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No. 1688

S.P. 544

In Senate, May 6, 2021

An Act To Improve Consistency within the Maine Human Rights Act

Submitted by the Maine Human Rights Commission pursuant to Joint Rule 204.
Received by the Secretary of the Senate on May 4, 2021. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 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 HICKMAN of Kennebec.
Cosponsored by Representative TALBOT ROSS of Portland and
Senators: CARNEY of Cumberland, SANBORN of Cumberland, VITELLI of Sagadahoc,
Representatives: DUNPHY of Old Town, HARNETT of Gardiner.

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, 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 and in
12 employment, extension of credit and access to public accommodations on the basis of age;
13 and in employment and housing on the basis of familial status; and in employment,
14 ~~discrimination on account of age or because of the previous assertion of a claim or right~~
15 ~~against a prior employer under former Title 39 or Title 39-A and in housing because of~~
16 ~~familial status; and to prevent discrimination in the extension of credit on account of age,~~
17 ~~race, color, sex, sexual orientation, marital status, religion, ancestry or national origin; and~~
18 ~~to prevent discrimination in education on account of sex, sexual orientation or physical or~~
19 ~~mental disability and because of protected activity under Title 26, chapter 7, subchapter~~
20 ~~5-B; and to prevent discrimination or retaliation on the basis of an assertion of rights under~~
21 ~~this Act or interference with an individual's right to be free from discrimination prohibited~~
22 ~~under this Act.~~

23 **Sec. 2. 5 MRSA §4553, sub-§5-A**, as amended by PL 2019, c. 464, §1, is further
24 amended 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 18 years of age and are living with~~ that contains:

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 or
29 the designee of the parent or other person having custody with the written permission
30 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.~~

33 B-1. One or more individuals 18 years of age or older who lack the ability to meet
34 essential requirements for physical health, safety or self-care because the individual or
35 individuals are unable to receive and evaluate information or make or communicate
36 decisions.

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

40 **Sec. 3. 5 MRSA §4553, sub-§10, ¶G**, as amended by PL 2019, c. 464, §1, is further
41 amended by amending subparagraph (3) to read:

42 (3) Educational opportunity, ~~as is more fully set forth in section 4602, subsection~~
43 4.

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

3 **§4571. Right to freedom from discrimination in employment**

4 The opportunity for an individual to secure employment without discrimination
5 because of race, color, sex, sexual orientation or gender identity, physical or mental
6 disability, religion, age, ancestry $\text{\textcircled{R}}$, national origin or familial status is recognized as and
7 declared to be a civil right.

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

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

12 A. For any employer to fail or refuse to hire or otherwise discriminate against any
13 applicant for employment because of race or color, sex, sexual orientation or gender
14 identity, physical or mental disability, religion, age, ancestry $\text{\textcircled{R}}$, national origin or
15 familial status, because of the applicant's previous assertion of a claim or right under
16 former Title 39 or Title 39-A or because of previous actions taken by the applicant that
17 are protected under Title 26, chapter 7, subchapter 5-B; or, because of those reasons,
18 to discharge an employee or discriminate with respect to hire, tenure, promotion,
19 transfer, compensation, terms, conditions or privileges of employment or any other
20 matter directly or indirectly related to employment; or, in recruiting of individuals for
21 employment or in hiring them, to utilize any employment agency that the employer
22 knows or has reasonable cause to know discriminates against individuals because of
23 their race or color, sex, sexual orientation or gender identity, physical or mental
24 disability, religion, age, ancestry $\text{\textcircled{R}}$, national origin or familial status, because of their
25 previous assertion of a claim or right under former Title 39 or Title 39-A or because of
26 previous actions that are protected under Title 26, chapter 7, subchapter 5-B;

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

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

42 C. For any labor organization to exclude from apprenticeship or membership or to
43 deny full and equal membership rights to any applicant for membership because of race
44 or color, sex, sexual orientation or gender identity, physical or mental disability,

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

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

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

33 (2) Make or keep a record of race or color, sex, sexual orientation or gender
34 identity, physical or mental disability, religion, age, ancestry or, national origin or
35 familial status, any previous assertion of a claim or right under former Title 39 or
36 Title 39-A or any previous actions that are protected under Title 26, chapter 7,
37 subchapter 5-B, except under physical or mental disability when an employer
38 requires a physical or mental examination prior to employment, a privileged record
39 of that examination is 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 or gender identity, physical or mental disability,
43 religion, age, ancestry or, national origin or familial status, any previous assertion
44 of a claim or right under former Title 39 or Title 39-A or any previous actions that
45 are protected under Title 26, chapter 7, subchapter 5-B. This section does not
46 prohibit any officially recognized government agency from keeping records

1 permitted to be kept under this Act in order to provide free services to individuals
2 requesting rehabilitation or employment assistance;

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

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

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

22 **Sec. 6. 5 MRSA §4573-A, sub-§3** is enacted to read:

23 **3. Physical or mental disability.** This subchapter does not prohibit an employer from
24 discharging or refusing to hire an individual with a physical or mental disability or subject
25 an employer to any legal liability resulting from the refusal to employ or the discharge of
26 the individual with a physical or mental disability if the employer establishes that the
27 individual, because of the physical or mental disability, is unable to perform job duties or
28 to perform job duties in a manner that would not endanger the health or safety of the
29 individual or others.

30 **Sec. 7. 5 MRSA §4581, first ¶**, as amended by PL 2011, c. 613, §10 and affected
31 by §29, is further amended to read:

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

36 **Sec. 8. 5 MRSA §4581-A, sub-§1**, as enacted by PL 2011, c. 613, §11 and affected
37 by §29, is amended to read:

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

41 A. Make or cause to be made any written or oral inquiry concerning the race or color,
42 sex, sexual orientation or gender identity, physical or mental disability, religion,

- 1 ancestry, national origin or familial status of any prospective purchaser, occupant or
2 tenant of the housing accommodation;
- 3 B. Refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold
4 from any person the housing accommodation because of race or color, sex, sexual
5 orientation or gender identity, physical or mental disability, religion, ancestry, national
6 origin or familial status;
- 7 C. Make, print or publish or cause to be made, printed or published any notice,
8 statement or advertisement relating to the sale, rental or lease of the housing
9 accommodation that indicates any preference, limitation or discrimination based upon
10 race or color, sex, sexual orientation or gender identity, physical or mental disability,
11 religion, ancestry, national origin or familial status 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 or
14 gender identity, physical or mental disability, religion, ancestry, national origin or
15 familial status in the price, terms, conditions or privileges of the sale, rental or lease of
16 any housing accommodations or in the furnishing of facilities or services in connection
17 with any housing accommodations; or
- 18 E. Evict or attempt to evict any tenant of any housing accommodation because of the
19 race or color, sex, sexual orientation or gender identity, physical or mental disability,
20 religion, ancestry, national origin or familial status of the tenant;

21 **Sec. 9. 5 MRSA §4581-A, sub-§2**, as enacted by PL 2011, c. 613, §11 and affected
22 by §29, is amended to read:

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 or gender identity, physical or
27 mental disability, religion, ancestry, national origin or familial status;
- 28 B. Misrepresent, for the purpose of discriminating because of race or color, sex, sexual
29 orientation or gender identity, physical or mental disability, religion, ancestry, national
30 origin or familial status, the availability or asking price of a housing accommodation
31 listed for sale, lease or rent or for such reason to fail to communicate to the person
32 having the right to sell, rent or lease the housing accommodation any offer for the same
33 made by any applicant;
- 34 C. In any other manner to discriminate against any applicant for a housing
35 accommodation because of race or color, sex, sexual orientation or gender identity,
36 physical or mental disability, religion, ancestry, national origin or familial status;
- 37 D. Make or cause to be made any written or oral inquiry or record concerning the race
38 or color, sex, sexual orientation or gender identity, physical or mental disability,
39 religion, ancestry, national origin or familial status of any applicant for or intended
40 occupant of a housing accommodation; or
- 41 E. Accept for listing any housing accommodation when the person having the right to
42 sell, rent or lease the housing accommodation has directly or indirectly indicated an
43 intention of discriminating among prospective tenants or purchasers on the ground of

1 race or color, sex, sexual orientation or gender identity, physical or mental disability,
2 religion, ancestry, national origin or familial status, or when the broker or salesperson
3 knows or has reason to know that the person having the right to sell, rent or lease the
4 housing accommodation has made a practice of discrimination since July 1, 1972;

5 **Sec. 10. 5 MRSA §4581-A, sub-§3**, as enacted by PL 2011, c. 613, §11 and
6 affected by §29, is amended to read:

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 or familial status of any applicant for financial assistance or
14 of existing or prospective occupants or tenants of housing accommodations; or

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

19 **Sec. 11. 5 MRSA §4583**, as amended by PL 2007, c. 243, §4, is further amended to
20 read:

21 **§4583. Application**

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

39 **Sec. 12. 5 MRSA §4591**, as amended by PL 2005, c. 10, §16, is further amended to
40 read:

41 **§4591. Equal access to public accommodations**

42 The opportunity for every individual to have equal access to places of public
43 accommodation without discrimination because of race, color, sex, sexual orientation or

1 gender identity, age, physical or mental disability, religion, ancestry or national origin is
2 recognized as and declared to be a civil right.

3 **Sec. 13. 5 MRSA §4592, sub-§1**, as amended by PL 2005, c. 10, §17, is further
4 amended to read:

5 **1. Denial of public accommodations.** For any public accommodation or any person
6 who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or
7 employee of any place of public accommodation to directly or indirectly refuse,
8 discriminate against or in any manner withhold from or deny the full and equal enjoyment
9 to any person, on account of race or color, sex, sexual orientation or gender identity, age,
10 physical or mental disability, religion, ancestry or national origin, any of the
11 accommodations, advantages, facilities, goods, services or privileges of public
12 accommodation, or in any manner discriminate against any person in the price, terms or
13 conditions upon which access to ~~accommodation~~ accommodations, advantages, facilities,
14 goods, services and privileges may depend.

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

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

22 B. A failure to make reasonable modifications in policies, practices or procedures,
23 when modifications are necessary to afford the goods, services, facilities, privileges,
24 advantages or accommodations to individuals with disabilities, unless, in the case of a
25 private entity, the private entity can demonstrate that making the modifications would
26 fundamentally alter the nature of the goods, services, facilities, privileges, advantages
27 or accommodations;

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

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

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

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

4 **Sec. 14. 5 MRSA §4592, sub-§2**, as amended by PL 2005, c. 10, §17, is further
5 amended to read:

6 **2. Communication, notice or advertisement.** For any person to directly or indirectly
7 publish, display or communicate any notice or advertisement to the effect that any of the
8 accommodations, advantages, facilities and privileges of any place of public
9 accommodation are refused, withheld from or denied to any person on account of race or
10 color, sex, sexual orientation or gender identity, age, physical or mental disability, religion,
11 ancestry or national origin, or that the patronage or custom of any person belonging to or
12 purporting to be of any particular race or color, sex, sexual orientation or gender identity,
13 age, physical or mental disability, religion, ancestry or national origin is unwelcome,
14 objectionable or not acceptable, desired or solicited, or that the clientele is restricted to any
15 particular race or color, sex, sexual orientation or gender identity, age, physical or mental
16 disability, religion, ancestry or national origin. The production of any communication,
17 notice or advertisement purporting to relate to any place of accommodation is presumptive
18 evidence in any action that the action was authorized by its owner, manager or proprietor;

19 **Sec. 15. 5 MRSA §4592, sub-§6**, as amended by PL 2007, c. 664, §5, is further
20 amended to read:

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

25 **Sec. 16. 5 MRSA §4595**, as amended by PL 2005, c. 10, §18, is further amended to
26 read:

27 **§4595. Right to freedom from discrimination solely on basis of age, race, color, sex,**
28 **sexual orientation or gender identity, marital status, ancestry, religion or**
29 **national origin in any credit transaction**

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

34 **Sec. 17. 5 MRSA §4596**, as amended by PL 2005, c. 10, §19, is further amended to
35 read:

36 **§4596. Unlawful credit extension discrimination**

37 It is unlawful credit discrimination for any creditor to refuse the extension of credit to
38 any person solely on the basis of any one or more of the following factors: age; race; color;
39 sex; sexual orientation or gender identity; marital status; ancestry; religion or national
40 origin in any credit transaction. It is not unlawful credit discrimination to comply with the
41 terms and conditions of any bona fide group credit life, accident and health insurance plan,
42 for a financial institution extending credit to a married person to require both the husband
43 and the wife to sign a note and a mortgage and to deny credit to persons under ~~the age of~~

1 18 years of age or to consider a person's age in determining the terms upon which credit
2 will be extended.

3 **Sec. 18. 5 MRSA §4601**, as amended by PL 2005, c. 10, §20, is further amended to
4 read:

5 **§4601. Right to freedom from discrimination in education**

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

11 **Sec. 19. 5 MRSA §4602**, as amended by PL 2005, c. 662, Pt. A, §1, is further
12 amended to read:

13 **§4602. Unlawful educational discrimination**

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

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

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

22 C. Apply any rule concerning the actual or potential ~~family~~ familial status or marital
23 status of a person or to exclude any person from any program or activity because of
24 pregnancy or related conditions or because of sex or sexual orientation or gender
25 identity;

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

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

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

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

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

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

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

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

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

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

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

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

12 ~~**4. Unlawful education discrimination on the basis of sexual orientation.** It is
13 unlawful education discrimination in violation of this Act, on the basis of sexual
14 orientation, to:~~

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

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

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

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

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

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

28 ~~**5. Application.** Nothing in this section:~~

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

31 ~~B. May be construed to affect the rights of a person with a physical or mental disability
32 to special education programs under state or federal law;~~

33 ~~C. Requires a religious corporation, association or society that does not receive public
34 funding to comply with this section as it relates to sexual orientation or gender identity;
35 or~~

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

39 **Sec. 20. 5 MRSA §4612, sub-§2-A**, as enacted by PL 2019, c. 465, §6, is amended
40 by amending the first blocked paragraph to read:

1 An administrative dismissal operates as an order of dismissal and has the same effect as a
2 finding by the commission that no reasonable grounds exist to believe that unlawful
3 discrimination has occurred, except that an administrative dismissal pursuant to paragraph
4 C does not entitle the complainant to an award of attorney's fees, civil penal damages or
5 compensatory and punitive damages.

6 **Sec. 21. 5 MRSA §4622, sub-§1, ¶A**, as amended by PL 2019, c. 465, §8, is further
7 amended to read:

8 A. Dismissed the case under section 4612, subsection 2 or subsection 2-A, paragraphs
9 A and B and D to E;

10 **Sec. 22. 5 MRSA §4634**, as enacted by PL 2001, c. 206, §1, is amended to read:

11 **§4634. Right to breast-feed**

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

15 **SUMMARY**

16 This bill addresses inconsistencies in the protections provided in different areas of
17 jurisdiction under the Maine Human Rights Act. The bill provides more inclusive
18 protection by:

- 19 1. Including adult family members dependent for care in the definition of "familial
20 status";
- 21 2. Including familial status as a protected class in employment;
- 22 3. Including age as a protected class in public accommodations; and
- 23 4. Clarifying the scope of the Maine Human Rights Act application in education.

24 The bill also clarifies that the sexual orientation provisions in the Maine Human Rights
25 Act extend to gender identity.