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House of Representatives, May 8, 2019

An Act To Improve Consistency within the Maine Human Rights Act

Submitted by the Maine Human Rights Commission pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative BAILEY of Saco.

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

2 **Sec. 1. 5 MRSA §4552**, as amended by PL 2005, c. 10, §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,
8 where possible, be promptly recommended and implemented, and to prevent
9 discrimination in employment, housing, education, extension of credit or access to public
10 accommodations on account of an individual's actual or perceived race, color, sex, sexual
11 orientation or gender identity, physical or mental disability, religion, ancestry or national
12 origin; and in employment, housing, 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, ~~discrimination on account of age or~~ because of the
15 previous assertion of a claim or right against another prior employer under former Title
16 39 or Title 39-A and in housing because of familial status; and to prevent discrimination
17 in the extension of credit on account of age, race, color, sex, sexual orientation, marital
18 status, religion, ancestry or national origin; and to prevent discrimination in education on
19 account of sex, sexual orientation or physical or mental disability and because of
20 protected activity under Title 26, chapter 7, subchapter 5-B, and to prevent discrimination
21 or retaliation on the basis of an assertion of rights under this Act or interference with an
22 individual's right to be free from discrimination prohibited under this Act.

23 **Sec. 2. 5 MRSA §4553, sub-§5-A**, as enacted by PL 1989, c. 245, §2, is amended
24 to read:

25 **5-A. Familial status.** "Familial status" means that a family unit may contain ~~one or~~
26 ~~more individuals who have not attained the age of 18 years and are living with:~~

27 A. ~~A One or more individuals who have not attained 18 years of age and are living~~
28 ~~with a parent or another person having legal custody of the individual or individuals;~~
29 ~~or the designee of the parent or other person having custody with the written~~
30 ~~permission of the parent or other person; or~~

31 B. ~~The designee of the parent or other person having custody, with the written~~
32 ~~permission of the parent or other person~~ One or more individuals who lack the ability
33 to meet essential requirements for physical health, safety or self-care because the
34 individual or individuals are unable to receive and evaluate information or make or
35 communicate decisions.

36 The protections afforded against discrimination on the basis of familial status ~~shall~~ apply
37 to any person who is pregnant or who is in the process of securing legal custody of any
38 individual who has not attained the age of 18 years.

39 **Sec. 3. 5 MRSA §4553, sub-§10, ¶G**, as amended by PL 2011, c. 613, §9 and
40 affected by §29, is further amended to read:

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

5 (1) Employment, as is more fully set forth in section 4553, subsection 4 and
6 section 4573-A;

7 (2) Housing; and

8 (3) Educational opportunity, ~~as is more fully set forth in section 4602,~~
9 ~~subsection 4.~~

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

14 **Sec. 4. 5 MRSA §4571**, as amended by PL 2005, c. 10, §10, is further amended to
15 read:

16 **§4571. Right to freedom from discrimination in employment**

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

21 **Sec. 5. 5 MRSA §4572, sub-§1**, as amended by PL 2005, c. 10, §§11 and 12, is
22 further amended to read:

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

25 A. For any employer to fail or refuse to hire or otherwise discriminate against any
26 applicant for employment because of race or color, sex, sexual orientation or gender
27 identity, physical or mental disability, religion, age, ancestry ~~or~~, national origin; or
28 familial status, because of the applicant's previous assertion of a claim or right under
29 former Title 39 or Title 39-A or because of previous actions taken by the applicant
30 that are protected under Title 26, chapter 7, subchapter 5-B; or, because of those
31 reasons, to discharge an employee or discriminate with respect to hire, tenure,
32 promotion, transfer, compensation, terms, conditions or privileges of employment or
33 any other matter directly or indirectly related to employment; or, in recruiting of
34 individuals for employment or in hiring them, to utilize any employment agency that
35 the employer knows or has reasonable cause to know discriminates against
36 individuals because of their race or color, sex, sexual orientation or gender identity,
37 physical or mental disability, religion, age, ancestry ~~or~~, national origin; or familial
38 status, because of their previous assertion of a claim or right under former Title 39 or
39 Title 39-A or because of previous actions that are protected under Title 26, chapter 7,
40 subchapter 5-B;

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

3 B. For any employment agency to fail or refuse to classify properly, refer for
4 employment or otherwise discriminate against any individual because of race or
5 color, sex, sexual orientation or gender identity, physical or mental disability,
6 religion, age, ancestry ~~or~~, national origin, or familial status, because of the
7 individual's previous assertion of a claim or right under former Title 39 or Title 39-A
8 or because of previous actions taken by the individual that are protected under Title
9 26, chapter 7, subchapter 5-B; or to comply with an employer's request for the
10 referral of job applicants if a request indicates either directly or indirectly that the
11 employer will not afford full and equal employment opportunities to individuals
12 regardless of their race or color, sex, sexual orientation or gender identity, physical or
13 mental disability, religion, age, ancestry ~~or~~, national origin, or familial status, because
14 of previous assertion of a claim or right under former Title 39 or Title 39-A or
15 because of previous actions that are protected under Title 26, chapter 7, subchapter
16 5-B;

17 C. For any labor organization to exclude from apprenticeship or membership or to
18 deny full and equal membership rights to any applicant for membership because of
19 race or color, sex, sexual orientation or gender identity, physical or mental disability,
20 religion, age, ancestry ~~or~~, national origin, or familial status, because of the applicant's
21 previous assertion of a claim or right under former Title 39 or Title 39-A or because
22 of previous actions taken by the applicant that are protected under Title 26, chapter 7,
23 subchapter 5-B; or, because of those reasons, to deny a member full and equal
24 membership rights, expel from membership, penalize or otherwise discriminate with
25 respect to hire, tenure, promotion, transfer, compensation, terms, conditions or
26 privileges of employment, representation, grievances or any other matter directly or
27 indirectly related to membership or employment, whether or not authorized or
28 required by the constitution or bylaws of that labor organization or by a collective
29 labor agreement or other contract; to fail or refuse to classify properly or refer for
30 employment or otherwise discriminate against any member because of race or color,
31 sex, sexual orientation or gender identity, physical or mental disability, religion, age,
32 ancestry ~~or~~, national origin, or familial status, because of the member's previous
33 assertion of a claim or right under former Title 39 or Title 39-A or because of
34 previous actions taken by the member that are protected under Title 26, chapter 7,
35 subchapter 5-B; or to cause or attempt to cause an employer to discriminate against
36 an individual in violation of this section, except that it is lawful for labor
37 organizations and employers to adopt a maximum age limitation in apprenticeship
38 programs, if the employer or labor organization obtains prior approval from the
39 Maine Human Rights Commission of any maximum age limitation employed in an
40 apprenticeship program. The commission shall approve the age limitation if a
41 reasonable relationship exists between the maximum age limitation employed and a
42 legitimate expectation of the employer in receiving a reasonable return upon the
43 employer's investment in an apprenticeship program. The employer or labor
44 organization bears the burden of demonstrating that such a relationship exists;

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

1 (1) Elicit or attempt to elicit information directly or indirectly pertaining to race
2 or color, sex, sexual orientation or gender identity, physical or mental disability,
3 religion, age, ancestry ~~or~~, national origin; or familial status, any previous
4 assertion of a claim or right under former Title 39 or Title 39-A or any previous
5 actions that are protected under Title 26, chapter 7, subchapter 5-B;

6 (2) Make or keep a record of race or color, sex, sexual orientation or gender
7 identity, physical or mental disability, religion, age, ancestry ~~or~~, national origin;
8 or familial status, any previous assertion of a claim or right under former Title 39
9 or Title 39-A or any previous actions that are protected under Title 26, chapter 7,
10 subchapter 5-B, except under physical or mental disability when an employer
11 requires a physical or mental examination prior to employment, a privileged
12 record of that examination is permissible if made and kept in compliance with
13 this Act;

14 (3) Use any form of application for employment, or personnel or membership
15 blank containing questions or entries directly or indirectly pertaining to race or
16 color, sex, sexual orientation or gender identity, physical or mental disability,
17 religion, age, ancestry ~~or~~, national origin; or familial status, any previous
18 assertion of a claim or right under former Title 39 or Title 39-A or any previous
19 actions that are protected under Title 26, chapter 7, subchapter 5-B. This section
20 does not prohibit any officially recognized government agency from keeping
21 records permitted to be kept under this Act in order to provide free services to
22 individuals requesting rehabilitation or employment assistance;

23 (4) Print, publish or cause to be printed or published any notice or advertisement
24 relating to employment or membership indicating any preference, limitation,
25 specification or discrimination based upon race or color, sex, sexual orientation
26 or gender identity, physical or mental disability, religion, age, ancestry ~~or~~,
27 national origin; or familial status, any previous assertion of a claim or right under
28 former Title 39 or Title 39-A or any previous actions that are protected under
29 Title 26, chapter 7, subchapter 5-B; or

30 (5) Establish, announce or follow a policy of denying or limiting, through a
31 quota system or otherwise, employment or membership opportunities of any
32 group because of the race or color, sex, sexual orientation or gender identity,
33 physical or mental disability, religion, age, ancestry ~~or~~, national origin; or
34 familial status, the previous assertion of a claim or right under former Title 39 or
35 Title 39-A or because of previous actions that are protected under Title 26,
36 chapter 7, subchapter 5-B, of that group; or

37 E. For an employer, employment agency or labor organization to discriminate in any
38 manner against individuals because they have opposed a practice that would be a
39 violation of this Act or because they have made a charge, testified or assisted in any
40 investigation, proceeding or hearing under this Act. This paragraph does not in any
41 way limit the liability of individuals or entities pursuant to section 4633.

42 **Sec. 6. 5 MRSA §4572-A, sub-§§2 and 3**, as enacted by PL 1979, c. 79, are
43 amended to read:

1 **2. Pregnant persons who are able to work.** It shall ~~be~~ is unlawful employment
2 discrimination in violation of this Act, except where based on a bona fide occupational
3 qualification, for an employer, employment agency or labor organization to treat a
4 pregnant ~~woman~~ person who is able to work in a different manner from other persons
5 who are able to work. For purposes of this subsection, a pregnant person is considered
6 able to work if the person can perform the essential functions of the person's position with
7 or without reasonable accommodations. It is unlawful discrimination for an employer to
8 refuse to provide to a pregnant employee or applicant for employment reasonable
9 accommodations for the person's pregnancy or related medical condition, unless the
10 employer can demonstrate that the accommodation would impose an undue hardship on
11 the operation of the business of the covered entity.

12 **3. Pregnant persons who are not able to work.** It shall is also be unlawful
13 employment discrimination in violation of this Act, except where based on a bona fide
14 occupational qualification, for an employer, employment agency or labor organization to
15 treat a pregnant ~~woman~~ person who is not able to work because of a disability or illness
16 resulting from pregnancy, or from medical conditions ~~which~~ that result from pregnancy,
17 in a different manner from other employees who are not able to work because of other
18 disabilities or illnesses.

19 **Sec. 7. 5 MRSA §4572-A, sub-§4,** as amended by PL 1995, c. 393, §14, is
20 further amended to read:

21 **4. Employer not responsible for additional benefits.** Nothing in this section may
22 be construed to mean that an employer, employment agency or labor organization is
23 required to provide sick leave, a leave of absence, medical benefits or other benefits to a
24 ~~woman~~ person because of pregnancy or other medical conditions that result from
25 pregnancy; if the employer, employment agency or labor organization does not also
26 provide sick leaves, leaves of absence, medical benefits or other benefits for the
27 employer's other employees and is not otherwise required to provide those leaves or
28 benefits under other state or federal laws. Reasonable accommodations to enable a
29 pregnant person to be able to work are not considered additional benefits.

30 **Sec. 8. 5 MRSA §4573-A, sub-§§1 and 2,** as enacted by PL 1995, c. 393, §21,
31 are amended to read:

32 **1. General provisions.** It is a defense to a charge of discrimination under this
33 subchapter that an alleged application of qualification standards, tests or selection criteria
34 that screen out or tend to screen out or otherwise deny a job or benefit to an individual
35 ~~with a disability~~ based on protected class status has been shown to be job-related and
36 consistent with business necessity, and such performance can not be accomplished by
37 reasonable accommodation, as required by this subchapter.

38 **2. Religious entities.** This subchapter does not prohibit a bona fide nonprofit
39 religious corporation, association, educational institution or society that does not receive
40 public funds from giving preference in employment to individuals of its same religion to
41 perform work connected with the carrying on by the corporation, association, educational
42 institution or society of its activities. Under this subchapter, a bona fide nonprofit

1 religious organization that does not receive public funds may require that all applicants
2 and employees conform to the religious tenets of that organization.

3 **Sec. 9. 5 MRSA §4581, first ¶**, as amended by PL 2011, c. 613, §10 and affected
4 by §29, is further amended to read:

5 The opportunity for an individual to secure housing in accordance with the
6 individual's ability to pay, and without discrimination because of race, color, sex, sexual
7 orientation or gender identity, physical or mental disability, religion, ancestry, national
8 origin or familial status is hereby recognized as and declared to be a civil right.

9 **Sec. 10. 5 MRSA §4581-A, sub-§1, ¶¶A to E**, as enacted by PL 2011, c. 613,
10 §11 and affected by §29, are amended to read:

11 A. Make or cause to be made any written or oral inquiry concerning the race or
12 color, sex, sexual orientation or gender identity, physical or mental disability,
13 religion, ancestry, national origin or familial status of any prospective purchaser,
14 occupant or tenant of the housing accommodation;

15 B. Refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold
16 from any person the housing accommodation because of race or color, sex, sexual
17 orientation or gender identity, physical or mental disability, religion, ancestry,
18 national origin or familial status;

19 C. Make, print or publish or cause to be made, printed or published any notice,
20 statement or advertisement relating to the sale, rental or lease of the housing
21 accommodation that indicates any preference, limitation or discrimination based upon
22 race or color, sex, sexual orientation or gender identity, physical or mental disability,
23 religion, ancestry, national origin or familial status or an intention to make any such
24 preference, limitation or discrimination;

25 D. Discriminate against any person because of race or color, sex, sexual orientation
26 or gender identity, physical or mental disability, religion, ancestry, national origin or
27 familial status in the price, terms, conditions or privileges of the sale, rental or lease
28 of any housing accommodations or in the furnishing of facilities or services in
29 connection with any housing accommodations; or

30 E. Evict or attempt to evict any tenant of any housing accommodation because of the
31 race or color, sex, sexual orientation or gender identity, physical or mental disability,
32 religion, ancestry, national origin or familial status of the tenant;

33 **Sec. 11. 5 MRSA §4581-A, sub-§2, ¶¶A to E**, as enacted by PL 2011, c. 613,
34 §11 and affected by §29, are amended to read:

35 A. Fail or refuse to show any person a housing accommodation listed for sale, lease
36 or rent because of race or color, sex, sexual orientation or gender identity, physical or
37 mental disability, religion, ancestry, national origin or familial status;

38 B. Misrepresent, for the purpose of discriminating because of race or color, sex,
39 sexual orientation or gender identity, physical or mental disability, religion, ancestry,
40 national origin or familial status, the availability or asking price of a housing
41 accommodation listed for sale, lease or rent or for such reason to fail to communicate

1 to the person having the right to sell, rent or lease the housing accommodation any
2 offer for the same made by any applicant;

3 C. In any other manner to discriminate against any applicant for a housing
4 accommodation because of race or color, sex, sexual orientation or gender identity,
5 physical or mental disability, religion, ancestry, national origin or familial status;

6 D. Make or cause to be made any written or oral inquiry or record concerning the
7 race or color, sex, sexual orientation or gender identity, physical or mental disability,
8 religion, ancestry, national origin or familial status of any applicant for or intended
9 occupant of a housing accommodation; or

10 E. Accept for listing any housing accommodation when the person having the right
11 to sell, rent or lease the housing accommodation has directly or indirectly indicated
12 an intention of discriminating among prospective tenants or purchasers on the ground
13 of race or color, sex, sexual orientation or gender identity, physical or mental
14 disability, religion, ancestry, national origin or familial status, or when the broker or
15 salesperson knows or has reason to know that the person having the right to sell, rent
16 or lease the housing accommodation has made a practice of discrimination since July
17 1, 1972;

18 **Sec. 12. 5 MRSA §4581-A, sub-§3, ¶¶A and B**, as enacted by PL 2011, c. 613,
19 §11 and affected by §29, are amended to read:

20 A. Make or cause to be made any oral or written inquiry concerning the race or
21 color, sex, sexual orientation or gender identity, physical or mental disability,
22 religion, ancestry, national origin or familial status of any applicant for financial
23 assistance or of existing or prospective occupants or tenants of housing
24 accommodations; or

25 B. Discriminate in the granting of financial assistance, or in the terms, conditions or
26 privileges relating to obtaining or the use of any financial assistance, against any
27 applicant because of race or color, sex, sexual orientation or gender identity, physical
28 or mental disability, religion, ancestry, national origin or familial status; or

29 **Sec. 13. 5 MRSA §4583**, as amended by PL 2007, c. 243, §4, is further amended
30 to read:

31 **§4583. Application**

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

1 standards and preferences, terms, conditions, limitations or specifications for the granting
2 of loans or financial assistance that are consistent with business necessity and are not
3 based on the race, color, sex, sexual orientation or gender identity, physical or mental
4 disability, religion, country of ancestral origin or familial status of or the receipt of public
5 assistance payments by the applicant for a loan or financial assistance or of any existing
6 or prospective owner, lessee, tenant or occupant of housing accommodation.

7 **Sec. 14. 5 MRSA §4591**, as amended by PL 2005, c. 10, §16, is further amended
8 to read:

9 **§4591. Equal access to public accommodations**

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

14 **Sec. 15. 5 MRSA §4592, sub-§1**, as amended by PL 2005, c. 10, §17, is further
15 amended to read:

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

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

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

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

40 C. A failure to take steps that may be necessary to ensure that no individual with a
41 disability is excluded, denied services, segregated or otherwise treated differently

1 than other individuals because of the absence of auxiliary aids and services, unless, in
2 the case of a private entity, the private entity can demonstrate that taking those steps
3 would fundamentally alter the nature of the good, service, facility, privilege, and
4 advantage or accommodation being offered or would result in an undue burden; and

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

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

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

19 **Sec. 16. 5 MRSA §4592, sub-§1-A** is enacted to read:

20 **1-A. Public entities.** For any public entity to discriminate against, exclude from
21 participation in, or otherwise deny the benefits of the services, programs or activities of a
22 public entity to any individual by reason of the individual's race, color, sex, sexual
23 orientation or gender identity, age, physical or mental disability, religion, ancestry or
24 national origin;

25 **Sec. 17. 5 MRSA §4592, sub-§2,** as amended by PL 2005, c. 10, §17, is further
26 amended to read:

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

41 **Sec. 18. 5 MRSA §4592, sub-§6,** as amended by PL 2007, c. 664, §5, is further
42 amended to read:

1 **6. Association.** For a covered entity to exclude or otherwise deny equal goods,
2 services, facilities, privileges, advantages, accommodations or other opportunities to an
3 individual or entity because of the known ~~disability~~ protected class status of an individual
4 with whom the individual or entity is known to have a relationship or association;

5 **Sec. 19. 5 MRSA §4595**, as amended by PL 2005, c. 10, §18, is further amended
6 to read:

7 **§4595. Right to freedom from discrimination solely on basis of age, race, color, sex,**
8 **sexual orientation, gender identity, marital status, ancestry, religion or**
9 **national origin in any credit transaction**

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

14 **Sec. 20. 5 MRSA §4596**, as amended by PL 2005, c. 10, §19, is further amended
15 to read:

16 **§4596. Unlawful credit extension discrimination**

17 It is unlawful credit discrimination for any creditor to refuse the extension of credit to
18 any person solely on the basis of any one or more of the following factors: age; race;
19 color; sex; sexual orientation or gender identity; marital status; ancestry; religion; or
20 national origin in any credit transaction. It is not unlawful credit discrimination to
21 comply with the terms and conditions of any bona fide group credit life, accident and
22 health insurance plan, for a financial institution extending credit to a married person to
23 require both the husband and the wife to sign a note and a mortgage and to deny credit to
24 persons under the age of 18 or to consider a person's age in determining the terms upon
25 which credit will be extended.

26 **Sec. 21. 5 MRSA §4601**, as amended by PL 2005, c. 10, §20, is further amended
27 to read:

28 **§4601. Right to freedom from discrimination in education**

29 The opportunity for an individual at an educational institution to participate in all
30 educational, counseling and vocational guidance programs ~~and~~ all apprenticeship and
31 on-the-job training programs and all extracurricular activities without discrimination
32 because of sex, sexual orientation or gender identity, a physical or mental disability,
33 ancestry, national origin ~~or~~, race, color or religion is recognized and declared to be a civil
34 right.

35 **Sec. 22. 5 MRSA §4602**, as amended by PL 2005, c. 662, Pt. A, §1, is further
36 amended to read:

1 **§4602. Unlawful educational discrimination**

2 **1. Unlawful educational discrimination.** It is unlawful educational discrimination
3 in violation of this Act, on the basis of sex, sexual orientation or gender identity, physical
4 or mental disability, ancestry, national origin, race, color or religion, to:

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

8 B. Deny a person equal opportunity in athletic programs;

9 C. Apply any rule concerning the actual or potential family or marital status of a
10 person or to exclude any person from any program or activity because of pregnancy
11 or related conditions or because of sex or sexual orientation or gender identity;

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

14 E. Deny a person financial assistance availability and opportunity.

15 ~~**2. Unlawful educational discrimination on the basis of physical or mental**~~
16 ~~**disability.** It is unlawful educational discrimination in violation of this Act solely on the~~
17 ~~basis of physical or mental disability to:~~

18 ~~A. Exclude from participation in, deny the benefits of or subject to discrimination~~
19 ~~under any educational program or activity any otherwise qualified individual with~~
20 ~~physical or mental disability;~~

21 ~~B. Deny any person equal opportunity in athletic programs, provided that no~~
22 ~~educational institution may be required under this subsection to provide separate~~
23 ~~athletic programs to serve persons with physical or mental disability;~~

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

26 ~~D. Deny financial assistance availability and opportunity.~~

27 ~~Nothing in this subsection may be construed to cover the rights of children with~~
28 ~~disabilities to special education programs under state or federal law.~~

29 ~~**3. Unlawful educational discrimination on the basis of national origin or race.** It~~
30 ~~is unlawful educational discrimination in violation of this Act, on the basis of national~~
31 ~~origin or race, to:~~

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

35 ~~B. Deny admission to the institution or program or to fail to provide equal access to~~
36 ~~and information about an institution or program through recruitment; or~~

37 ~~C. Deny financial assistance availability and opportunity.~~

1 ~~4. Unlawful education discrimination on the basis of sexual orientation.~~ It is
2 unlawful education discrimination in violation of this Act, on the basis of sexual
3 orientation, to:

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

7 ~~B. Deny a person equal opportunity in athletic programs;~~

8 ~~C. Apply any rule concerning the actual or potential family or marital status of a~~
9 ~~person or to exclude any person from any program or activity because of their sexual~~
10 ~~orientation;~~

11 ~~D. Deny admission to the institution or program or to fail to provide equal access to~~
12 ~~any information about an institution or program through recruitment; or~~

13 ~~E. Deny financial assistance availability and opportunity.~~

14 The provisions in this subsection relating to sexual orientation do not apply to any
15 education facility owned, controlled or operated by a bona fide religious corporation,
16 association or society.

17 **5. Not unlawful education discrimination.** Nothing in this section:

18 A. Requires an educational institution to provide separate athletic or other
19 extracurricular programs to serve a person with physical or mental disability;

20 B. May be construed to cover the rights of individuals with disabilities to special
21 education programs under state or federal law;

22 C. Requires a bona fide nonprofit religious corporation, association or society that
23 does not receive public funding to comply with this section as it relates to sexual
24 orientation or gender identity; or

25 D. Requires an educational institution to participate in or endorse any religious
26 beliefs or practices; to the extent that an educational institution permits religious
27 expression, it cannot discriminate between religions in so doing.

28 **Sec. 23. 5 MRSA §4612, sub-§4, ¶A,** as amended by PL 2011, c. 613, §19 and
29 affected by §29, is further amended to read:

30 A. If the commission finds reasonable grounds to believe that unlawful
31 discrimination has occurred, and further believes that irreparable injury or great
32 inconvenience will be caused the victim of such discrimination or to members of a
33 racial, color, sex, sexual orientation or gender identity, physical or mental disability,
34 religious or nationality group or age group if relief is not immediately granted, or if
35 conciliation efforts under subsection 3 have not succeeded, the commission may file
36 in the Superior Court a civil action seeking such relief as is appropriate, including
37 temporary restraining orders. In a complaint investigated pursuant to a memorandum
38 of understanding between the commission and the United States Department of
39 Housing and Urban Development that results in a reasonable grounds determination,

1 the commission shall file a civil action for the use of complainant if conciliation
2 efforts under subsection 3 are unsuccessful.

3 **Sec. 24. 5 MRSA §4634**, as enacted by PL 2001, c. 206, §1, is amended to read:

4 **§4634. Right to breast-feed**

5 Notwithstanding any other provision of law, a ~~mother~~ person may breast-feed ~~her~~ the
6 person's baby in any location, public or private, where the ~~mother~~ person is otherwise
7 authorized to be.

8 **SUMMARY**

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

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

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