUDICIARY**

August 2019

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# STATE OF MAINE

129<sup>TH</sup> LEGISLATURE  
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## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 129<sup>th</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

*CARRIED OVER*..... carried over to a subsequent session of the Legislature  
*CON RES XXX*..... chapter # of constitutional resolution passed by both houses  
*CONF CMTE UNABLE TO AGREE*..... Committee of Conference unable to agree; legislation died  
*DIED BETWEEN HOUSES*..... House & Senate disagreed; legislation died  
*DIED IN CONCURRENCE*..... defeated in each house, but on different motions; legislation died  
*DIED ON ADJOURNMENT*..... action incomplete when session ended; legislation died  
*EMERGENCY*..... enacted law takes effect sooner than 90 days after session adjournment  
*FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE*..... emergency failed to receive required 2/3 vote  
*FAILED, ENACTMENT or FINAL PASSAGE*..... failed to receive final majority vote  
*FAILED, MANDATE ENACTMENT*..... legislation proposing local mandate failed required 2/3 vote  
*HELD BY GOVERNOR*..... Governor has not signed; final disposition to be determined at subsequent session  
*LEAVE TO WITHDRAW*..... sponsor's request to withdraw legislation granted  
*NOT PROPERLY BEFORE THE BODY*..... ruled out of order by the presiding officer; legislation died  
*INDEF PP*..... indefinitely postponed; legislation died  
*ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X*... ought-not-to-pass report accepted; legislation died  
*P&S XXX*..... chapter # of enacted private & special law  
*PUBLIC XXX*..... chapter # of enacted public law  
*RESOLVE XXX*..... chapter # of finally passed resolve  
*VETO SUSTAINED*..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 129<sup>th</sup> Legislature is Thursday, September 19, 2019. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

**Joint Standing Committee on Judiciary**

customers. The online index must include the names of persons appearing on the certificate or record, the municipality in which the certificate or record was recorded, the date of the event and the certificate number for the certificate or record number for the record.

**LD 1701     An Act To Clarify Various Provisions of the Maine Human Rights Act**

**PUBLIC 464**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAILEY D	OTP ONTP	H-652   BAILEY D

This bill makes changes to the Maine Human Rights Act in order to clarify its proper application and interpretation. In particular, the bill describes the behaviors that may constitute harassment in reference to unlawful discrimination; clarifies the Act's coverage of claims based on association and based on the perception that an individual belongs to a protected class; and provides a definition of "gender identity." The bill provides needed clarification related to several Maine Human Rights Act provisions highlighted by recent court decisions, including confirming that a leave of absence can be a reasonable accommodation for a disability in employment, and that individual employees may be liable for their discriminatory behavior in certain circumstances. The bill also makes grammatical changes and corrects cross-references.

**House Amendment "A" (H-652)**

This amendment make several changes to the bill, including removing the description of behaviors that might constitute harassment in reference to unlawful discrimination, removing the phrase "bona fide nonprofit" and removing language that would have held individual employees liable for their discriminatory behavior in certain circumstances.

**Enacted Law Summary**

Public Law 2019, chapter 464, makes changes to the Maine Human Rights Act in order to clarify its proper application and interpretation. In particular, chapter 464 clarifies the Act's coverage of claims based on association and based on the perception that an individual belongs to a protected class; and provides a definition of "gender identity." Chapter 464 provides needed clarification related to several Maine Human Rights Act provisions highlighted by recent court decisions, including confirming that a leave of absence can be a reasonable accommodation for a disability in employment. It also prohibits any public accommodation to designate a single-occupancy toilet facility as for use only by members of one sex. A single-occupancy toilet facility may be identified by a sign, as long as the sign does not indicate that the facility is for use by members of one specific sex.

**LD 1702     An Act To Enhance the Administration of the Maine Human Rights Act**

**PUBLIC 465**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAILEY D	OTP-AM ONTP	H-642 H-653   BAILEY D

This bill amends the Maine Human Rights Act so as to make more efficient the processing and investigation of complaints. The bill:

1. Specifies that the Act must be construed to provide broad protection from discrimination; that it may not be construed to provide less coverage than the federal law; and that the interpretation of the Act by the Maine Human Rights Commission is entitled to deference by the court;
2. Authorizes the executive director of the commission to appoint or hire additional necessary personnel subject to

## *Joint Standing Committee on Judiciary*

the Civil Service Law;

3. Replaces certain references to the enumerated potential bases for discrimination with references to "protected class characteristics, membership or status;"
4. Specifies that funds received by the commission for the purpose of implementing a third-party neutral mediation program are not subject to any statewide cost allocation plan;
5. Designates as confidential certain information that is collected during the investigation of a complaint under the Act and exempts such information from the definition of "public record" for purposes of the Freedom of Access Act;
6. Authorizes the executive director of the commission to administratively dismiss a complaint brought under the Act for specified reasons;
7. Provides that any post-finding conciliation agreement that includes the commission as a signatory is a public record;
8. Authorizes the executive director to issue a right-to-sue letter in any case in which the commission has not filed a civil action in the case or has not entered into a conciliation agreement in the case within 180 days of the complaint being filed, whether or not such a letter has been requested by the complainant; and
9. Prohibits the awarding of attorney's fees and costs to the commission and specifies that the commission is not liable to pay attorney's fees and costs of another party.

### **Committee Amendment "A" (H-642)**

This amendment, which is the majority report, removes from the bill the proposed authority of director of the Maine Human Rights Commission to issue a right-to-sue letter without a request.

### **House Amendment "A" (H-653)**

This amendment removes language regarding the construction of the Maine Human Rights Act and the interpretation of rules of the Maine Human Rights Commission, and removes authorization for the appointment or hiring of additional commission personnel.

### **Enacted Law Summary**

Public Law 2019, chapter 465 amends the Maine Human Rights Act so as to make more efficient the processing and investigation of complaints. Chapter 465:

1. Replaces certain references to the enumerated potential bases for discrimination with references to "protected class characteristics, membership or status;"
2. Specifies that funds received by the commission for the purpose of implementing a third-party neutral mediation program are not subject to any statewide cost allocation plan;
3. Designates as confidential certain information that is collected during the investigation of a complaint under the Act and exempts such information from the definition of "public record" for purposes of the Freedom of Access Act;
4. Authorizes the executive director of the commission to administratively dismiss a complaint brought under the Act for specified reasons;
5. Provides that any post-finding conciliation agreement that includes the commission as a signatory is a public record; and

*Joint Standing Committee on Judiciary*

6. Prohibits the awarding of attorney's fees and costs to the commission and specifies that the commission is not liable to pay attorney's fees and costs of another party.

**LD 1703     An Act To Improve Consistency within the Maine Human Rights Act**

**HELD BY  
GOVERNOR**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAILEY D	OTP-AM ONTP	H-643 S-349 CARPENTER M H-654 BAILEY D

The purpose of this bill is to address inconsistencies in the protections provided in different areas of jurisdiction under the Maine Human Rights Act. The bill provides more inclusive protection by:

1. Including adult family members dependent for care in the definition of "familial status";
2. Including familial status as a protected class in employment;
3. Including age as a protected class in public accommodations;
4. Providing that public entities cannot discriminate on the basis of protected class; and
5. Clarifying the scope of the Maine Human Rights Act application in education.

The bill also clarifies the protections provided to pregnant persons in employment and that the sexual orientation provisions already in the Maine Human Rights Act extend to gender identity.

**Committee Amendment "A" (H-643)**

This amendment is the majority report of the committee. This amendment removes housing from the list in the policy section of activities for which it is illegal to discriminate on the basis of age. The bill clarifies the Maine Human Rights Act by adding "or gender identity" where the phrase "sexual orientation" currently is in place; the amendment does the same throughout the rest of the Maine Revised Statutes.

**Senate Amendment "A" (S-349)**

This amendment strikes from the bill the clarifications of protections provided to pregnant persons in employment because they are covered by LD 666.

**House Amendment "A" (H-654)**

This amendment removes references to bona fide nonprofits regarding religious entities.

**LD 1709     An Act To Amend the Act To Implement the Maine Indian Claims Settlement**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COLLINGS B JACKSON T		

Current law provides that federal laws adopted after October 10, 1980 for the benefit of Indians, Indian nations or tribes or bands of Indians that would affect or preempt the application of the laws of this State, including application