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No. 279

H.P. 177

House of Representatives, January 26, 2023

An Act to Protect Against Discrimination by Public Entities

Reference to the Committee on Judiciary suggested and ordered printed.

R(+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Speaker TALBOT ROSS of Portland. Cosponsored by Senator BEEBE-CENTER of Knox and Representatives: MOONEN of Portland, PLUECKER of Warren, PRINGLE of Windham, Senators: CARNEY of Cumberland, NANGLE of Cumberland.

1	Be it enacted by the People of the State of Maine as follows:
2 3	Sec. 1. 5 MRSA §4553, sub-§8-D, ¶B, as amended by PL 2019, c. 464, §1, is repealed.
4 5	Sec. 2. 5 MRSA §4553, sub-§8-D, as amended by PL 2019, c. 464, §1, is further amended by repealing the 2nd blocked paragraph.
6 7	Sec. 3. 5 MRSA §4553, sub-§10, ¶F, as amended by PL 2005, c. 10, §5, is further amended to read:
8	F. Unlawful educational discrimination as defined and limited by subchapter 5-B; and
9 10	Sec. 4. 5 MRSA §4553, sub-§10, ¶G, as amended by PL 2021, c. 366, §3, is further amended to read:
11 12 13 14	G. Discrimination in employment, housing, public accommodation, credit and educational opportunity on the basis of sexual orientation or gender identity, except that a religious corporation, association or organization that does not receive public funds is exempt from this provision with respect to:
15 16	(1) Employment, as is more fully set forth in section 4553, subsection 4 and section 4573-A;
17	(2) Housing; and
18	(3) Educational opportunity.
19 20 21 22	Any for-profit organization owned, controlled or operated by a religious association or corporation and subject to the provisions of the <u>United States</u> Internal Revenue Code <u>of 1986</u> , 26 United States Code, Section 511(a) is not covered by the exemptions set forth in this paragraph- <u>; and</u>
23	Sec. 5. 5 MRSA §4553, sub-§10, ¶H is enacted to read:
24	H. Unlawful discrimination by public entities as described in section 4630.
25 26	Sec. 6. 5 MRSA §4592, sub-§1, ¶C, as enacted by PL 1995, c. 393, §22, is amended to read:
27 28 29 30 31 32	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
33 34	Sec. 7. 5 MRSA §4592, sub-§1, ¶D, as amended by PL 2021, c. 366, §13, is further amended to read:
35 36 37 38 39 40	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.

1 When the entity can demonstrate that the removal of a barrier under this paragraph is 2 not readily achievable, a failure to make the goods, services, facilities, privileges, 3 advantages or accommodations available through alternative methods if alternative 4 methods are readily achievable; and Sec. 8. 5 MRSA §4592, sub-§1, ¶E, as enacted by PL 1995, c. 393, §22, is 5 6 repealed. 7 Sec. 9. 5 MRSA §4630 is enacted to read: 8 §4630. Discrimination by public entities prohibited 9 Unlawful discrimination. A public entity may not discriminate against an individual, exclude an individual from participation in a service, program or activity of that 10 public entity or otherwise deny to an individual the benefits of a service, program or activity 11 12 of that public entity by reason of the individual's race or color, sex, sexual orientation or gender identity, age, physical or mental disability, religion, ancestry or national origin. 13 14 2. Continued applicability. This section does not diminish the applicability of other provisions of this chapter to public entities acting as employers, providing public 15 16 accommodations or education or acting as providers of credit or housing. 17 SUMMARY 18 This bill creates a new section in the Maine Human Rights Act that states it is unlawful 19 discrimination for a public entity to discriminate against an individual, exclude an 20 individual from participation in a service, program or activity of that public entity or 21 otherwise deny to an individual the benefits of a service, program or activity of that public 22 entity by reason of the individual's race or color, sex, sexual orientation or gender identity, 23 age, physical or mental disability, religion, ancestry or national origin. It amends existing 24 sections of the Maine Human Rights Act to create consistency with the new section.