



# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 1294

S.P. 422

In Senate, March 29, 2021

### **An Act To Prevent Discrimination against Domestic Violence Victims**

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Reference to the Committee on Judiciary suggested 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 BAILEY of York.  
Cosponsored by Senator: CARNEY of Cumberland, Representative: RECKITT of South  
Portland.

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

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

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

6 A. For any employer to fail or refuse to hire or otherwise discriminate against any  
7 applicant for employment because of race or color, sex, sexual orientation, physical or  
8 mental disability, religion, age, ancestry or national origin, because of the applicant's  
9 previous assertion of a claim or right under former Title 39 or Title 39-A ~~or~~ because  
10 of previous actions taken by the applicant that are protected under Title 26, chapter 7,  
11 subchapter 5-B or because the applicant sought and received an order of protection  
12 under Title 19-A, chapter 101; or, because of those reasons, to discharge an employee  
13 or discriminate with respect to hire, tenure, promotion, transfer, compensation, terms,  
14 conditions or privileges of employment or any other matter directly or indirectly related  
15 to employment; or, in recruiting of individuals for employment or in hiring them, to  
16 utilize any employment agency that the employer knows or has reasonable cause to  
17 know discriminates against individuals because of their race or color, sex, sexual  
18 orientation, physical or mental disability, religion, age, ancestry or national origin,  
19 because of their previous assertion of a claim or right under former Title 39 or Title  
20 39-A ~~or~~ because of previous actions that are protected under Title 26, chapter 7,  
21 subchapter 5-B; or because the applicant sought and received an order of protection  
22 under Title 19-A, chapter 101.

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

25 B. For any employment agency to fail or refuse to classify properly, refer for  
26 employment or otherwise discriminate against any individual because of race or color,  
27 sex, sexual orientation, physical or mental disability, religion, age, ancestry or national  
28 origin, because of the individual's previous assertion of a claim or right under former  
29 Title 39 or Title 39-A ~~or~~ because of previous actions taken by the individual that are  
30 protected under Title 26, chapter 7, subchapter 5-B or because the individual sought  
31 and received an order of protection under Title 19-A, chapter 101; or to comply with  
32 an employer's request for the referral of job applicants if a request indicates either  
33 directly or indirectly that the employer will not afford full and equal employment  
34 opportunities to individuals regardless of their race or color, sex, sexual orientation,  
35 physical or mental disability, religion, age, ancestry or national origin, because of  
36 previous assertion of a claim or right under former Title 39 or Title 39-A ~~or~~ because  
37 of previous actions that are protected under Title 26, chapter 7, subchapter 5-B or  
38 because the individual sought and received an order of protection under Title 19-A,  
39 chapter 101;

40 C. For any labor organization to exclude from apprenticeship or membership or to  
41 deny full and equal membership rights to any applicant for membership because of race  
42 or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry  
43 or national origin, because of the applicant's previous assertion of a claim or right under  
44 former Title 39 or Title 39-A ~~or~~ because of previous actions taken by the applicant  
45 that are protected under Title 26, chapter 7, subchapter 5-B or because the applicant

1 sought and received an order of protection under Title 19-A, chapter 101; or, because  
2 of those reasons, to deny a member full and equal membership rights, expel from  
3 membership, penalize or otherwise discriminate with respect to hire, tenure, promotion,  
4 transfer, compensation, terms, conditions or privileges of employment, representation,  
5 grievances or any other matter directly or indirectly related to membership or  
6 employment, whether or not authorized or required by the constitution or bylaws of  
7 that labor organization or by a collective labor agreement or other contract; to fail or  
8 refuse to classify properly or refer for employment or otherwise discriminate against  
9 any member because of race or color, sex, sexual orientation, physical or mental  
10 disability, religion, age, ancestry or national origin, because of the member's previous  
11 assertion of a claim or right under former Title 39 or Title 39-A  $\S$ , because of previous  
12 actions taken by the member that are protected under Title 26, chapter 7, subchapter  
13 5-B or because the applicant sought and received an order of protection under Title  
14 19-A, chapter 101; or to cause or attempt to cause an employer to discriminate against  
15 an individual in violation of this section, except that it is lawful for labor organizations  
16 and employers to adopt a maximum age limitation in apprenticeship programs, if the  
17 employer or labor organization obtains prior approval from the Maine Human Rights  
18 Commission of any maximum age limitation employed in an apprenticeship program.  
19 The commission shall approve the age limitation if a reasonable relationship exists  
20 between the maximum age limitation employed and a legitimate expectation of the  
21 employer in receiving a reasonable return upon the employer's investment in an  
22 apprenticeship program. The employer or labor organization bears the burden of  
23 demonstrating that such a relationship exists;

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

26 (1) Elicit or attempt to elicit information directly or indirectly pertaining to race  
27 or color, sex, sexual orientation, physical or mental disability, religion, age,  
28 ancestry or national origin, any previous assertion of a claim or right under former  
29 Title 39 or Title 39-A  $\S$ , any previous actions that are protected under Title 26,  
30 chapter 7, subchapter 5-B or any previous actions seeking and receiving an order  
31 of protection under Title 19-A, chapter 101;

32 (2) Make or keep a record of race or color, sex, sexual orientation, physical or  
33 mental disability, religion, age, ancestry or national origin, any previous assertion  
34 of a claim or right under former Title 39 or Title 39-A  $\S$ , any previous actions that  
35 are protected under Title 26, chapter 7, subchapter 5-B or any previous actions  
36 seeking and receiving an order of protection under Title 19-A, chapter 101, except  
37 under physical or mental disability when an employer requires a physical or mental  
38 examination prior to employment, a privileged record of that examination is  
39 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, physical or mental disability, religion, age, ancestry  
43 or national origin, any previous assertion of a claim or right under former Title 39  
44 or Title 39-A  $\S$ , any previous actions that are protected under Title 26, chapter 7,  
45 subchapter 5-B or any previous actions seeking and receiving an order of protection  
46 under Title 19-A, chapter 101. This section does not prohibit any officially

1 recognized government agency from keeping records permitted to be kept under  
2 this Act in 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 any  
10 previous actions seeking and receiving an order of protection under Title 19-A,  
11 chapter 101; or

12 (5) Establish, announce or follow a policy of denying or limiting, through a quota  
13 system or otherwise, employment or membership opportunities of any group  
14 because of the race or color, sex, sexual orientation, physical or mental disability,  
15 religion, age, ancestry or national origin, because of the previous assertion of a  
16 claim or right under former Title 39 or Title 39-A ~~or~~, because of previous actions  
17 that are protected under Title 26, chapter 7, subchapter 5-B or because of any  
18 previous actions seeking and receiving an order of protection under Title 19-A,  
19 chapter 101, of that group; or

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

24 **Sec. 2. 5 MRSA §4581, first ¶**, as amended by PL 2011, c. 613, §10 and affected  
25 by §29, is further amended to read:

26 The opportunity for an individual to secure housing in accordance with the individual's  
27 ability to pay, and without discrimination because of race, color, sex, sexual orientation,  
28 physical or mental disability, religion, ancestry, national origin or familial status or because  
29 the individual has sought and received an order of protection under Title 19-A, chapter 101,  
30 is hereby recognized as and declared to be a civil right.

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

33 **§4581-A. Unlawful housing discrimination**

34 It is unlawful housing discrimination, in violation of this Act:

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

38 A. Make or cause to be made any written or oral inquiry concerning the race or color,  
39 sex, sexual orientation, physical or mental disability, religion, ancestry, national origin  
40 ~~or~~, familial status or any previous actions seeking and receiving an order of protection  
41 under Title 19-A, chapter 101 of any prospective purchaser, occupant or tenant of the  
42 housing accommodation;

1 B. Refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold  
2 from any person the housing accommodation because of race or color, sex, sexual  
3 orientation, physical or mental disability, religion, ancestry, national origin or familial  
4 status or because the person sought and received an order of protection under Title  
5 19-A, chapter 101;

6 C. Make, print or publish or cause to be made, printed or published any notice,  
7 statement or advertisement relating to the sale, rental or lease of the housing  
8 accommodation that indicates any preference, limitation or discrimination based upon  
9 race or color, sex, sexual orientation, physical or mental disability, religion, ancestry,  
10 national origin ~~or~~, familial status or any previous actions seeking and receiving an order  
11 of protection under Title 19-A, chapter 101 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,  
14 physical or mental disability, religion, ancestry, national origin or familial status or  
15 because the person sought and received an order of protection under Title 19-A, chapter  
16 101 in the price, terms, conditions or privileges of the sale, rental or lease of any  
17 housing accommodations or in the furnishing of facilities or services in connection  
18 with any housing accommodations; or

19 E. Evict or attempt to evict any tenant of any housing accommodation because of the  
20 race or color, sex, sexual orientation, physical or mental disability, religion, ancestry,  
21 national origin or familial status of the tenant or because the tenant sought and received  
22 an order of protection under Title 19-A, chapter 101;

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, physical or mental disability,  
27 religion, ancestry, national origin or familial status or because the person sought and  
28 received an order of protection under Title 19-A, chapter 101;

29 B. Misrepresent, for the purpose of discriminating because of race or color, sex, sexual  
30 orientation, physical or mental disability, religion, ancestry, national origin ~~or~~, familial  
31 status or any previous actions seeking and receiving an order of protection under Title  
32 19-A, chapter 101, the availability or asking price of a housing accommodation listed  
33 for sale, lease or rent or for such reason to fail to communicate to the person having the  
34 right to sell, rent or lease the housing accommodation any offer for the same made by  
35 any applicant;

36 C. In any other manner to discriminate against any applicant for a housing  
37 accommodation because of race or color, sex, sexual orientation, physical or mental  
38 disability, religion, ancestry, national origin or familial status or because the applicant  
39 sought and received an order of protection under Title 19-A, chapter 101;

40 D. Make or cause to be made any written or oral inquiry or record concerning the race  
41 or color, sex, sexual orientation, physical or mental disability, religion, ancestry,  
42 national origin ~~or~~, familial status or any previous actions seeking and receiving an order  
43 of protection under Title 19-A, chapter 101 of any applicant for or intended occupant  
44 of a housing accommodation; or

1 E. Accept for listing any housing accommodation when the person having the right to  
2 sell, rent or lease the housing accommodation has directly or indirectly indicated an  
3 intention of discriminating among prospective tenants or purchasers on the ground of  
4 race or color, sex, sexual orientation, physical or mental disability, religion, ancestry,  
5 national origin ~~or~~, familial status or any previous actions seeking and receiving an order  
6 of protection under Title 19-A, chapter 101, or when the broker or salesperson knows  
7 or has reason to know that the person having the right to sell, rent or lease the housing  
8 accommodation has made a practice of discrimination since July 1, 1972;

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

13 A. Make or cause to be made any oral or written inquiry concerning the race or color,  
14 sex, sexual orientation, physical or mental disability, religion, ancestry, national origin  
15 ~~or~~, familial status or any previous actions seeking and receiving an order of protection  
16 under Title 19-A, chapter 101 of any applicant for financial assistance or of existing or  
17 prospective occupants or tenants of housing accommodations; or

18 B. Discriminate in the granting of financial assistance, or in the terms, conditions or  
19 privileges relating to obtaining or the use of any financial assistance, against any  
20 applicant because of race or color, sex, sexual orientation, physical or mental disability,  
21 religion, ancestry, national origin ~~or~~, familial status or any previous actions seeking  
22 and receiving an order of protection under Title 19-A, chapter 101; or

23 **4. Receipt of public assistance.** For any person furnishing rental premises or public  
24 accommodations to refuse to rent or impose different terms of tenancy to any individual  
25 who is a recipient of federal, state or local public assistance, including medical assistance  
26 and housing subsidies, primarily because of the individual's status as recipient.

## 27 SUMMARY

28 This bill amends the Maine Human Rights Act to provide protections against  
29 discrimination in employment and housing against a person who has sought and received  
30 an order of protection under the Maine Revised Statutes, Title 19-A, chapter 101. All  
31 remedies currently available under the Maine Human Rights Act, including a private right  
32 of action and attorney's fees, are available for these persons.