



April 24, 2023

Senator Carney, Representative Moonen, and Honorable Members of the Joint Standing Committee on Judiciary,

Good Morning, I am Kate Knox and I join you today on behalf of Mary Bonauto of GLAD and a coalition of LGBTQ organizations in support of **LD 1412, RESOLUTION, Proposing an Amendment to the Constitution of Maine Establishing That All Maine Residents Have Equal Rights Under the Law.** GLAD (GLBTQ Legal Advocates & Defenders), Maine Transgender Network; the American Academy of Pediatrics, Maine Chapter; and EqualityMaine join this testimony in support of LD 1412.

First, thank you to Representative Reckitt for sponsoring this important bill and for her persistence in ensuring our most basic charter memorializes our commitment to equal justice under law. .

Second, while our State has long been committed to equality, a constitutional amendment is the strongest and most comprehensive mechanism available to ensure that myths, stereotypes and antiquated assumptions are eradicated from our law and society. It is a statement of first principles that assures our people that the State and local governments shall not deny or abridge rights “based on the actual or perceived race, color, religion, sex, sexual orientation, gender identity, gender expression, age, physical or mental disability, ancestry or national origin of an individual.” Not only does this Resolve tell us that official actions denying or abridging our rights because of who we are will not stand, but it also provides explicit and crucial guidance to the State and local authorities about both their obligations and limits on their authority in performing their duties.

The Maine Constitution currently provides that no person be denied the equal protection of the laws, nor be denied the enjoyment of that person's civil rights or be discriminated against in the exercise thereof. This provision of the Maine Constitution - art. I, § 6-A - is interpreted to prohibit discrimination to the same degree as the United States Constitution. **Maine cannot control what the U.S. Supreme Court does in regard to interpreting the United States Constitution, but it can provide as a matter of Maine law the scope of lawmaking power and social action with respect to protected classes in the Maine Human Rights Act.**

Third, prohibitions against sex discrimination in state constitutions have provided a legal tool to prevent injustices. Girls in high schools have been given the opportunity to play on boys sports teams where no equivalent girls teams are available.<sup>1</sup> Men have been given an equal opportunity to be eligible for survivors benefits after the death of a spouse receiving Workers compensation benefits.<sup>2</sup> Sons and daughters have been given the right to equal treatment with respect to the computation of their parents welfare benefits.<sup>3</sup> Country clubs that exclude women have been prevented from receiving tax benefits.<sup>4</sup> These are just a few protections that have been afforded by state constitutions.

We know that the communities we support and serve experience discrimination based not only on sex, gender, and sexual orientation, but also in many cases as a result of their race, ethnicity, religion, ability, and country of origin. **A comprehensive equal rights act, should it pass the Legislature and be ratified, protects our community members based on a full range of their historically marginalized and excluded identities.**

Finally, some are concerned about the amendment forcing random changes in existing law. It is highly unusual to have a law predicated on a person's particular characteristics, but when there are such distinctions in law or by design in practice, the law must be supported by important or even compelling government interests. Moreover, we can be sure that laws will continue to make distinctions that are relevant to particular policies, and absent express exclusions, such laws should stand, whether child tax credits or income tax rates, access to MaineCare, homestead exemptions and many more.

In sum, we strongly support the amendment to the Maine Constitution ensuring equality on the basis of the protected classes in the Maine Human Rights Act. Enshrining the right to live free from discrimination will resonate with the people of Maine and will continue our tradition of protecting all persons, including the most vulnerable, from the harmful effects of discrimination.

**We hope you will vote 'Ought to Pass' on LD 1412.**

Sincerely,  
Mary L. Bonauto, GLAD Attorney  
257 Deering Ave., Suite 203  
Portland, ME 04103

*And on behalf of*  
American Academy of Pediatrics, Maine Chapter  
EqualityMaine  
Maine TransNet

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<sup>1</sup> *Darrin v. Gould*, 540 P.2d 882 (Wash. 1975).

<sup>2</sup> *Arp v. Workers Compensation Appeals Board*, 563 P.2d 849 (Cal. 1977).

<sup>3</sup> *Page v. Welfare Commissioner*, 365 A.2d 1118 (Conn. 1976).

<sup>4</sup> *Albright v. Southern Trace Country Club*, 879 So. 2d 121 (La. 2004).