

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

—
H.P. 1269 - L.D. 1898

An Act to Correct Outdated References Regarding the Maine Human Rights Act

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

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

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

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

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

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

C. For any labor organization to exclude from apprenticeship or membership or to deny full and equal membership rights to any applicant for membership because of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status, because of the applicant's previous assertion of a claim or right under former Title 39 or Title 39-A, because of previous actions taken by the applicant that are protected under Title 26, chapter 7, subchapter 5-B or because the applicant sought and received an order of protection under Title 19-A, former section 4007 or a final protection order pursuant to Title 19-A, section 4110 or pursuant to a substantially similar provision of the law of another state or nation; or, because of those reasons, to deny a member full and equal membership rights, expel from membership, penalize or otherwise discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, representation, grievances or any other matter directly or indirectly related to membership or employment, whether or not authorized or required by the constitution or bylaws of that labor organization or by a collective labor agreement or other contract; to fail or refuse to classify properly or refer for employment or otherwise discriminate against any member because of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status, because of the member's previous assertion of a claim or right under former Title 39 or Title 39-A, because of previous actions taken by the member that are protected under Title 26, chapter 7, subchapter 5-B or because the applicant sought and received an order of protection under Title 19-A, former section 4007 or a final protection order pursuant to Title 19-A, section 4110 or pursuant to a substantially similar provision of the law of another state or nation; or to cause or attempt to cause an employer to discriminate against an individual in violation of this section, except that it is lawful for labor organizations and employers to adopt a maximum age limitation in apprenticeship programs, if the employer or labor organization obtains prior approval from the Maine Human Rights Commission of any maximum age

limitation employed in an apprenticeship program. The commission shall approve the age limitation if a reasonable relationship exists between the maximum age limitation employed and a legitimate expectation of the employer in receiving a reasonable return upon the employer's investment in an apprenticeship program. The employer or labor organization bears the burden of demonstrating that such a relationship exists;

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

(1) Elicit or attempt to elicit information directly or indirectly pertaining to race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry, national origin or familial status, any previous assertion of a claim or right under former Title 39 or Title 39-A, any previous actions that are protected under Title 26, chapter 7, subchapter 5-B or any previous actions seeking and receiving an order of protection under Title 19-A, former section 4007 or a final protection order pursuant to Title 19-A, section 4110 or pursuant to a substantially similar provision of the law of another state or nation;

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

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

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

pursuant to Title 19-A, section 4110 or pursuant to a substantially similar provision of the law of another state or nation; or

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

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

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

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

Sec. 3. 5 MRSA §4581-A, sub-§1, as amended by PL 2021, c. 366, §8 and c. 476, §3, is further amended to read:

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

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

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

to Title 19-A, section 4110 or pursuant to a substantially similar provision of the law of another state or nation;

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

D. Discriminate against any person because of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin or familial status or because the person sought and received an order of protection under Title 19-A, former section 4007 or a final protection order pursuant to Title 19-A, section 4110 or pursuant to a substantially similar provision of the law of another state or nation in the price, terms, conditions or privileges of the sale, rental or lease of any housing accommodations or in the furnishing of facilities or services in connection with any housing accommodations; or

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

Sec. 4. 5 MRSA §4581-A, sub-§2, as amended by PL 2021, c. 366, §9 and c. 476, §3, is further amended to read:

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

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

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

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

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

E. Accept for listing any housing accommodation when the person having the right to sell, rent or lease the housing accommodation has directly or indirectly indicated an intention of discriminating among prospective tenants or purchasers on the ground of race or color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin, familial status or any previous actions seeking and receiving an order of protection under Title 19-A, former section 4007 or a final protection order pursuant to Title 19-A, section 4110 or pursuant to a substantially similar provision of the law of another state or nation, or when the broker or salesperson knows or has reason to know that the person having the right to sell, rent or lease the housing accommodation has made a practice of discrimination since July 1, 1972;

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

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

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

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