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**JUDICIARY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
127TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 698, L.D. 1003, Bill, “An Act To Prohibit Discrimination by Employers and Protect the Privacy of an Applicant for Employment, an Employee or an Employee's Dependents Regarding Reproductive Health Decisions”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**'Sec. 1. 5 MRSA §4572, sub-§1, ¶D,** as amended by PL 2005, c. 10, §12, is further amended to read:

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, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter 5-B;

(2) Make or keep a record of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter 5-B, except under 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, physical or mental disability, religion, age, ancestry or national origin, any previous assertion of a claim or right under former Title 39 or Title 39-A or any previous actions that are protected under Title 26, chapter 7, subchapter 5-B. This section does not prohibit any officially recognized

**COMMITTEE AMENDMENT**

1 government agency from keeping records permitted to be kept under this Act in  
2 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

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

16 **Sec. 2. 5 MRSA §4572, sub-§1, ¶E**, as amended by PL 1991, c. 99, §7, is further  
17 amended to read:

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

22 **Sec. 3. 5 MRSA §4572, sub-§1, ¶¶F and G** are enacted to read:

23 F. For an employer, employment agency or labor organization to discriminate in any  
24 manner against an employee or an applicant for employment based on the use of a  
25 particular drug, device or medical service related to reproductive health decisions of  
26 the employee, the employee's dependent or the applicant; or

27 G. For an employer, employment agency or labor organization to obtain or inquire  
28 about personal information regarding reproductive health decisions, including but not  
29 limited to a decision to use a particular drug, device or medical service, of an  
30 employee, an employee's dependent or an applicant, without the prior informed  
31 affirmative written consent of the employee or applicant.'

32 **SUMMARY**

33 This amendment, which is the majority report of the committee, replaces the bill. It  
34 amends the Maine Human Rights Act to expand the protection from employment  
35 discrimination to cover the use of a particular drug, device or medical service related to  
36 the reproductive health decisions of employees, the dependents of employees and  
37 applicants for employment. It also prohibits an employer, employment agency or labor  
38 organization from obtaining or inquiring about information about reproductive health  
39 decisions of an employee, an employee's dependent or an applicant for employment.

40 **FISCAL NOTE REQUIRED**

41 **(See attached)**