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House of Representatives, April 5, 2023

**An Act to Protect Maine Citizens from Discrimination by Including
Vaccination Status as a Protected Class**

Reference to the Committee on Judiciary suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative GREENWOOD of Wales.
Cosponsored by Senator KEIM of Oxford and
Representatives: ANDREWS of Paris, DRINKWATER of Milford, JAVNER of Chester,
LIBBY of Auburn, QUINT of Hodgdon, SAMPSON of Alfred, UNDERWOOD of Presque
Isle, Senator: TIMBERLAKE of Androscoggin.

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

2 **Sec. 1. 5 MRSA §4552**, as amended by PL 2021, c. 366, §1, is further amended to
3 read:

4 **§4552. Policy**

5 To protect the public health, safety and welfare, it is declared to be the policy of this
6 State to keep continually in review all practices infringing on the basic human right to a
7 life with dignity, and the causes of these practices, so that corrective measures may, where
8 possible, be promptly recommended and implemented, and to prevent discrimination in
9 employment, housing, education, extension of credit or access to public accommodations
10 on account of an individual's actual or perceived race, color, sex, sexual orientation or
11 gender identity, physical or mental disability, religion, ancestry ~~or~~, national origin or
12 vaccination status and in employment, extension of credit and access to public
13 accommodations on the basis of age; and in employment and housing on the basis of
14 familial status; and in employment because of the previous assertion of a claim or right
15 against a prior employer under former Title 39 or Title 39-A and because of protected
16 activity under Title 26, chapter 7, subchapter 5-B; and to prevent discrimination or
17 retaliation on the basis of an assertion of rights under this Act or interference with an
18 individual's right to be free from discrimination prohibited under this Act.

19 **Sec. 2. 5 MRSA §4553, sub-§11** is enacted to read:

20 **11. Vaccination status.** "Vaccination status" means an indication of whether or not a
21 person has received a particular vaccine.

22 **Sec. 3. 5 MRSA §4571**, as amended by PL 2021, c. 366, §4, is further amended to
23 read:

24 **§4571. Right to freedom from discrimination in employment**

25 The opportunity for an individual to secure employment without discrimination
26 because of race, color, sex, sexual orientation or gender identity, physical or mental
27 disability, religion, age, ancestry, national origin, vaccination status or familial status is
28 recognized as and declared to be a civil right.

29 **Sec. 4. 5 MRSA §4572, sub-§1**, as amended by PL 2021, c. 293, Pt. B, §2; c. 366,
30 §5; and c. 476, §1, is further amended to read:

31 **1. Unlawful employment discrimination.** It is unlawful employment discrimination,
32 in violation of this Act, except when based on a bona fide occupational qualification:

33 A. For any employer to fail or refuse to hire or otherwise discriminate against any
34 applicant for employment because of race or color, sex, sexual orientation or gender
35 identity, physical or mental disability, religion, age, ancestry, national origin,
36 vaccination status or familial status, because of the applicant's previous assertion of a
37 claim or right under former Title 39 or Title 39-A, because of previous actions taken
38 by the applicant that are protected under Title 26, chapter 7, subchapter 5-B or because
39 the applicant sought and received an order of protection under Title 19-A, section 4007;
40 or, because of those reasons, to discharge an employee or discriminate with respect to
41 hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of
42 employment or any other matter directly or indirectly related to employment; or, in

1 recruiting of individuals for employment or in hiring them, to utilize any employment
2 agency that the employer knows or has reasonable cause to know discriminates against
3 individuals because of their race or color, sex, sexual orientation or gender identity,
4 physical or mental disability, religion, age, ancestry, national origin, vaccination status
5 or familial status, because of their previous assertion of a claim or right under former
6 Title 39 or Title 39-A, because of previous actions that are protected under Title 26,
7 chapter 7, subchapter 5-B or because the applicant sought and received an order of
8 protection under Title 19-A, section 4007.

9 (1) This paragraph does not apply to discrimination governed by Title 39-A,
10 section 353;

11 B. For any employment agency to fail or refuse to classify properly, refer for
12 employment or otherwise discriminate against any individual because of race or color,
13 sex, sexual orientation or gender identity, physical or mental disability, religion, age,
14 ancestry, national origin, vaccination status or familial status, because of the
15 individual's previous assertion of a claim or right under former Title 39 or Title 39-A,
16 because of previous actions taken by the individual that are protected under Title 26,
17 chapter 7, subchapter 5-B or because the individual sought and received an order of
18 protection under Title 19-A, section 4007; or to comply with an employer's request for
19 the referral of job applicants if a request indicates either directly or indirectly that the
20 employer will not afford full and equal employment opportunities to individuals
21 regardless of their race or color, sex, sexual orientation or gender identity, physical or
22 mental disability, religion, age, ancestry, national origin, vaccination status or familial
23 status, because of previous assertion of a claim or right under former Title 39 or Title
24 39-A, because of previous actions that are protected under Title 26, chapter 7,
25 subchapter 5-B or because the individual sought and received an order of protection
26 under Title 19-A, section 4007;

27 C. For any labor organization to exclude from apprenticeship or membership or to
28 deny full and equal membership rights to any applicant for membership because of race
29 or color, sex, sexual orientation or gender identity, physical or mental disability,
30 religion, age, ancestry, national origin, vaccination status or familial status, because of
31 the applicant's previous assertion of a claim or right under former Title 39 or Title
32 39-A, because of previous actions taken by the applicant that are protected under Title
33 26, chapter 7, subchapter 5-B or because the applicant sought and received an order of
34 protection under Title 19-A, section 4007; or, because of those reasons, to deny a
35 member full and equal membership rights, expel from membership, penalize or
36 otherwise discriminate with respect to hire, tenure, promotion, transfer, compensation,
37 terms, conditions or privileges of employment, representation, grievances or any other
38 matter directly or indirectly related to membership or employment, whether or not
39 authorized or required by the constitution or bylaws of that labor organization or by a
40 collective labor agreement or other contract; to fail or refuse to classify properly or
41 refer for employment or otherwise discriminate against any member because of race or
42 color, sex, sexual orientation or gender identity, physical or mental disability, religion,
43 age, ancestry, national origin, vaccination status or familial status, because of the
44 member's previous assertion of a claim or right under former Title 39 or Title 39-A,
45 because of previous actions taken by the member that are protected under Title 26,
46 chapter 7, subchapter 5-B or because the applicant sought and received an order of

1 protection under Title 19-A, section 4007; or to cause or attempt to cause an employer
2 to discriminate against an individual in violation of this section, except that it is lawful
3 for labor organizations and employers to adopt a maximum age limitation in
4 apprenticeship programs, if the employer or labor organization obtains prior approval
5 from the Maine Human Rights Commission of any maximum age limitation employed
6 in an apprenticeship program. The commission shall approve the age limitation if a
7 reasonable relationship exists between the maximum age limitation employed and a
8 legitimate expectation of the employer in receiving a reasonable return upon the
9 employer's investment in an apprenticeship program. The employer or labor
10 organization bears the burden of demonstrating that such a relationship exists;

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

13 (1) Elicit or attempt to elicit information directly or indirectly pertaining to race
14 or color, sex, sexual orientation or gender identity, physical or mental disability,
15 religion, age, ancestry, national origin, vaccination status or familial status, any
16 previous assertion of a claim or right under former Title 39 or Title 39-A, any
17 previous actions that are protected under Title 26, chapter 7, subchapter 5-B or any
18 previous actions seeking and receiving an order of protection under Title 19-A,
19 section 4007;

20 (2) Make or keep a record of race or color, sex, sexual orientation or gender
21 identity, physical or mental disability, religion, age, ancestry, national origin,
22 vaccination status or familial status, any previous assertion of a claim or right under
23 former Title 39 or Title 39-A, any previous actions that are protected under Title
24 26, chapter 7, subchapter 5-B or any previous actions seeking and receiving an
25 order of protection under Title 19-A, section 4007, except that, in relation to
26 physical or mental disability, when an employer requires a physical or mental
27 examination prior to employment, a privileged record of that examination is
28 permissible if made and kept in compliance with this Act;

29 (3) Use any form of application for employment, or personnel or membership
30 blank containing questions or entries directly or indirectly pertaining to race or
31 color, sex, sexual orientation or gender identity, physical or mental disability,
32 religion, age, ancestry, national origin, vaccination status or familial status, any
33 previous assertion of a claim or right under former Title 39 or Title 39-A, any
34 previous actions that are protected under Title 26, chapter 7, subchapter 5-B or any
35 previous actions seeking and receiving an order of protection under Title 19-A,
36 section 4007. This section does not prohibit any officially recognized government
37 agency from keeping records permitted to be kept under this Act in order to provide
38 free services to individuals requesting rehabilitation or employment assistance;

39 (4) Print, publish or cause to be printed or published any notice or advertisement
40 relating to employment or membership indicating any preference, limitation,
41 specification or discrimination based upon race or color, sex, sexual orientation or
42 gender identity, physical or mental disability, religion, age, ancestry, national
43 origin, vaccination status or familial status, any previous assertion of a claim or
44 right under former Title 39 or Title 39-A, any previous actions that are protected
45 under Title 26, chapter 7, subchapter 5-B or any previous actions seeking and
46 receiving an order of protection under Title 19-A, section 4007; or

1 (5) Establish, announce or follow a policy of denying or limiting, through a quota
2 system or otherwise, employment or membership opportunities of any group
3 because of the race or color, sex, sexual orientation or gender identity, physical or
4 mental disability, religion, age, ancestry, national origin, vaccination status or
5 familial status, because of the previous assertion of a claim or right under former
6 Title 39 or Title 39-A, because of previous actions that are protected under Title
7 26, chapter 7, subchapter 5-B or because of any previous actions seeking and
8 receiving an order of protection under Title 19-A, section 4007, of that group; or

9 E. For an employer, employment agency or labor organization to discriminate in any
10 manner against individuals because they have opposed a practice that would be a
11 violation of this Act or because they have made a charge, testified or assisted in any
12 investigation, proceeding or hearing under this Act. This paragraph does not limit the
13 liability of persons pursuant to section 4633.

14 **Sec. 5. 5 MRSA §4573-A, sub-§1**, as amended by PL 2019, c. 464, §3, is further
15 amended to read:

16 **1. General provisions.** It is a defense to a charge of discrimination under this
17 subchapter that an alleged application of qualification standards, tests or selection criteria
18 that screen out or tend to screen out or otherwise deny a job or benefit to an individual
19 based on protected class status has been shown to be job-related and consistent with
20 business necessity, and such performance ~~can not~~ cannot be accomplished by reasonable
21 accommodation, as required by this subchapter. This defense is not available against a
22 claim of discrimination based on vaccination status.

23 **Sec. 6. 5 MRSA §4581, first ¶**, as amended by PL 2021, c. 366, §7 and c. 476, §2,
24 is further amended to read:

25 The opportunity for an individual to secure housing in accordance with the individual's
26 ability to pay, and without discrimination because of race, color, sex, sexual orientation or
27 gender identity, physical or mental disability, religion, ancestry, national origin,
28 vaccination status or familial status or because the individual has sought and received an
29 order of protection under Title 19-A, section 4007, is hereby recognized as and declared to
30 be a civil right.

31 **Sec. 7. 5 MRSA §4581-A**, as amended by PL 2021, c. 366, §§8 to 10 and c. 476,
32 §3, is further amended to read:

33 **§4581-A. Unlawful housing discrimination**

34 It is unlawful housing discrimination, in violation of this Act:

35 **1. Sale or rental of housing and other prohibited practices.** For any owner, lessee,
36 sublessee, managing agent or other person having the right to sell or rent or manage a
37 housing accommodation, or any agent of these, to:

38 A. Make or cause to be made any written or oral inquiry concerning the race or color,
39 sex, sexual orientation or gender identity, physical or mental disability, religion,
40 ancestry, national origin, vaccination status, familial status or any previous actions
41 seeking and receiving an order of protection under Title 19-A, section 4007 of any
42 prospective purchaser, occupant or tenant of the housing accommodation;

1 B. Refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold
2 from any person the housing accommodation because of race or color, sex, sexual
3 orientation or gender identity, physical or mental disability, religion, ancestry, national
4 origin, vaccination status or familial status or because the person sought and received
5 an order of protection under Title 19-A, section 4007;

6 C. Make, print or publish or cause to be made, printed or published any notice,
7 statement or advertisement relating to the sale, rental or lease of the housing
8 accommodation that indicates any preference, limitation or discrimination based upon
9 race or color, sex, sexual orientation or gender identity, physical or mental disability,
10 religion, ancestry, national origin, vaccination status, familial status or any previous
11 actions seeking and receiving an order of protection under Title 19-A, section 4007 or
12 an intention to make any such preference, limitation or discrimination;

13 D. Discriminate against any person because of race or color, sex, sexual orientation or
14 gender identity, physical or mental disability, religion, ancestry, national origin,
15 vaccination status or familial status or because the person sought and received an order
16 of protection under Title 19-A, section 4007 in the price, terms, conditions or privileges
17 of the sale, rental or lease of any housing accommodations or in the furnishing of
18 facilities or services in connection with any housing accommodations; or

19 E. Evict or attempt to evict any tenant of any housing accommodation because of the
20 race or color, sex, sexual orientation or gender identity, physical or mental disability,
21 religion, ancestry, national origin, vaccination status or familial status of the tenant or
22 because the tenant sought and received an order of protection under Title 19-A, section
23 4007;

24 **2. Selling, brokering or appraising of housing.** For any real estate broker or real
25 estate salesperson, or any agent of these, to:

26 A. Fail or refuse to show any person a housing accommodation listed for sale, lease or
27 rent because of race or color, sex, sexual orientation or gender identity, physical or
28 mental disability, religion, ancestry, national origin, vaccination status or familial
29 status or because the person sought and received an order of protection under Title
30 19-A, section 4007;

31 B. Misrepresent, for the purpose of discriminating because of race or color, sex, sexual
32 orientation or gender identity, physical or mental disability, religion, ancestry, national
33 origin, vaccination status, familial status or any previous actions seeking and receiving
34 an order of protection under Title 19-A, section 4007, the availability or asking price
35 of a housing accommodation listed for sale, lease or rent or for such reason to fail to
36 communicate to the person having the right to sell, rent or lease the housing
37 accommodation any offer for the same made by any applicant;

38 C. In any other manner to discriminate against any applicant for a housing
39 accommodation because of race or color, sex, sexual orientation or gender identity,
40 physical or mental disability, religion, ancestry, national origin, vaccination status or
41 familial status or because the applicant sought and received an order of protection under
42 Title 19-A, section 4007;

43 D. Make or cause to be made any written or oral inquiry or record concerning the race
44 or color, sex, sexual orientation or gender identity, physical or mental disability,

1 religion, ancestry, national origin, vaccination status, familial status or any previous
2 actions seeking and receiving an order of protection under Title 19-A, section 4007 of
3 any applicant for or intended occupant of a housing accommodation; or

4 E. Accept for listing any housing accommodation when the person having the right to
5 sell, rent or lease the housing accommodation has directly or indirectly indicated an
6 intention of discriminating among prospective tenants or purchasers on the ground of
7 race or color, sex, sexual orientation or gender identity, physical or mental disability,
8 religion, ancestry, national origin, vaccination status, familial status or any previous
9 actions seeking and receiving an order of protection under Title 19-A, section 4007, or
10 when the broker or salesperson knows or has reason to know that the person having the
11 right to sell, rent or lease the housing accommodation has made a practice of
12 discrimination since July 1, 1972;

13 **3. Making of loans; other financial assistance.** For any person to whom application
14 is made for a loan or other form of financial assistance for the acquisition, construction,
15 rehabilitation, repair or maintenance of any housing accommodation, whether secured or
16 unsecured, or agent of the person, to:

17 A. Make or cause to be made any oral or written inquiry concerning the race or color,
18 sex, sexual orientation or gender identity, physical or mental disability, religion,
19 ancestry, national origin, vaccination status, familial status or any previous actions
20 seeking and receiving an order of protection under Title 19-A, section 4007 of any
21 applicant for financial assistance or of existing or prospective occupants or tenants of
22 housing accommodations; or

23 B. Discriminate in the granting of financial assistance, or in the terms, conditions or
24 privileges relating to obtaining or the use of any financial assistance, against any
25 applicant because of race or color, sex, sexual orientation or gender identity, physical
26 or mental disability, religion, ancestry, national origin, vaccination status, familial
27 status or any previous actions seeking and receiving an order of protection under Title
28 19-A, section 4007; or

29 **4. Receipt of public assistance.** For any person furnishing rental premises or public
30 accommodations to refuse to rent or impose different terms of tenancy to any individual
31 who is a recipient of federal, state or local public assistance, including medical assistance
32 and housing subsidies, primarily because of the individual's status as recipient.

33 **Sec. 8. 5 MRSA §4583**, as amended by PL 2021, c. 366, §11, is further amended to
34 read:

35 **§4583. Application**

36 Nothing in this Act may be construed to prohibit or limit the exercise of the privilege
37 of every person and the agent of any person having the right to sell, rent, lease or manage
38 a housing accommodation to set up and enforce specifications in the selling, renting,
39 leasing or letting or in the furnishings of facilities or services in connection with the
40 facilities that are consistent with business necessity and are not based on the race, color,
41 sex, sexual orientation or gender identity, physical or mental disability, religion, country of
42 ancestral origin, vaccination status or familial status of or the receipt of public assistance
43 payments by any prospective or actual purchaser, lessee, tenant or occupant. Nothing in
44 this Act may be construed to prohibit or limit the exercise of the privilege of every person

1 and the agent of any person making loans for or offering financial assistance in the
2 acquisition, construction, rehabilitation, repair or maintenance of housing accommodations
3 to set standards and preferences, terms, conditions, limitations or specifications for the
4 granting of loans or financial assistance that are consistent with business necessity and are
5 not based on the race, color, sex, sexual orientation or gender identity, physical or mental
6 disability, religion, country of ancestral origin, vaccination status or familial status of or
7 the receipt of public assistance payments by the applicant for a loan or financial assistance
8 or of any existing or prospective owner, lessee, tenant or occupant of a housing
9 accommodation.

10 **Sec. 9. 5 MRSA §4591**, as amended by PL 2021, c. 366, §12, is further amended to
11 read:

12 **§4591. Equal access to public accommodations**

13 The opportunity for every individual to have equal access to places of public
14 accommodation without discrimination because of race, color, sex, sexual orientation or
15 gender identity, age, physical or mental disability, religion, ancestry or national origin or
16 vaccination status is recognized as and declared to be a civil right.

17 **Sec. 10. 5 MRSA §4592, sub-§1**, as amended by PL 2021, c. 366, §13, is further
18 amended to read:

19 **1. Denial of public accommodations.** For any public accommodation or any person
20 who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or
21 employee of any place of public accommodation to directly or indirectly refuse,
22 discriminate against or in any manner withhold from or deny the full and equal enjoyment
23 to any person, on account of race or color, sex, sexual orientation or gender identity, age,
24 physical or mental disability, religion, ancestry or national origin or vaccination status, any
25 of the accommodations, advantages, facilities, goods, services or privileges of public
26 accommodation, or in any manner discriminate against any person in the price, terms or
27 conditions upon which access to accommodations, advantages, facilities, goods, services
28 and privileges may depend.

29 For purposes of this subsection, unlawful discrimination also includes, but is not limited
30 to:

31 A. The imposition or application of eligibility criteria that screen out or tend to screen
32 out an individual with a disability or any class of individuals with disabilities from fully
33 and equally enjoying any goods, services, facilities, privileges, advantages or
34 accommodations, unless the criteria can be shown to be necessary for the provision of
35 the goods, services, facilities, privileges, advantages or accommodations being offered;

36 B. A failure to make reasonable modifications in policies, practices or procedures,
37 when modifications are necessary to afford the goods, services, facilities, privileges,
38 advantages or accommodations to individuals with disabilities, unless, in the case of a
39 private entity, the private entity can demonstrate that making the modifications would
40 fundamentally alter the nature of the goods, services, facilities, privileges, advantages
41 or accommodations;

42 C. A failure to take steps that may be necessary to ensure that no individual with a
43 disability is excluded, denied services, segregated or otherwise treated differently than
44 other individuals because of the absence of auxiliary aids and services, unless, in the

1 case of a private entity, the private entity can demonstrate that taking those steps would
2 fundamentally alter the nature of the good, service, facility, privilege, advantage or
3 accommodation being offered or would result in an undue burden;

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

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

14 E. A qualified individual with a disability, by reason of that disability, being excluded
15 from participation in or being denied the benefits of the services, programs or activities
16 of a public entity, or being subjected to discrimination by any such entity;

17 **Sec. 11. 5 MRSA §4592, sub-§2**, as amended by PL 2021, c. 366, §14, is further
18 amended to read:

19 **2. Communication, notice or advertisement.** For any person to directly or indirectly
20 publish, display or communicate any notice or advertisement to the effect that any of the
21 accommodations, advantages, facilities and privileges of any place of public
22 accommodation are refused, withheld from or denied to any person on account of race or
23 color, sex, sexual orientation or gender identity, age, physical or mental disability, religion,
24 ancestry ~~or~~, national origin or vaccination status, or that the patronage or custom of any
25 person belonging to or purporting to be of any particular race or color, sex, sexual
26 orientation or gender identity, age, physical or mental disability, religion, ancestry ~~or~~,
27 national origin or vaccination status is unwelcome, objectionable or not acceptable, desired
28 or solicited, or that the clientele is restricted to any particular race or color, sex, sexual
29 orientation or gender identity, age, physical or mental disability, religion, ancestry ~~or~~,
30 national origin or vaccination status. The production of any communication, notice or
31 advertisement purporting to relate to any place of accommodation is presumptive evidence
32 in any action that the action was authorized by its owner, manager or proprietor;

33 **Sec. 12. 5 MRSA §4595**, as amended by PL 2021, c. 366, §16, is further amended
34 to read:

35 **§4595. Right to freedom from discrimination solely on basis of age, race, color, sex,**
36 **sexual orientation or gender identity, marital status, ancestry, religion ~~or~~,**
37 **national origin or vaccination status in any credit transaction**

38 The opportunity for every individual to be extended credit without discrimination
39 solely because of any one or more of the following factors: age; race; color; sex; sexual
40 orientation or gender identity; marital status; ancestry; religion ~~or~~; national origin or
41 vaccination status is recognized as and declared to be a civil right.

42 **Sec. 13. 5 MRSA §4596**, as amended by PL 2021, c. 366, §17, is further amended
43 to read:

