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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1648

02/25/2021 Authored by Hollins, Freiberg and Long
The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; limiting criminal defenses and authorization for the use
1.3 of force relating to a victim's sexual orientation or identity; amending Minnesota
1.4 Statutes 2020, sections 609.06, subdivision 1, by adding a subdivision; 609.075;
1.5 609.20.

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

1.7 Section 1. Minnesota Statutes 2020, section 609.06, subdivision 1, is amended to read:

1.8 Subdivision 1. **When authorized.** Except as otherwise provided in subdivisions 2 ~~and~~
1.9 ~~3~~ to 4, reasonable force may be used upon or toward the person of another without the
1.10 other's consent when the following circumstances exist or the actor reasonably believes
1.11 them to exist:

1.12 (1) when used by a public officer or one assisting a public officer under the public
1.13 officer's direction:

1.14 (i) in effecting a lawful arrest; or

1.15 (ii) in the execution of legal process; or

1.16 (iii) in enforcing an order of the court; or

1.17 (iv) in executing any other duty imposed upon the public officer by law; or

1.18 (2) when used by a person not a public officer in arresting another in the cases and in
1.19 the manner provided by law and delivering the other to an officer competent to receive the
1.20 other into custody; or

1.21 (3) when used by any person in resisting or aiding another to resist an offense against
1.22 the person; or

2.1 (4) when used by any person in lawful possession of real or personal property, or by
 2.2 another assisting the person in lawful possession, in resisting a trespass upon or other
 2.3 unlawful interference with such property; or

2.4 (5) when used by any person to prevent the escape, or to retake following the escape,
 2.5 of a person lawfully held on a charge or conviction of a crime; or

2.6 (6) when used by a parent, guardian, teacher, or other lawful custodian of a child or
 2.7 pupil, in the exercise of lawful authority, to restrain or correct such child or pupil; or

2.8 (7) when used by a school employee or school bus driver, in the exercise of lawful
 2.9 authority, to restrain a child or pupil, or to prevent bodily harm or death to another; or

2.10 (8) when used by a common carrier in expelling a passenger who refuses to obey a lawful
 2.11 requirement for the conduct of passengers and reasonable care is exercised with regard to
 2.12 the passenger's personal safety; or

2.13 (9) when used to restrain a person with a mental illness or a person with a developmental
 2.14 disability from self-injury or injury to another or when used by one with authority to do so
 2.15 to compel compliance with reasonable requirements for the person's control, conduct, or
 2.16 treatment; or

2.17 (10) when used by a public or private institution providing custody or treatment against
 2.18 one lawfully committed to it to compel compliance with reasonable requirements for the
 2.19 control, conduct, or treatment of the committed person.

2.20 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to crimes
 2.21 committed on or after that date

2.22 Sec. 2. Minnesota Statutes 2020, section 609.06, is amended by adding a subdivision to
 2.23 read:

2.24 **Subd. 4. Use of force not authorized; reaction to victim's sexual orientation.** Force
 2.25 may not be used against another based on the discovery of, knowledge about, or potential
 2.26 disclosure of the victim's actual or perceived sexual orientation, including gender identity
 2.27 and expression, including under circumstances in which the victim made an unwanted
 2.28 nonforcible romantic or sexual advance towards the actor, or if the actor and victim dated
 2.29 or had a romantic or sexual relationship.

2.30 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to crimes
 2.31 committed on or after that date.

3.1 Sec. 3. Minnesota Statutes 2020, section 609.075, is amended to read:

3.2 **609.075 DEFENSES; INTOXICATION AS DEFENSE, REACTION TO VICTIM'S**
 3.3 **SEXUAL ORIENTATION.**

3.4 Subdivision 1. Intoxication as defense. An act committed while in a state of voluntary
 3.5 intoxication is not less criminal by reason thereof, but when a particular intent or other state
 3.6 of mind is a necessary element to constitute a particular crime, the fact of intoxication may
 3.7 be taken into consideration in determining such intent or state of mind.

3.8 Subd. 2. Reaction to victim's sexual orientation. It is not a defense to a crime that the
 3.9 defendant acted based on the discovery of, knowledge about, or potential disclosure of the
 3.10 victim's actual or perceived sexual orientation, including gender identity and expression,
 3.11 including under circumstances in which the victim made an unwanted nonforcible romantic
 3.12 or sexual advance towards the defendant, or if the defendant and victim dated or had a
 3.13 romantic or sexual relationship.

3.14 EFFECTIVE DATE. This section is effective August 1, 2021, and applies to crimes
 3.15 committed on or after that date.

3.16 Sec. 4. Minnesota Statutes 2020, section 609.20, is amended to read:

3.17 **609.20 MANSLAUGHTER IN THE FIRST DEGREE.**

3.18 Whoever does any of the following is guilty of manslaughter in the first degree and may
 3.19 be sentenced to imprisonment for not more than 15 years or to payment of a fine of not
 3.20 more than \$30,000, or both:

3.21 (1) intentionally causes the death of another person in the heat of passion provoked by
 3.22 such words or acts of another as would provoke a person of ordinary self-control under like
 3.23 circumstances, provided that:

3.24 (i) the crying of a child; or

3.25 (ii) the discovery of, knowledge about, or potential disclosure of the victim's actual or
 3.26 perceived sexual orientation, including gender identity and expression, including under
 3.27 circumstances in which the victim made an unwanted nonforcible romantic or sexual advance
 3.28 towards the actor, or if the actor and victim dated or had a romantic or sexual relationship;
 3.29 does not constitute provocation;

3.30 (2) violates section 609.224 and causes the death of another or causes the death of another
 3.31 in committing or attempting to commit a misdemeanor or gross misdemeanor offense with

4.1 such force and violence that death of or great bodily harm to any person was reasonably
4.2 foreseeable, and murder in the first or second degree was not committed thereby;

4.3 (3) intentionally causes the death of another person because the actor is coerced by
4.4 threats made by someone other than the actor's coconspirator and which cause the actor
4.5 reasonably to believe that the act performed by the actor is the only means of preventing
4.6 imminent death to the actor or another;

4.7 (4) proximately causes the death of another, without intent to cause death by, directly
4.8 or indirectly, unlawfully selling, giving away, bartering, delivering, exchanging, distributing,
4.9 or administering a controlled substance classified in Schedule III, IV, or V; or

4.10 (5) causes the death of another in committing or attempting to commit a violation of
4.11 section 609.377 (malicious punishment of a child), and murder in the first, second, or third
4.12 degree is not committed thereby.

4.13 As used in this section, a "person of ordinary self-control" does not include a person
4.14 under the influence of intoxicants or a controlled substance.

4.15 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to crimes
4.16 committed on or after that date.