



131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative Document

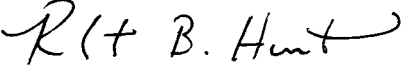
No. 2142

H.P. 1366

House of Representatives, January 3, 2024

An Act to Correct Outdated References in and Relating to the Maine Human Rights Act

Submitted by the Maine Human Rights Commission pursuant to Joint Rule 203.
Reference to the Committee on Judiciary suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative MOONEN of Portland.

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

2 **Sec. 1. 5 MRSA §941, sub-§1, ¶B**, as enacted by PL 1983, c. 729, §4, is repealed.

3 **Sec. 2. 5 MRSA §941, sub-§1, ¶C** is enacted to read:

4 C. Commission Counsel.

5 **Sec. 3. 5 MRSA §4572, sub-§1**, as amended by PL 2021, c. 293, Pt. B, §2; c. 366,
6 §5; and c. 476, §1, is further amended to read:

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

9 A. For any employer to fail or refuse to hire or otherwise discriminate against any
10 applicant for employment because of race or color, sex, sexual orientation or gender
11 identity, physical or mental disability, religion, age, ancestry, national origin or familial
12 status, because of the applicant's previous assertion of a claim or right under former
13 Title 39 or Title 39-A, because of previous actions taken by the applicant that are
14 protected under Title 26, chapter 7, subchapter 5-B or because the applicant sought and
15 received ~~an order of protection under Title 19-A, section 4007~~ a final protection order
16 under Title 19-A, section 4110 or a substantially similar provision of the law of another
17 state or country; or, because of those reasons, to discharge an employee or discriminate
18 with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or
19 privileges of employment or any other matter directly or indirectly related to
20 employment; or, in recruiting of individuals for employment or in hiring them, to utilize
21 any employment agency that the employer knows or has reasonable cause to know
22 discriminates against individuals because of their race or color, sex, sexual orientation
23 or gender identity, physical or mental disability, religion, age, ancestry, national origin
24 or familial status, because of their previous assertion of a claim or right under former
25 Title 39 or Title 39-A, because of previous actions that are protected under Title 26,
26 chapter 7, subchapter 5-B or because the applicant sought and received ~~an order of~~
27 ~~protection under Title 19-A, section 4007~~ a final protection order under Title 19-A,
28 section 4110 or a substantially similar provision of the law of another state or country.

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

31 B. For any employment agency to fail or refuse to classify properly, refer for
32 employment or otherwise discriminate against any individual because of race or color,
33 sex, sexual orientation or gender identity, physical or mental disability, religion, age,
34 ancestry, national origin or familial status, because of the individual's previous
35 assertion of a claim or right under former Title 39 or Title 39-A, because of previous
36 actions taken by the individual that are protected under Title 26, chapter 7, subchapter
37 5-B or because the individual sought and received ~~an order of protection under Title~~
38 ~~19-A, section 4007~~ a final protection order under Title 19-A, section 4110 or a
39 substantially similar provision of the law of another state or country; or to comply with
40 an employer's request for the referral of job applicants if a request indicates either
41 directly or indirectly that the employer will not afford full and equal employment
42 opportunities to individuals regardless of their race or color, sex, sexual orientation or
43 gender identity, physical or mental disability, religion, age, ancestry, national origin or
44 familial status, because of the individual's previous assertion of a claim or right under

1 former Title 39 or Title 39-A, because of previous actions that are protected under Title
2 26, chapter 7, subchapter 5-B or because the individual sought and received ~~an order~~
3 ~~of protection under Title 19-A, section 4007~~ a final protection order under Title 19-A,
4 section 4110 or a substantially similar provision of the law of another state or country;

5 C. For any labor organization to exclude from apprenticeship or membership or to
6 deny full and equal membership rights to any applicant for membership because of race
7 or color, sex, sexual orientation or gender identity, physical or mental disability,
8 religion, age, ancestry, national origin or familial status, because of the applicant's
9 previous assertion of a claim or right under former Title 39 or Title 39-A, because of
10 previous actions taken by the applicant that are protected under Title 26, chapter 7,
11 subchapter 5-B or because the applicant sought and received ~~an order of protection~~
12 ~~under Title 19-A, section 4007~~ a final protection order under Title 19-A, section 4110
13 or a substantially similar provision of the law of another state or country; or, because
14 of those reasons, to deny a member full and equal membership rights, expel from
15 membership, penalize or otherwise discriminate with respect to hire, tenure, promotion,
16 transfer, compensation, terms, conditions or privileges of employment, representation,
17 grievances or any other matter directly or indirectly related to membership or
18 employment, whether or not authorized or required by the constitution or bylaws of
19 that labor organization or by a collective labor agreement or other contract; to fail or
20 refuse to classify properly or refer for employment or otherwise discriminate against
21 any member because of race or color, sex, sexual orientation or gender identity,
22 physical or mental disability, religion, age, ancestry, national origin or familial status,
23 because of the member's previous assertion of a claim or right under former Title 39 or
24 Title 39-A, because of previous actions taken by the member that are protected under
25 Title 26, chapter 7, subchapter 5-B or because the applicant sought and received ~~an~~
26 ~~order of protection under Title 19-A, section 4007~~ a final protection order under Title
27 19-A, section 4110 or a substantially similar provision of the law of another state or
28 country; or to cause or attempt to cause an employer to discriminate against an
29 individual in violation of this section, except that it is lawful for labor organizations
30 and employers to adopt a maximum age limitation in apprenticeship programs, if the
31 employer or labor organization obtains prior approval from the Maine Human Rights
32 Commission of any maximum age limitation employed in an apprenticeship program.
33 The commission shall approve the age limitation if a reasonable relationship exists
34 between the maximum age limitation employed and a legitimate expectation of the
35 employer in receiving a reasonable return upon the employer's investment in an
36 apprenticeship program. The employer or labor organization bears the burden of
37 demonstrating that such a relationship exists;

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

- 40 (1) Elicit or attempt to elicit information directly or indirectly pertaining to race
41 or color, sex, sexual orientation or gender identity, physical or mental disability,
42 religion, age, ancestry, national origin or familial status, any previous assertion of
43 a claim or right under former Title 39 or Title 39-A, any previous actions that are
44 protected under Title 26, chapter 7, subchapter 5-B or any previous actions seeking
45 and receiving ~~an order of protection under Title 19-A, section 4007~~ a final

1 protection order under Title 19-A, section 4110 or a substantially similar provision
2 of the law of another state or country;

3 (2) Make or keep a record of race or color, sex, sexual orientation or gender
4 identity, physical or mental disability, religion, age, ancestry, national origin or
5 familial status, any previous assertion of a claim or right under former Title 39 or
6 Title 39-A, any previous actions that are protected under Title 26, chapter 7,
7 subchapter 5-B or any previous actions seeking and receiving ~~an order of protection~~
8 ~~under Title 19-A, section 4007~~ a final protection order under Title 19-A, section
9 4110 or a substantially similar provision of the law of another state or country,
10 except that, in relation to physical or mental disability, when an employer requires
11 a physical or mental examination prior to employment, a privileged record of that
12 examination is permissible if made and kept in compliance with this Act;

13 (3) Use any form of application for employment, or personnel or membership
14 blank containing questions or entries directly or indirectly pertaining to race or
15 color, sex, sexual orientation or gender identity, physical or mental disability,
16 religion, age, ancestry, national origin or familial status, any previous assertion of
17 a claim or right under former Title 39 or Title 39-A, any previous actions that are
18 protected under Title 26, chapter 7, subchapter 5-B or any previous actions seeking
19 and receiving ~~an order of protection under Title 19-A, section 4007~~ a final
20 protection order under Title 19-A, section 4110 or a substantially similar provision
21 of the law of another state or country. This section does not prohibit any officially
22 recognized government agency from keeping records permitted to be kept under
23 this Act in order to provide free services to individuals requesting rehabilitation or
24 employment assistance;

25 (4) Print, publish or cause to be printed or published any notice or advertisement
26 relating to employment or membership indicating any preference, limitation,
27 specification or discrimination based upon race or color, sex, sexual orientation or
28 gender identity, physical or mental disability, religion, age, ancestry, national
29 origin or familial status, any previous assertion of a claim or right under former
30 Title 39 or Title 39-A, any previous actions that are protected under Title 26,
31 chapter 7, subchapter 5-B or any previous actions seeking and receiving ~~an order~~
32 ~~of protection under Title 19-A, section 4007~~ a final protection order under Title
33 19-A, section 4110 or a substantially similar provision of the law of another state
34 or country; or

35 (5) Establish, announce or follow a policy of denying or limiting, through a quota
36 system or otherwise, employment or membership opportunities of any group
37 because of the race or color, sex, sexual orientation or gender identity, physical or
38 mental disability, religion, age, ancestry, national origin or familial status, because
39 of the previous assertion of a claim or right under former Title 39 or Title 39-A,
40 because of previous actions that are protected under Title 26, chapter 7, subchapter
41 5-B or because of any previous actions seeking and receiving ~~an order of protection~~
42 ~~under Title 19-A, section 4007~~ a final protection order under Title 19-A, section
43 4110 or a substantially similar provision of the law of another state or country, of
44 that group; or

45 E. For an employer, employment agency or labor organization to discriminate in any
46 manner against individuals because they have opposed a practice that would be a

1 violation of this Act or because they have made a charge, testified or assisted in any
2 investigation, proceeding or hearing under this Act. This paragraph does not limit the
3 liability of persons pursuant to section 4633.

4 **Sec. 4. 5 MRSA §4581, first ¶**, as amended by PL 2021, c. 366, §7 and c. 476, §2,
5 is further amended to read:

6 The opportunity for an individual to secure housing in accordance with the individual's
7 ability to pay, and without discrimination because of race, color, sex, sexual orientation or
8 gender identity, physical or mental disability, religion, ancestry, national origin or familial
9 status or because the individual has sought and received ~~an order of protection under Title~~
10 19-A, section 4007 a final protection order under Title 19-A, section 4110 or a substantially
11 similar provision of the law of another state or country, is hereby recognized as and
12 declared to be a civil right.

13 **Sec. 5. 5 MRSA §4581-A**, as amended by PL 2021, c. 366, §§8 to 10 and c. 476,
14 §3, is further amended to read:

15 **§4581-A. Unlawful housing discrimination**

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

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

20 A. Make or cause to be made any written or oral inquiry concerning the race or color,
21 sex, sexual orientation or gender identity, physical or mental disability, religion,
22 ancestry, national origin, familial status or any previous actions seeking and receiving
23 ~~an order of protection under Title 19-A, section 4007 a final protection order under~~
24 Title 19-A, section 4110 or a substantially similar provision of the law of another state
25 or country of any prospective purchaser, occupant or tenant of the housing
26 accommodation;

27 B. Refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold
28 from any person the housing accommodation because of race or color, sex, sexual
29 orientation or gender identity, physical or mental disability, religion, ancestry, national
30 origin or familial status or because the person sought and received ~~an order of~~
31 ~~protection under Title 19-A, section 4007 a final protection order under Title 19-A,~~
32 section 4110 or a substantially similar provision of the law of another state or country;

33 C. Make, print or publish or cause to be made, printed or published any notice,
34 statement or advertisement relating to the sale, rental or lease of the housing
35 accommodation that indicates any preference, limitation or discrimination based upon
36 race or color, sex, sexual orientation or gender identity, physical or mental disability,
37 religion, ancestry, national origin, familial status or any previous actions seeking and
38 receiving ~~an order of protection under Title 19-A, section 4007 a final protection order~~
39 under Title 19-A, section 4110 or a substantially similar provision of the law of another
40 state or country or an intention to make any such preference, limitation or
41 discrimination;

42 D. Discriminate against any person because of race or color, sex, sexual orientation or
43 gender identity, physical or mental disability, religion, ancestry, national origin or

1 familial status or because the person sought and received ~~an order of protection under~~
2 ~~Title 19-A, section 4007~~ a final protection order under Title 19-A, section 4110 or a
3 substantially similar provision of the law of another state or country in the price, terms,
4 conditions or privileges of the sale, rental or lease of any housing accommodations or
5 in the furnishing of facilities or services in connection with any housing
6 accommodations; or

7 E. Evict or attempt to evict any tenant of any housing accommodation because of the
8 race or color, sex, sexual orientation or gender identity, physical or mental disability,
9 religion, ancestry, national origin or familial status of the tenant or because the tenant
10 sought and received ~~an order of protection under Title 19-A, section 4007~~ a final
11 protection order under Title 19-A, section 4110 or a substantially similar provision of
12 the law of another state or country;

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

15 A. Fail or refuse to show any person a housing accommodation listed for sale, lease or
16 rent because of race or color, sex, sexual orientation or gender identity, physical or
17 mental disability, religion, ancestry, national origin or familial status or because the
18 person sought and received ~~an order of protection under Title 19-A, section 4007~~ a
19 final protection order under Title 19-A, section 4110 or a substantially similar
20 provision of the law of another state or country;

21 B. Misrepresent, for the purpose of discriminating because of race or color, sex, sexual
22 orientation or gender identity, physical or mental disability, religion, ancestry, national
23 origin, familial status or any previous actions seeking and receiving ~~an order of~~
24 ~~protection under Title 19-A, section 4007~~ a final protection order under Title 19-A,
25 section 4110 or a substantially similar provision of the law of another state or country,
26 the availability or asking price of a housing accommodation listed for sale, lease or rent
27 or for such reason to fail to communicate to the person having the right to sell, rent or
28 lease the housing accommodation any offer for the same made by any applicant;

29 C. In any other manner to discriminate against any applicant for a housing
30 accommodation because of race or color, sex, sexual orientation or gender identity,
31 physical or mental disability, religion, ancestry, national origin or familial status or
32 because the applicant sought and received ~~an order of protection under Title 19-A,~~
33 ~~section 4007~~ a final protection order under Title 19-A, section 4110 or a substantially
34 similar provision of the law of another state or country;

35 D. Make or cause to be made any written or oral inquiry or record concerning the race
36 or color, sex, sexual orientation or gender identity, physical or mental disability,
37 religion, ancestry, national origin, familial status or any previous actions seeking and
38 receiving ~~an order of protection under Title 19-A, section 4007~~ a final protection order
39 under Title 19-A, section 4110 or a substantially similar provision of the law of another
40 state or country of any applicant for or intended occupant of a housing accommodation;
41 or

42 E. Accept for listing any housing accommodation when the person having the right to
43 sell, rent or lease the housing accommodation has directly or indirectly indicated an
44 intention of discriminating among prospective tenants or purchasers on the ground of
45 race or color, sex, sexual orientation or gender identity, physical or mental disability,

1 religion, ancestry, national origin, familial status or any previous actions seeking and
2 receiving ~~an order of protection under Title 19-A, section 4007 a final protection order~~
3 under Title 19-A, section 4110 or a substantially similar provision of the law of another
4 state or country, or when the broker or salesperson knows or has reason to know that
5 the person having the right to sell, rent or lease the housing accommodation has made
6 a practice of discrimination since July 1, 1972;

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

11 A. Make or cause to be made any oral or written inquiry concerning the race or color,
12 sex, sexual orientation or gender identity, physical or mental disability, religion,
13 ancestry, national origin, familial status or any previous actions seeking and receiving
14 ~~an order of protection under Title 19-A, section 4007 a final protection order under~~
15 Title 19-A, section 4110 or a substantially similar provision of the law of another state
16 or country of any applicant for financial assistance or of existing or prospective
17 occupants or tenants of housing accommodations; or

18 B. Discriminate in the granting of financial assistance, or in the terms, conditions or
19 privileges relating to obtaining or the use of any financial assistance, against any
20 applicant because of race or color, sex, sexual orientation or gender identity, physical
21 or mental disability, religion, ancestry, national origin, familial status or any previous
22 actions seeking and receiving ~~an order of protection under Title 19-A, section 4007 a~~
23 final protection order under Title 19-A, section 4110 or a substantially similar
24 provision of the law of another state or country; or

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

29 **Sec. 6. 5 MRSA §4596**, as amended by PL 2021, c. 366, §17, is further amended to
30 read:

31 **§4596. Unlawful credit extension discrimination**

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

41 **SUMMARY**

42 This bill amends the Maine Human Rights Act to correct references to orders of
43 protection under the Maine Revised Statutes, Title 19-A, former section 4007, which was

1 repealed on January 1, 2023, to final protection orders under Title 19-A, section 4110. The
2 bill also provides protection from discrimination for individuals who have received
3 substantially similar orders of protection from courts in other states or countries.

4 The bill also changes a reference from "husband and wife" to "spouses" in a provision
5 of the Maine Human Rights Act that addresses fair credit extension.

6 Finally, the bill replaces the Chief Compliance Officer, a position that no longer exists,
7 with the Commission Counsel as a major policy-influencing position within the Maine
8 Human Rights Commission.