An Act To Improve Consistency within the Maine Human Rights Act

Submitted by the Maine Human Rights Commission pursuant to Joint Rule 204. Reference to the Committee on Judiciary suggested and ordered printed.

Presented by Representative BAILEY of Saco.

ROBERT B. HUNT
Clerk
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §4552, as amended by PL 2005, c. 10, §1, is further amended to read:

§4552. Policy

To protect the public health, safety and welfare, it is declared to be the policy of this State to keep continually in review all practices infringing on the basic human right to a life with dignity, and the causes of these practices, so that corrective measures may, where possible, be promptly recommended and implemented, and to prevent discrimination in employment, housing, education, extension of credit or access to public accommodations on account of an individual's actual or perceived race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry or national origin; and in employment, housing, extension of credit and access to public accommodations on the basis of age; and in employment and housing on the basis of familial status; and in employment, discrimination on account of age or because of the previous assertion of a claim or right against another prior employer under former Title 39 or Title 39-A and in housing because of familial status; and to prevent discrimination in the extension of credit on account of age, race, color, sex, sexual orientation, marital status, religion, ancestry or national origin; and to prevent discrimination in education on account of sex, sexual orientation or physical or mental disability and because of protected activity under Title 26, chapter 7, subchapter 5-B, and to prevent discrimination or retaliation on the basis of an assertion of rights under this Act or interference with an individual's right to be free from discrimination prohibited under this Act.

Sec. 2. 5 MRSA §4553, sub-§5-A, as enacted by PL 1989, c. 245, §2, is amended to read:

5-A. Familial status. "Familial status" means that a family unit may contain one or more individuals who have not attained the age of 18 years and are living with:

A. One or more individuals who have not attained 18 years of age and are living with a parent or another person having legal custody of the individual or individuals; or the designee of the parent or other person having custody with the written permission of the parent or other person; or

B. The designee of the parent or other person having custody, with the written permission of the parent or other person One or more individuals who lack the ability to meet essential requirements for physical health, safety or self-care because the individual or individuals are unable to receive and evaluate information or make or communicate decisions.

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

Sec. 3. 5 MRSA §4553, sub-§10, ¶G, as amended by PL 2011, c. 613, §9 and affected by §29, is further amended to read:
G. Discrimination in employment, housing, public accommodation, credit and educational opportunity on the basis of sexual orientation, except that a religious corporation, association or organization that does not receive public funds is exempt from this provision with respect to:

(1) Employment, as is more fully set forth in section 4553, subsection 4 and section 4573-A;

(2) Housing; and

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

Any for-profit organization owned, controlled or operated by a religious association or corporation and subject to the provisions of the Internal Revenue Code, 26 United States Code, Section 511(a) is not covered by the exemptions set forth in this paragraph.

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

§4571. Right to freedom from discrimination in employment

The opportunity for an individual to secure employment without discrimination because of race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, age, ancestry or national origin or familial status is recognized as and declared to be a civil right.

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

1. Unlawful employment. 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 or 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 or because of previous actions taken by the applicant that are protected under Title 26, chapter 7, subchapter 5-B; 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 or national origin or familial status, because of their previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions that are protected under Title 26, chapter 7, subchapter 5-B;
(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 or 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 or because of previous actions taken by the individual that are protected under Title 26, chapter 7, subchapter 5-B; 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 or national origin, or familial status, because of previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions that are protected under Title 26, chapter 7, subchapter 5-B;

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 or 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 or because of previous actions taken by the applicant that are protected under Title 26, chapter 7, subchapter 5-B; 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 or 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 or because of previous actions taken by the member that are protected under Title 26, chapter 7, subchapter 5-B; 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 or national origin, or familial status, 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 or gender identity, physical or mental disability, religion, age, ancestry or national origin, or familial status, 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 or gender identity, physical or mental disability, religion, age, ancestry or national origin, or familial status, 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 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 or national origin, or familial status, 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; 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 or national origin, or familial status, the previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions that are protected under Title 26, chapter 7, subchapter 5-B, 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 in any way limit the liability of individuals or entities pursuant to section 4633.

Sec. 6. 5 MRSA §4572-A, sub-§§2 and 3, as enacted by PL 1979, c. 79, are amended to read:
2. Pregnant persons who are able to work. It shall be unlawful employment discrimination in violation of this Act, except where based on a bona fide occupational qualification, for an employer, employment agency or labor organization to treat a pregnant woman person who is able to work in a different manner from other persons who are able to work. For purposes of this subsection, a pregnant person is considered able to work if the person can perform the essential functions of the person's position with or without reasonable accommodations. It is unlawful discrimination for an employer to refuse to provide to a pregnant employee or applicant for employment reasonable accommodations for the person's pregnancy or related medical condition, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the covered entity.

3. Pregnant persons who are not able to work. It shall be unlawful employment discrimination in violation of this Act, except where based on a bona fide occupational qualification, for an employer, employment agency or labor organization to treat a pregnant woman person who is not able to work because of a disability or illness resulting from pregnancy, or from medical conditions which result from pregnancy, in a different manner from other employees who are not able to work because of other disabilities or illnesses.

Sec. 7. 5 MRSA §4572-A, sub-§4, as amended by PL 1995, c. 393, §14, is further amended to read:

4. Employer not responsible for additional benefits. Nothing in this section may be construed to mean that an employer, employment agency or labor organization is required to provide sick leave, a leave of absence, medical benefits or other benefits to a woman person because of pregnancy or other medical conditions that result from pregnancy; if the employer, employment agency or labor organization does not also provide sick leaves, leaves of absence, medical benefits or other benefits for the employer's other employees and is not otherwise required to provide those leaves or benefits under other state or federal laws. Reasonable accommodations to enable a pregnant person to be able to work are not considered additional benefits.

Sec. 8. 5 MRSA §4573-A, sub-§§1 and 2, as enacted by PL 1995, c. 393, §21, are amended to read:

1. General provisions. It is a defense to a charge of discrimination under this subchapter that an alleged application of qualification standards, tests or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability based on protected class status has been shown to be job-related and consistent with business necessity, and such performance can not be accomplished by reasonable accommodation, as required by this subchapter.

2. Religious entities. This subchapter does not prohibit a bona fide nonprofit religious corporation, association, educational institution or society that does not receive public funds from giving preference in employment to individuals of its same religion to perform work connected with the carrying on by the corporation, association, educational institution or society of its activities. Under this subchapter, a bona fide nonprofit
religious organization that does not receive public funds may require that all applicants and employees conform to the religious tenets of that organization.

**Sec. 9.** 5 MRSA §4581, first ¶, as amended by PL 2011, c. 613, §10 and affected by §29, 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 is hereby recognized as and declared to be a civil right.

**Sec. 10.** 5 MRSA §4581-A, sub-§1, ¶¶A to E, as enacted by PL 2011, c. 613, §11 and affected by §29, are amended to read:

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 or familial status 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;

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 or familial status 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 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;

**Sec. 11.** 5 MRSA §4581-A, sub-§2, ¶¶A to E, as enacted by PL 2011, c. 613, §11 and affected by §29, are amended to read:

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;

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 or familial status, 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;

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 or familial status 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 or familial status, 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. 12. 5 MRSA §4581-A, sub-§3, ¶¶A and B, as enacted by PL 2011, c. 613, §11 and affected by §29, are amended to read:

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 or familial status 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 or familial status; or

Sec. 13. 5 MRSA §4583, as amended by PL 2007, c. 243, §4, is further amended to read:

§4583. Application

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

Sec. 14. 5 MRSA §4591, as amended by PL 2005, c. 10, §16, is further amended
to read:

§4591. Equal access to public accommodations

The opportunity for every individual to have equal access to places of public
accommodation without discrimination because of race, color, sex, sexual orientation or
gender identity, age, physical or mental disability, religion, ancestry or national origin is
recognized as and declared to be a civil right.

Sec. 15. 5 MRSA §4592, sub-§1, as amended by PL 2005, c. 10, §17, is further
amended to read:

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

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

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

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

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

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

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

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

Sec. 16. 5 MRSA §4592, sub-§1-A is enacted to read:

1-A. Public entities. For any public entity to discriminate against, exclude from
participation in, or otherwise deny the benefits of the services, programs or activities of a
public entity to any individual by reason of the individual's race, color, sex, sexual
orientation or gender identity, age, physical or mental disability, religion, ancestry or
national origin;

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

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

Sec. 18. 5 MRSA §4592, sub-§6, as amended by PL 2007, c. 664, §5, is further
amended to read:
6. **Association.** For a covered entity to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations or other opportunities to an individual or entity because of the known disability protected class status of an individual with whom the individual or entity is known to have a relationship or association;

**Sec. 19. 5 MRSA §4595,** as amended by PL 2005, c. 10, §18, is further amended to read:

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

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

**Sec. 20. 5 MRSA §4596,** as amended by PL 2005, c. 10, §19, is further amended to read:

§4596. **Unlawful credit extension discrimination**

It is unlawful credit discrimination for any creditor to refuse the extension of credit to any person solely on the basis of any one or more of the following factors: age; race; color; sex; sexual orientation or gender identity; marital status; ancestry; religion; or national origin in any credit transaction. It is not unlawful credit discrimination to comply with the terms and conditions of any bona fide group credit life, accident and health insurance plan, for a financial institution extending credit to a married person to require both the husband and the wife to sign a note and a mortgage and to deny credit to persons under the age of 18 or to consider a person's age in determining the terms upon which credit will be extended.

**Sec. 21. 5 MRSA §4601,** as amended by PL 2005, c. 10, §20, is further amended to read:

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

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

**Sec. 22. 5 MRSA §4602,** as amended by PL 2005, c. 662, Pt. A, §1, is further amended to read:
§4602. Unlawful educational discrimination

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

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

B. Deny a person equal opportunity in athletic programs;

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

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

E. Deny a person financial assistance availability and opportunity.

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

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

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

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

D. Deny financial assistance availability and opportunity.

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

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

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

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

C. Deny financial assistance availability and opportunity.
4. Unlawful education discrimination on the basis of sexual orientation. It is unlawful education discrimination in violation of this Act, on the basis of sexual orientation, to:

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

B. Deny a person equal opportunity in athletic programs;

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

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

E. Deny financial assistance availability and opportunity.

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

5. Not unlawful education discrimination. Nothing in this section:

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

B. May be construed to cover the rights of individuals with disabilities to special education programs under state or federal law;

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

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

Sec. 23. 5 MRSA §4612, sub-§4, ¶A, as amended by PL 2011, c. 613, §19 and affected by §29, is further amended to read:

A. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, and further believes that irreparable injury or great inconvenience will be caused the victim of such discrimination or to members of a racial, color, sex, sexual orientation or gender identity, physical or mental disability, religious or nationality group or age group if relief is not immediately granted, or if conciliation efforts under subsection 3 have not succeeded, the commission may file in the Superior Court a civil action seeking such relief as is appropriate, including temporary restraining orders. In a complaint investigated pursuant to a memorandum of understanding between the commission and the United States Department of Housing and Urban Development that results in a reasonable grounds determination,
the commission shall file a civil action for the use of complainant if conciliation
efforts under subsection 3 are unsuccessful.

Sec. 24. 5 MRSA §4634, as enacted by PL 2001, c. 206, §1, is amended to read:

§4634. Right to breast-feed

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

SUMMARY

The purpose of this bill is to address inconsistencies in the protections provided in
different areas of jurisdiction under the Maine Human Rights Act. The bill provides
more inclusive protection by:

1. Including adult family members dependent for care in the definition of "familial
   status";
2. Including familial status as a protected class in employment;
3. Including age as a protected class in public accommodations;
4. Providing that public entities cannot discriminate on the basis of protected class;
   and
5. Clarifying the scope of the Maine Human Rights Act application in education.

The bill also clarifies the protections provided to pregnant persons in employment
and that the sexual orientation provisions already in the Maine Human Rights Act extend
to gender identity.