
Reference to the Committee on Judiciary suggested and ordered printed.

Presented by Representative MACK of Standish.
Cosponsored by Representatives: BOWLES of Sanford, GLYNN of South Portland,
KASPRZAK of Newport, MacDOUGALL of North Berwick, MAYO of Bath, STANWOOD
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 1 MRSA c. 33 is enacted to read:

CHAPTER 33

CIVIL RIGHTS IN PUBLIC EMPLOYMENT, EDUCATION AND CONTRACTING ACT

§2901. Definition

As used in this chapter, unless the context otherwise indicates, "State" means the State of Maine or any office, department, agency, authority, commission, board, institution, hospital or other instrumentality of the State, including the Maine Turnpike Authority, the University of Maine System, the Maine Technical College System and the Maine State Retirement System, and any subdivision of the State including any city, town, plantation, county and special purpose district including any water district, sanitary district and school administrative unit.

§2902. Prohibition

Notwithstanding any other law, the State may not discriminate against, or grant preferential treatment to, any person on the basis of race, sex, color, ethnicity or national origin in public employment, public education or public contracting.

§2903. Interpretation

1. Bona fide qualifications; federal funding. This chapter does not prohibit:

A. The application of bona fide qualifications based on sex that are reasonably necessary to the normal operation of employment, education or contracting by the State; or

B. Any action that must be taken to establish or maintain eligibility for federal programs, if ineligibility would result in a loss of federal funds to the State.

2. Court decrees. This section does not invalidate any court order or consent decree in force on the effective date of this chapter.

§2904. Remedies
Violation of this chapter is a violation of the Maine Human Rights Act and a person who has been injured by a violation of this chapter is entitled to the same remedies as a person injured by a violation of the Maine Human Rights Act.

SUMMARY

This bill prohibits the State and its subdivisions and instrumentalities from discriminating or granting preferential treatment in the operation of public employment, education or contracting to any person on the basis of race, sex, color, ethnicity or national origin.
Date: 02/24/99

To: Joint Standing Committee on Judiciary

From: Deb Friedman, Legislative Analyst

LD 703 An Act to Create the Maine Civil Rights Act of 1999

SUMMARY
This bill prohibits the State and its subdivisions and instrumentalities from discriminating or granting preferential treatment in the operation of public employment, education or contracting to any person on the basis of race, sex, color, ethnicity or national origin.

TESTIMONY

Proponents

- It's insulting to a person to be handed a job just because of their general ethnicity
- Everyone should have the same opportunity for jobs, education, etc.
- There are preferences being granted now in Maine - e.g. the University has an "opportunity fund" to hire minority staff only - the University has not defined "diversity"

Opponents

- Current law and court decisions already limit unfounded preferences - considerations of gender or race must be based on a written affirmative action plan with supportive statistical data
- Disparity in opportunity still exists in the U.S. - justice demands that we work toward building a nation of equal opportunity
- Affirmative action programs are still needed - unconscious stereotypes and discrimination still prevent equal opportunity
- Conscientious effort to hire admit or contract with women and people of color is a way for the State, employers and schools to facilitate the transition to nondiscrimination
POTENTIAL ISSUES OR TECHNICAL PROBLEMS:

- Current state case law regarding preferences

FISCAL IMPACT:

- If local units of government incur costs to change contracting procedures, these costs constitute a mandate
- Maine Human Rights Commission may require an additional position and related costs
- Judicial costs - minor costs, minor revenue increase