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Legislative Document

No. 1294

S.P. 422

In Senate, March 29, 2021

An Act To Prevent Discrimination against Domestic Violence Victims

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BAILEY of York.
Cosponsored by Senator: CARNEY of Cumberland, Representative: RECKITT of South
Portland.

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

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

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

6 A. For any employer to fail or refuse to hire or otherwise discriminate against any
7 applicant for employment because of race or color, sex, sexual orientation, physical or
8 mental disability, religion, age, ancestry or national origin, because of the applicant's
9 previous assertion of a claim or right under former Title 39 or Title 39-A ~~or~~ because
10 of 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, chapter 101; or, because of those reasons, to discharge an employee
13 or discriminate with respect to hire, tenure, promotion, transfer, compensation, terms,
14 conditions or privileges of employment or any other matter directly or indirectly related
15 to employment; or, in recruiting of individuals for employment or in hiring them, to
16 utilize any employment agency that the employer knows or has reasonable cause to
17 know discriminates against individuals because of their race or color, sex, sexual
18 orientation, physical or mental disability, religion, age, ancestry or national origin,
19 because of their previous assertion of a claim or right under former Title 39 or Title
20 39-A ~~or~~ because of previous actions that are protected under Title 26, chapter 7,
21 subchapter 5-B; or because the applicant sought and received an order of protection
22 under Title 19-A, chapter 101.

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

25 B. For any employment agency to fail or refuse to classify properly, refer for
26 employment or otherwise discriminate against any individual because of race or color,
27 sex, sexual orientation, physical or mental disability, religion, age, ancestry or national
28 origin, because of the individual's previous assertion of a claim or right under former
29 Title 39 or Title 39-A ~~or~~ because of previous actions taken by the individual that are
30 protected under Title 26, chapter 7, subchapter 5-B or because the individual sought
31 and received an order of protection under Title 19-A, chapter 101; or to comply with
32 an employer's request for the referral of job applicants if a request indicates either
33 directly or indirectly that the employer will not afford full and equal employment
34 opportunities to individuals regardless of their race or color, sex, sexual orientation,
35 physical or mental disability, religion, age, ancestry or national origin, because of
36 previous assertion of a claim or right under former Title 39 or Title 39-A ~~or~~ because
37 of previous actions that are protected under Title 26, chapter 7, subchapter 5-B or
38 because the individual sought and received an order of protection under Title 19-A,
39 chapter 101;

40 C. For any labor organization to exclude from apprenticeship or membership or to
41 deny full and equal membership rights to any applicant for membership because of race
42 or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry
43 or national origin, because of the applicant's previous assertion of a claim or right under
44 former Title 39 or Title 39-A ~~or~~ because of previous actions taken by the applicant
45 that are protected under Title 26, chapter 7, subchapter 5-B or because the applicant

1 sought and received an order of protection under Title 19-A, chapter 101; or, because
2 of those reasons, to deny a member full and equal membership rights, expel from
3 membership, penalize or otherwise discriminate with respect to hire, tenure, promotion,
4 transfer, compensation, terms, conditions or privileges of employment, representation,
5 grievances or any other matter directly or indirectly related to membership or
6 employment, whether or not authorized or required by the constitution or bylaws of
7 that labor organization or by a collective labor agreement or other contract; to fail or
8 refuse to classify properly or refer for employment or otherwise discriminate against
9 any member because of race or color, sex, sexual orientation, physical or mental
10 disability, religion, age, ancestry or national origin, because of the member's previous
11 assertion of a claim or right under former Title 39 or Title 39-A \S , because of previous
12 actions taken by the member that are protected under Title 26, chapter 7, subchapter
13 5-B or because the applicant sought and received an order of protection under Title
14 19-A, chapter 101; or to cause or attempt to cause an employer to discriminate against
15 an individual in violation of this section, except that it is lawful for labor organizations
16 and employers to adopt a maximum age limitation in apprenticeship programs, if the
17 employer or labor organization obtains prior approval from the Maine Human Rights
18 Commission of any maximum age limitation employed in an apprenticeship program.
19 The commission shall approve the age limitation if a reasonable relationship exists
20 between the maximum age limitation employed and a legitimate expectation of the
21 employer in receiving a reasonable return upon the employer's investment in an
22 apprenticeship program. The employer or labor organization bears the burden of
23 demonstrating that such a relationship exists;

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

26 (1) Elicit or attempt to elicit information directly or indirectly pertaining to race
27 or color, sex, sexual orientation, physical or mental disability, religion, age,
28 ancestry or national origin, any previous assertion of a claim or right under former
29 Title 39 or Title 39-A \S , any previous actions that are protected under Title 26,
30 chapter 7, subchapter 5-B or any previous actions seeking and receiving an order
31 of protection under Title 19-A, chapter 101;

32 (2) Make or keep a record of race or color, sex, sexual orientation, physical or
33 mental disability, religion, age, ancestry or national origin, any previous assertion
34 of a claim or right under former Title 39 or Title 39-A \S , any previous actions that
35 are protected under Title 26, chapter 7, subchapter 5-B or any previous actions
36 seeking and receiving an order of protection under Title 19-A, chapter 101, except
37 under physical or mental disability when an employer requires a physical or mental
38 examination prior to employment, a privileged record of that examination is
39 permissible if made and kept in compliance with this Act;

40 (3) Use any form of application for employment, or personnel or membership
41 blank containing questions or entries directly or indirectly pertaining to race or
42 color, sex, sexual orientation, physical or mental disability, religion, age, ancestry
43 or national origin, any previous assertion of a claim or right under former Title 39
44 or Title 39-A \S , any previous actions that are protected under Title 26, chapter 7,
45 subchapter 5-B or any previous actions seeking and receiving an order of protection
46 under Title 19-A, chapter 101. This section does not prohibit any officially

1 recognized government agency from keeping records permitted to be kept under
2 this Act in order to provide free services to individuals requesting rehabilitation or
3 employment assistance;

4 (4) Print, publish or cause to be printed or published any notice or advertisement
5 relating to employment or membership indicating any preference, limitation,
6 specification or discrimination based upon race or color, sex, sexual orientation,
7 physical or mental disability, religion, age, ancestry or national origin, any
8 previous assertion of a claim or right under former Title 39 or Title 39-A ~~or~~, any
9 previous actions that are protected under Title 26, chapter 7, subchapter 5-B or any
10 previous actions seeking and receiving an order of protection under Title 19-A,
11 chapter 101; or

12 (5) Establish, announce or follow a policy of denying or limiting, through a quota
13 system or otherwise, employment or membership opportunities of any group
14 because of the race or color, sex, sexual orientation, physical or mental disability,
15 religion, age, ancestry or national origin, because of the previous assertion of a
16 claim or right under former Title 39 or Title 39-A ~~or~~, because of previous actions
17 that are protected under Title 26, chapter 7, subchapter 5-B or because of any
18 previous actions seeking and receiving an order of protection under Title 19-A,
19 chapter 101, of that group; or

20 E. For an employer, employment agency or labor organization to discriminate in any
21 manner against individuals because they have opposed a practice that would be a
22 violation of this Act or because they have made a charge, testified or assisted in any
23 investigation, proceeding or hearing under this Act.

24 **Sec. 2. 5 MRSA §4581, first ¶**, as amended by PL 2011, c. 613, §10 and affected
25 by §29, is further amended to read:

26 The opportunity for an individual to secure housing in accordance with the individual's
27 ability to pay, and without discrimination because of race, color, sex, sexual orientation,
28 physical or mental disability, religion, ancestry, national origin or familial status or because
29 the individual has sought and received an order of protection under Title 19-A, chapter 101,
30 is hereby recognized as and declared to be a civil right.

31 **Sec. 3. 5 MRSA §4581-A**, as enacted by PL 2011, c. 613, §11 and affected by §29,
32 is 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, physical or mental disability, religion, ancestry, national origin
40 ~~or~~, familial status or any previous actions seeking and receiving an order of protection
41 under Title 19-A, chapter 101 of any prospective purchaser, occupant or tenant of the
42 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, physical or mental disability, religion, ancestry, national origin or familial
4 status or because the person sought and received an order of protection under Title
5 19-A, chapter 101;

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, physical or mental disability, religion, ancestry,
10 national origin ~~or~~, familial status or any previous actions seeking and receiving an order
11 of protection under Title 19-A, chapter 101 or an intention to make any such
12 preference, limitation or discrimination;

13 D. Discriminate against any person because of race or color, sex, sexual orientation,
14 physical or mental disability, religion, ancestry, national origin or familial status or
15 because the person sought and received an order of protection under Title 19-A, chapter
16 101 in the price, terms, conditions or privileges of the sale, rental or lease of any
17 housing accommodations or in the furnishing of facilities or services in connection
18 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, physical or mental disability, religion, ancestry,
21 national origin or familial status of the tenant or because the tenant sought and received
22 an order of protection under Title 19-A, chapter 101;

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

25 A. Fail or refuse to show any person a housing accommodation listed for sale, lease or
26 rent because of race or color, sex, sexual orientation, physical or mental disability,
27 religion, ancestry, national origin or familial status or because the person sought and
28 received an order of protection under Title 19-A, chapter 101;

29 B. Misrepresent, for the purpose of discriminating because of race or color, sex, sexual
30 orientation, physical or mental disability, religion, ancestry, national origin ~~or~~, familial
31 status or any previous actions seeking and receiving an order of protection under Title
32 19-A, chapter 101, the availability or asking price of a housing accommodation listed
33 for sale, lease or rent or for such reason to fail to communicate to the person having the
34 right to sell, rent or lease the housing accommodation any offer for the same made by
35 any applicant;

36 C. In any other manner to discriminate against any applicant for a housing
37 accommodation because of race or color, sex, sexual orientation, physical or mental
38 disability, religion, ancestry, national origin or familial status or because the applicant
39 sought and received an order of protection under Title 19-A, chapter 101;

40 D. Make or cause to be made any written or oral inquiry or record concerning the race
41 or color, sex, sexual orientation, physical or mental disability, religion, ancestry,
42 national origin ~~or~~, familial status or any previous actions seeking and receiving an order
43 of protection under Title 19-A, chapter 101 of any applicant for or intended occupant
44 of a housing accommodation; or

1 E. Accept for listing any housing accommodation when the person having the right to
2 sell, rent or lease the housing accommodation has directly or indirectly indicated an
3 intention of discriminating among prospective tenants or purchasers on the ground of
4 race or color, sex, sexual orientation, physical or mental disability, religion, ancestry,
5 national origin ~~or~~, familial status or any previous actions seeking and receiving an order
6 of protection under Title 19-A, chapter 101, or when the broker or salesperson knows
7 or has reason to know that the person having the right to sell, rent or lease the housing
8 accommodation has made a practice of discrimination since July 1, 1972;

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

13 A. Make or cause to be made any oral or written inquiry concerning the race or color,
14 sex, sexual orientation, physical or mental disability, religion, ancestry, national origin
15 ~~or~~, familial status or any previous actions seeking and receiving an order of protection
16 under Title 19-A, chapter 101 of any applicant for financial assistance or of existing or
17 prospective 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, physical or mental disability,
21 religion, ancestry, national origin ~~or~~, familial status or any previous actions seeking
22 and receiving an order of protection under Title 19-A, chapter 101; or

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

27 SUMMARY

28 This bill amends the Maine Human Rights Act to provide protections against
29 discrimination in employment and housing against a person who has sought and received
30 an order of protection under the Maine Revised Statutes, Title 19-A, chapter 101. All
31 remedies currently available under the Maine Human Rights Act, including a private right
32 of action and attorney's fees, are available for these persons.