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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3837

02/26/2020 Authored by Hornstein, Noor, Bierman, Hassan, Youakim and others
The bill was read for the first time and referred to the Public Safety and Criminal Justice Reform Finance and Policy Division
03/11/2020 Adoption of Report: Re-referred to the Judiciary Finance and Civil Law Division

1.1 A bill for an act
1.2 relating to public safety; expanding the reporting of crimes motivated by bias;
1.3 amending the crime of property damage motivated by bias; requiring the Peace
1.4 Officer Standards and Training Board to update training in recognizing, responding
1.5 to, and reporting crimes of bias; requiring law enforcement agencies to adopt
1.6 standard policies regarding crimes motivated by bias; appropriating money;
1.7 amending Minnesota Statutes 2018, sections 363A.06, subdivision 1; 609.595,
1.8 subdivisions 1a, 2; 626.5531, subdivision 1; 626.8451, subdivision 1; 626.8469,
1.9 subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 626.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. Minnesota Statutes 2018, section 363A.06, subdivision 1, is amended to read:

1.12 Subdivision 1. Formulation of policies. (a) The commissioner shall formulate policies
1.13 to effectuate the purposes of this chapter and shall do the following:

1.14 (1) exercise leadership under the direction of the governor in the development of human
1.15 rights policies and programs, and make recommendations to the governor and the legislature
1.16 for their consideration and implementation;

1.17 (2) establish and maintain a principal office in St. Paul, and any other necessary branch
1.18 offices at any location within the state;

1.19 (3) meet and function at any place within the state;

1.20 (4) employ attorneys, clerks, and other employees and agents as the commissioner may
1.21 deem necessary and prescribe their duties;

1.22 (5) to the extent permitted by federal law and regulation, utilize the records of the
1.23 Department of Employment and Economic Development of the state when necessary to
1.24 effectuate the purposes of this chapter;

2.1 (6) obtain upon request and utilize the services of all state governmental departments
2.2 and agencies;

2.3 (7) adopt suitable rules for effectuating the purposes of this chapter;

2.4 (8) issue complaints, receive and investigate charges alleging unfair discriminatory
2.5 practices, and determine whether or not probable cause exists for hearing;

2.6 (9) subpoena witnesses, administer oaths, take testimony, and require the production for
2.7 examination of any books or papers relative to any matter under investigation or in question
2.8 as the commissioner deems appropriate to carry out the purposes of this chapter;

2.9 (10) attempt, by means of education, conference, conciliation, and persuasion to eliminate
2.10 unfair discriminatory practices as being contrary to the public policy of the state;

2.11 (11) develop and conduct programs of formal and informal education designed to
2.12 eliminate discrimination and intergroup conflict by use of educational techniques and
2.13 programs the commissioner deems necessary;

2.14 (12) make a written report of the activities of the commissioner to the governor each
2.15 year;

2.16 (13) accept gifts, bequests, grants, or other payments public and private to help finance
2.17 the activities of the department;

2.18 (14) create such local and statewide advisory committees as will in the commissioner's
2.19 judgment aid in effectuating the purposes of the Department of Human Rights;

2.20 (15) develop such programs as will aid in determining the compliance throughout the
2.21 state with the provisions of this chapter, and in the furtherance of such duties, conduct
2.22 research and study discriminatory practices based upon race, color, creed, religion, national
2.23 origin, sex, age, disability, marital status, status with regard to public assistance, familial
2.24 status, sexual orientation, or other factors and develop accurate data on the nature and extent
2.25 of discrimination and other matters as they may affect housing, employment, public
2.26 accommodations, schools, and other areas of public life;

2.27 (16) develop and disseminate technical assistance to persons subject to the provisions
2.28 of this chapter, and to agencies and officers of governmental and private agencies;

2.29 (17) provide staff services to such advisory committees as may be created in aid of the
2.30 functions of the Department of Human Rights;

2.31 (18) make grants in aid to the extent that appropriations are made available for that
2.32 purpose in aid of carrying out duties and responsibilities; ~~and~~

3.1 (19) cooperate and consult with the commissioner of labor and industry regarding the
 3.2 investigation of violations of, and resolution of complaints regarding section 363A.08,
 3.3 subdivision 7;

3.4 (20) collaborate and consult with the Board of Peace Officer Standards and Training
 3.5 regarding the training of peace officers in identifying crimes motivated by bias pursuant to
 3.6 sections 626.8451, subdivision 1, and 626.8469, including but not limited to the duty of
 3.7 peace officers to report crimes motivated by bias under section 626.5531; and

3.8 (21) solicit, receive, and compile reports from community organizations, school districts
 3.9 and charter schools, and individuals regarding crimes a community member believes are
 3.10 motivated by the victim's actual or perceived race, color, creed, religion, national origin,
 3.11 sex, age, disability, marital status, status with regard to public assistance, familial status,
 3.12 gender identity, or sexual orientation and develop data on the nature and extent of crimes
 3.13 motivated by bias and include this information in the report required under clause (12). The
 3.14 commissioner shall provide information on the department's website about when and how
 3.15 a victim reports criminal conduct to a law enforcement agency.

3.16 In performing these duties, the commissioner shall give priority to those duties in clauses
 3.17 (8), (9), and (10) and to the duties in section 363A.36.

3.18 (b) All gifts, bequests, grants, or other payments, public and private, accepted under
 3.19 paragraph (a), clause (13), must be deposited in the state treasury and credited to a special
 3.20 account. Money in the account is appropriated to the commissioner of human rights to help
 3.21 finance activities of the department.

3.22 **EFFECTIVE DATE.** This section is effective July 1, 2020.

3.23 Sec. 2. Minnesota Statutes 2018, section 609.595, subdivision 1a, is amended to read:

3.24 Subd. 1a. **Criminal damage to property in the second degree.** (a) Whoever intentionally
 3.25 causes damage described in subdivision 2, paragraph (a), ~~because of the property owner's~~
 3.26 ~~or another's actual or perceived race, color, religion, sex, sexual orientation, disability as~~
 3.27 ~~defined in section 363A.03, age, or national origin~~ is guilty of a felony and may be sentenced
 3.28 to imprisonment for not more than one year and a day or to payment of a fine of not more
 3.29 than \$3,000, or both; if the damage:

3.30 (1) was motivated in whole or in part by the person's bias against any race, color, religion,
 3.31 sex, sexual orientation, disability as defined in section 363A.03, age, or national origin; or

4.1 (2) has a substantial adverse effect or is intended to have a substantial adverse effect on
 4.2 another because of that person's actual or perceived race, color, religion, sex, sexual
 4.3 orientation, disability as defined in section 363A.03, age, or national origin.

4.4 (b) In any prosecution under paragraph (a), the value of property damaged by the
 4.5 defendant in violation of that paragraph within any six-month period may be aggregated
 4.6 and the defendant charged accordingly in applying this section. When two or more offenses
 4.7 are committed by the same person in two or more counties, the accused may be prosecuted
 4.8 in any county in which one of the offenses was committed for all of the offenses aggregated
 4.9 under this paragraph.

4.10 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to crimes
 4.11 committed on or after that date.

4.12 Sec. 3. Minnesota Statutes 2018, section 609.595, subdivision 2, is amended to read:

4.13 Subd. 2. **Criminal damage to property in the third degree.** (a) Except as otherwise
 4.14 provided in subdivision 1a, whoever intentionally causes damage to another person's physical
 4.15 property without the other person's consent may be sentenced to imprisonment for not more
 4.16 than one year or to payment of a fine of not more than \$3,000, or both, if: (1) the damage
 4.17 reduces the value of the property by more than \$500 but not more than \$1,000 as measured
 4.18 by the cost of repair and replacement; or (2) the damage was to a public safety motor vehicle
 4.19 and the defendant knew the vehicle was a public safety motor vehicle.

4.20 (b) Whoever intentionally causes damage to another person's physical property without
 4.21 the other person's consent ~~because of the property owner's or another's actual or perceived~~
 4.22 ~~race, color, religion, sex, sexual orientation, disability as defined in section 363A.03, age,~~
 4.23 ~~or national origin~~ may be sentenced to imprisonment for not more than one year or to
 4.24 payment of a fine of not more than \$3,000, or both, if the damage reduces the value of the
 4.25 property by not more than \$500- and:

4.26 (1) was motivated in whole or in part by the person's bias against any race, color, religion,
 4.27 sex, sexual orientation, disability as defined in section 363A.03, age, or national origin; or

4.28 (2) has a substantial adverse effect or is intended to have a substantial adverse effect on
 4.29 another because of that person's actual or perceived race, color, religion, sex, sexual
 4.30 orientation, disability as defined in section 363A.03, age, or national origin.

4.31 (c) In any prosecution under paragraph (a), clause (1), the value of property damaged
 4.32 by the defendant in violation of that paragraph within any six-month period may be
 4.33 aggregated and the defendant charged accordingly in applying this section. When two or

5.1 more offenses are committed by the same person in two or more counties, the accused may
 5.2 be prosecuted in any county in which one of the offenses was committed for all of the
 5.3 offenses aggregated under this paragraph.

5.4 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to crimes
 5.5 committed on or after that date.

5.6 Sec. 4. Minnesota Statutes 2018, section 626.5531, subdivision 1, is amended to read:

5.7 Subdivision 1. **Reports required.** A peace officer must report to the head of the officer's
 5.8 department every violation of chapter 609 or a local criminal ordinance if the officer has
 5.9 reason to believe, or if the victim alleges, that the offender was motivated to commit the
 5.10 act by the victim's actual or perceived race, religion, national origin, sex, age, disability, or
 5.11 characteristics identified as sexual orientation. The superintendent of the Bureau of Criminal
 5.12 Apprehension shall adopt a reporting form to be used by law enforcement agencies in making
 5.13 the reports required under this section. The reports must include for each incident all of the
 5.14 following:

5.15 (1) the date of the offense;

5.16 (2) the location of the offense;

5.17 (3) whether the target of the incident is a person, private property, or public property;

5.18 (4) the crime committed;

5.19 (5) the type of bias and information about the offender and the victim that is relevant to
 5.20 that bias;

5.21 (6) any organized group involved in the incident;

5.22 (7) the disposition of the case;

5.23 (8) whether the determination that the offense was motivated by bias was based on the
 5.24 officer's reasonable belief or on the victim's allegation; and

5.25 (9) any additional information the superintendent deems necessary for the acquisition
 5.26 of accurate and relevant data.

5.27 Sec. 5. Minnesota Statutes 2018, section 626.8451, subdivision 1, is amended to read:

5.28 Subdivision 1. **Training course; crimes motivated by bias.** (a) The board must prepare
 5.29 a training course to assist peace officers in identifying and responding to crimes motivated
 5.30 by the victim's race, religion, national origin, sex, age, disability, or characteristics identified

6.1 as sexual orientation. The course must include material to help officers distinguish bias
 6.2 crimes from other crimes, to help officers in understanding and assisting victims of these
 6.3 crimes, and to ensure that bias crimes will be accurately reported as required under section
 6.4 626.5531. The board must review the course ~~must be updated periodically~~ every three years
 6.5 and update it as the board considers appropriate.

6.6 (b) In updating the training course described in paragraph (a), the board must consult
 6.7 with the commissioner of human rights.

6.8 **EFFECTIVE DATE.** This section is effective July 1, 2020.

6.9 Sec. 6. Minnesota Statutes 2018, section 626.8469, subdivision 1, is amended to read:

6.10 Subdivision 1. **In-service training required.** Beginning July 1, 2018, the chief law
 6.11 enforcement officer of every state and local law enforcement agency shall provide in-service
 6.12 training in crisis intervention and mental illness crises; conflict management and mediation;
 6.13 ~~and~~ recognizing and valuing community diversity and cultural differences to include implicit
 6.14 bias training; and training to assist peace officers in identifying, responding to, and reporting
 6.15 crimes motivated by the victim's actual or perceived race, religion, national origin, sex, age,
 6.16 disability, or characteristics identified as sexual orientation to every peace officer and
 6.17 part-time peace officer employed by the agency. The training shall comply with learning
 6.18 objectives developed and approved by the board and shall meet board requirements for
 6.19 board-approved continuing education credit. The board shall perform an annual review of
 6.20 the learning objectives and must consult and collaborate with the commissioner of human
 6.21 rights in identifying appropriate objectives related to identifying, responding to, and reporting
 6.22 crimes motivated by the victim's actual or perceived race, religion, national origin, sex, age,
 6.23 disability, or characteristics identified as sexual orientation. The training shall consist of at
 6.24 least 16 continuing education credits within an officer's three-year licensing cycle. Each
 6.25 peace officer with a license renewal date after June 30, 2018, is not required to complete
 6.26 this training until the officer's next full three-year licensing cycle.

6.27 **EFFECTIVE DATE.** This section is effective July 1, 2020.

6.28 Sec. 7. **[626.8474] IDENTIFYING, RESPONDING TO, AND REPORTING CRIMES**
 6.29 **MOTIVATED BY BIAS; WRITTEN POLICY REQUIRED.**

6.30 Subdivision 1. **Statewide model policy.** (a) The Board of Peace Officer Standards and
 6.31 Training shall consult with the commissioner of human rights in developing a model policy
 6.32 to identify, respond to, and report crimes motivated by the victim's actual or perceived race,

7.1 religion, national origin, sex, age, disability, or characteristics identified as sexual orientation.

7.2 The policy shall, at a minimum, include the following components:

7.3 (1) a statement describing the philosophy of the model policy;

7.4 (2) the factors to be considered in identifying crimes motivated by bias;

7.5 (3) a requirement to collect data on crimes motivated by other factors including creed,
7.6 marital status, status with regard to public assistance, familial status, or the victim's actual
7.7 or perceived self-image or identity not traditionally associated with one's biological maleness
7.8 or femaleness;

7.9 (4) the role of a victim's allegation in identifying, responding to, and reporting crimes
7.10 motivated by bias;

7.11 (5) appropriate methods for referring victims to other agencies and organizations to
7.12 report crimes motivated by bias;

7.13 (6) the procedures and effective approaches to be used in responding to crimes motivated
7.14 by bias;

7.15 (7) the responsibilities of officers responding to the report of crimes motivated by bias,
7.16 including but not limited to the responsibility to report crimes including those whose
7.17 prosecution is referred to federal prosecutors; and

7.18 (8) the procedures used to evaluate each response.

7.19 (b) The board shall adopt a model policy and distribute the model policy to all chief law
7.20 enforcement officers by July 1, 2021. The board must review the model policy every three
7.21 years and update it as the board considers appropriate.

7.22 Subd. 2. **Agency policies required.** (a) By November 1, 2021, the chief law enforcement
7.23 officer of every state and local law enforcement agency must establish and enforce a written
7.24 policy governing the procedures to be used in identifying and responding to crimes motivated
7.25 by the victim's race, religion, national origin, sex, age, disability, or characteristics identified
7.26 as sexual orientation. The chief law enforcement officer also must ensure that each peace
7.27 officer is aware of the policy's purpose.

7.28 (b) The policy must, at a minimum, comply with the requirements of the model policy
7.29 adopted by the board under subdivision 1. Following any update to the model policy adopted
7.30 by the board, the chief law enforcement officer of every state and local law enforcement
7.31 agency shall review and, if necessary, update the policy adopted by the law enforcement
7.32 agency.

8.1 (c) Every state and local law enforcement agency must certify to the board that it has
8.2 adopted a written policy in compliance with the board's model policy.

8.3 (d) The board shall assist the chief law enforcement officer of each state and local law
8.4 enforcement agency in developing and implementing policies under this subdivision.

8.5 **EFFECTIVE DATE.** This section is effective July 1, 2020.

8.6 **Sec. 8. UPDATED TRAINING MATERIALS; APPROPRIATION.**

8.7 \$..... in fiscal year 2021 is appropriated from the general fund to the Board of Peace
8.8 Officer Standards and Training to update the training course on crimes motivated by bias
8.9 required under Minnesota Statutes, section 626.8451, subdivision 1, and to develop a model
8.10 policy for use by law enforcement agencies in identifying and responding to crimes motivated
8.11 by bias. This is a onetime appropriation.

8.12 **EFFECTIVE DATE.** This section is effective July 1, 2020.

8.13 **Sec. 9. COLLECTION OF DATA; APPROPRIATION.**

8.14 \$..... in fiscal year 2021 is appropriated from the general fund to the commissioner of
8.15 human rights to collect and compile data on crimes motivated by bias, and to consult with
8.16 the Board of Peace Officer Standards and Training for the purpose of updating the training
8.17 course on crimes motivated by bias and to develop a model policy for use by law enforcement
8.18 agencies in identifying and responding to crimes motivated by bias.

8.19 **EFFECTIVE DATE.** This section is effective July 1, 2020.