

## Employment Discrimination Statutes of Limitations Desk Aid\*

| LAW • COVERED                                                                                                                                                                                                                                                                                                        | SOL • PROCEDURE                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | EXCEPTIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Maine Human Rights Act</b>, 5 M.R.S. §§4551, et seq.</p> <ul style="list-style-type: none"> <li>• Race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, WPA, prior Workers' Comp.</li> <li>• Nearly all employers, regardless of size.</li> </ul> | <ul style="list-style-type: none"> <li>• <b>300 days</b> from unlawful act to file with Maine Human Rights Commission ("MHRC").</li> <li>• Failure to file with MHRC does not bar claim but eliminates civil penal damages, compensatory damages, punitive damages, and attorney's fees.</li> <li>• SOL in court is the later of <b>two years</b> from date of discrimination <b>or 90 days</b> after (1) MHRC dismissal or (2) 90 days after MHRC reasonable grounds finding.</li> </ul> | <ul style="list-style-type: none"> <li>• MHRC will extend the filing deadline if waiver, equitable estoppel, or equitable tolling.</li> <li>• For equitable tolling, MHRC will consider complainant's 1) lack of actual notice of filing requirement; (2) lack of constructive knowledge of the filing requirement; (3) diligence in pursuing rights; (4) absence of prejudice to respondent; and (5) reasonableness in remaining ignorant of the notice requirement.</li> </ul> |
| <p><b>42 U.S.C. §1981</b></p> <ul style="list-style-type: none"> <li>• Race or color discrimination (includes ancestry or ethnicity, e.g., Arab, Jewish).</li> <li>• Nearly all private and public employers.</li> </ul>                                                                                             | <ul style="list-style-type: none"> <li>• No administrative exhaustion.</li> <li>• <b>Four years</b> from date of discrimination to file in court.</li> </ul>                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p><b>42 U.S.C. §1983</b></p> <ul style="list-style-type: none"> <li>• Equal Protection, Due Process, First Amendment</li> <li>• State and local governmental employers and private employers acting under color of state or local law.</li> </ul>                                                                   | <ul style="list-style-type: none"> <li>• No administrative exhaustion.</li> <li>• <b>Six years</b> from date of discrimination to file in court.</li> </ul>                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p><b>Title VII</b>, 42 U.S.C. §§2000e, et seq.</p> <ul style="list-style-type: none"> <li>• Race, color, religion, sex, national origin. 15 or more employees.</li> </ul>                                                                                                                                           | <ul style="list-style-type: none"> <li>• <b>300 days</b> from unlawful act to file with Equal Employment Opportunity Commission ("EEOC").</li> <li>• Failure to file with EEOC bars claim.</li> <li>• May start pay discrimination clock on most recent paycheck.</li> <li>• <b>90 days</b> from EEOC right-to-sue ("RTS")</li> </ul>                                                                                                                                                     | <ul style="list-style-type: none"> <li>• SOL are not jurisdictional and are "subject to waiver, estoppel, and equitable tolling."</li> <li>• EEOC will extend deadline for "a reasonable period of time" if complainant had no reason to suspect discrimination at the time of the</li> </ul>                                                                                                                                                                                    |

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|--------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                              | letter to file in court.                                                                                                                                                                                                                     | disputed event; complainant’s mental incapacity; if there was misleading information or mishandling of charge by the EEOC or MHRC; or timely filing in the wrong forum.                                                                                                                                                                                                                                       |
| <b>ADA</b> , 42 U.S.C. §§12111, et seq.<br>• Disability.<br>• 15 or more employees.                          | • <b>300 days</b> from unlawful act to file with EEOC.<br>• Failure to file with EEOC bars claim.<br>• May start pay discrimination clock on most recent paycheck.<br>• <b>90 days</b> from EEOC RTS letter to file in court.                | • SOL are not jurisdictional and are “subject to waiver, estoppel, and equitable tolling.”<br>• EEOC will extend deadline for “a reasonable period of time” if complainant had no reason to suspect discrimination at the time of the disputed event; complainant’s mental incapacity; if there was misleading information or mishandling of charge by the EEOC or MHRC; or timely filing in the wrong forum. |
| <b>ADEA</b> , 29 U.S.C. §§621, et seq.<br>• Age – 40 and over. 29 U.S.C. §631(a).<br>• 20 or more employees. | • <b>300 days</b> from unlawful act to file with EEOC.<br>• Failure to file administrative complaint bars claim.<br>• May start pay discrimination clock on most recent paycheck.<br>• <b>90 days</b> from EEOC RTS letter to file in court. | • SOL are not jurisdictional and are “subject to waiver, estoppel, and equitable tolling.”<br>• EEOC will extend deadline for “a reasonable period of time” if complainant had no reason to suspect discrimination at the time of the disputed event; complainant’s mental incapacity; if there was misleading information or mishandling of charge by the EEOC or MHRC; or timely filing in the wrong forum. |

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| <p><b>EPA</b>, 29 U.S.C. §206(d)</p> <ul style="list-style-type: none"> <li>• Unequal pay between sexes.</li> <li>• Nearly all employers regardless of size. 29 U.S.C. § 203(d).</li> </ul>                                                                                                                                                                 | <ul style="list-style-type: none"> <li>• No administrative exhaustion requirement.</li> <li>• <b>Two years</b> to file in court after cause of action accrued; <b>three years</b> if willful.</li> <li>• “Willful” means “employer either knew or showed reckless disregard for the matter of whether its conduct was prohibited by the statute.”</li> </ul> | <ul style="list-style-type: none"> <li>• SOL are not jurisdictional and are subject to equitable tolling.</li> </ul> |
| <p><b>FMLA</b>, 29 U.S.C. §§2601, et seq.</p> <ul style="list-style-type: none"> <li>• 12 weeks of leave for childbirth, adoption, serious health condition.</li> <li>• 50 or more employees.</li> </ul>                                                                                                                                                    | <ul style="list-style-type: none"> <li>• No administrative exhaustion.</li> <li>• <b>Two years</b> to file in court after the date of the last event constituting the alleged violation; <b>three years</b> if willful.</li> </ul>                                                                                                                           | <ul style="list-style-type: none"> <li>• SOL are not jurisdictional and are subject to equitable tolling.</li> </ul> |
| <p><b>Title IX</b>, 20 U.S.C. §1681(a)</p> <ul style="list-style-type: none"> <li>• Sex discrimination in education program or activity receiving Federal financial assistance.</li> </ul>                                                                                                                                                                  | <ul style="list-style-type: none"> <li>• No administrative exhaustion requirement.</li> <li>• <b>Six years</b> from date of discrimination to file in court.</li> </ul>                                                                                                                                                                                      |                                                                                                                      |
| <p><b>Rehab Act §504</b>, 29 U.S.C. § 794(a)</p> <ul style="list-style-type: none"> <li>• Qualified individual with a disability.</li> <li>• Recipients of federal financial assistance.</li> </ul>                                                                                                                                                         | <ul style="list-style-type: none"> <li>• No administrative exhaustion.</li> <li>• <b>Six years</b> from date of discrimination to file in court.</li> </ul>                                                                                                                                                                                                  |                                                                                                                      |
| <p><b>Title VI</b>, 42 U.S.C. § 2000d</p> <ul style="list-style-type: none"> <li>• No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.</li> </ul> | <ul style="list-style-type: none"> <li>• No administrative exhaustion.</li> <li>• <b>Six years</b> from date of discrimination to file in court.</li> </ul>                                                                                                                                                                                                  |                                                                                                                      |
| <p><b>NLRA</b>, 29 U.S.C. §158(a)</p> <ul style="list-style-type: none"> <li>• Right to collective bargaining.</li> <li>• Most private employers (not government).</li> </ul>                                                                                                                                                                               | <ul style="list-style-type: none"> <li>• <b>Six months</b> to file with NLRB.</li> </ul>                                                                                                                                                                                                                                                                     | <ul style="list-style-type: none"> <li>• SOL are not jurisdictional and are subject to equitable tolling.</li> </ul> |

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| <p><b>Maine Medical Leave</b>, 26 M.R.S. §§843, et seq.</p> <ul style="list-style-type: none"> <li>• 10 weeks of leave per 2 years if employed for 12 consecutive months, unless fewer than 15 employees at job site.</li> </ul> | <ul style="list-style-type: none"> <li>• <b>Six years</b> from unlawful act.</li> </ul>                                          | <ul style="list-style-type: none"> <li>• Same exceptions that are applicable to 14 M.R.S. §752, e.g., minor, mental illness, imprisonment.</li> </ul> |
| <p><b>Maine Workers' Compensation Act</b>, 39-A M.R.S. §353</p> <ul style="list-style-type: none"> <li>• Retaliation for asserting rights.</li> </ul>                                                                            | <ul style="list-style-type: none"> <li>• <b>Two years</b> from retaliation to file petition with Workers' Comp Board.</li> </ul> |                                                                                                                                                       |

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