



# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

Legislative Document

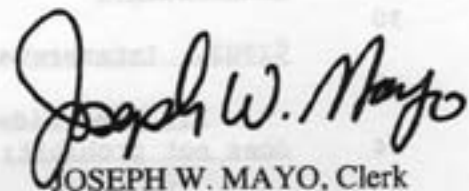
No. 703

H.P. 496

House of Representatives, January 26, 1999

### An Act to Create the Maine Civil Rights Act of 1999.

Reference to the Committee on Judiciary suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

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  
of Southwest Harbor, Senators: DAVIS of Piscataquis, FERGUSON of Oxford.

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

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

6 CHAPTER 33

8 CIVIL RIGHTS IN PUBLIC EMPLOYMENT,  
EDUCATION AND CONTRACTING ACT

10 §2901. Definition

12 As used in this chapter, unless the context otherwise  
14 indicates, "State" means the State of Maine or any office,  
16 department, agency, authority, commission, board, institution,  
18 hospital or other instrumentality of the State, including the  
20 Maine Turnpike Authority, the University of Maine System, the  
22 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.

24 §2902. Prohibition

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

32 §2903. Interpretation

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

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

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

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

48 §2904. Remedies

2 Violation of this chapter is a violation of the Maine Human  
3 Rights Act and a person who has been injured by a violation of  
4 this chapter is entitled to the same remedies as a person injured  
5 by a violation of the Maine Human Rights Act.

6

### SUMMARY

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

FIRST REGULAR SESSION-1999

Legislative Document

No. 707

H.R. 496

House of Representatives, January 26, 1999

An Act to Amend the Maine Civil Rights Act of 1994.

Reference to the Constitution, if necessary, is hereby suggested and referred printed.

*Joseph W. Mason, Esq.*  
Joseph W. Mason, Esq.

Introduced by Representative MACK of Bangor.  
Reauthorized by Representatives BOWEN of Sebasticus, CLYDE of Newry, FORTSON of  
Newport, MacDONALD of North Berwick, MAYOR of Bethel, STANWOOD  
of Southwest Harbor, Senators DAVIS of Freeport, FORTSON of Newry.

**OFFICE OF POLICY AND LEGAL ANALYSIS**

**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

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