

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 177 - L.D. 279

**An Act to Protect Against Discrimination by Public Entities**

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

**Sec. 1. 5 MRSA §4553, sub-§8-D, ¶A**, as amended by PL 2019, c. 464, §1, is further amended to read:

A. Subchapter 3 (employment); ~~and~~.

**Sec. 2. 5 MRSA §4553, sub-§8-D, ¶B**, as amended by PL 2019, c. 464, §1, is repealed.

**Sec. 3. 5 MRSA §4553, sub-§8-D**, as amended by PL 2019, c. 464, §1, is further amended by repealing the 2nd blocked paragraph.

**Sec. 4. 5 MRSA §4553, sub-§10, ¶F**, as amended by PL 2005, c. 10, §5, is further amended to read:

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

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

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

- (1) Employment, as is more fully set forth in section 4553, subsection 4 and section 4573-A;
- (2) Housing; and
- (3) Educational opportunity.

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

**Sec. 6. 5 MRSA §4553, sub-§10, ¶H** is enacted to read:

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

**Sec. 7. 5 MRSA §4592, sub-§1, ¶C**, as enacted by PL 1995, c. 393, §22, is amended to read:

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

**Sec. 8. 5 MRSA §4592, sub-§1, ¶D**, as amended by PL 2021, c. 366, §13, is further amended to read:

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

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

**Sec. 9. 5 MRSA §4592, sub-§1, ¶E**, as enacted by PL 1995, c. 393, §22, is repealed.

**Sec. 10. 5 MRSA §4630** is enacted to read:

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

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

**2. Exception; direct threat.** This section does not require a public entity to permit an individual to participate in or benefit from a service, program or activity of a public entity when the individual poses a direct threat to the health or safety of others. For the purposes of this subsection, "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of a policy, practice or procedure or by the provision of an auxiliary aid or service.

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

**Sec. 11. Appropriations and allocations.** The following appropriations and allocations are made.

**ATTORNEY GENERAL, DEPARTMENT OF THE**

**Administration - Attorney General 0310**

Initiative: Establishes one limited-period Assistant Attorney General position in the litigation division through June 14, 2025 and provides funding for related All Other costs.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2023-24</b>	<b>2024-25</b>
Personal Services	\$89,018	\$122,242
All Other	\$6,519	\$8,692
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$95,537</b>	<b>\$130,934</b>

**ATTORNEY GENERAL, DEPARTMENT OF THE  
DEPARTMENT TOTALS**

	<b>2023-24</b>	<b>2024-25</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$95,537</b>	<b>\$130,934</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$95,537</b>	<b>\$130,934</b>

**CORRECTIONS, DEPARTMENT OF**

**Administration - Corrections 0141**

Initiative: Establishes one limited-period Correctional Care and Treatment Worker position and provides funding for Assistant Attorney General billing costs and other related costs to investigate claims made to the Maine Human Rights Commission and submit relevant documents, data and records. The position begins January 1, 2024 and ends June 14, 2025.

<b>GENERAL FUND</b>	<b>2023-24</b>	<b>2024-25</b>
Personal Services	\$47,965	\$100,140
All Other	\$2,035	\$118,424
<b>GENERAL FUND TOTAL</b>	<b>\$50,000</b>	<b>\$218,564</b>

**CORRECTIONS, DEPARTMENT OF  
DEPARTMENT TOTALS**

	<b>2023-24</b>	<b>2024-25</b>
<b>GENERAL FUND</b>	<b>\$50,000</b>	<b>\$218,564</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$50,000</b>	<b>\$218,564</b>

**SECTION TOTALS**

	<b>2023-24</b>	<b>2024-25</b>
<b>GENERAL FUND</b>	<b>\$50,000</b>	<b>\$218,564</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$95,537</b>	<b>\$130,934</b>
<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$145,537</b>	<b>\$349,498</b>