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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **3792**

02/28/2022

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The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law

- 1.1 A bill for an act
- 1.2 relating to human rights; providing protection based on political affiliation in
- 1.3 employment law; amending Minnesota Statutes 2020, section 363A.08, subdivisions
- 1.4 1, 2, 3, 4, by adding a subdivision.
- 1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.6 Section 1. Minnesota Statutes 2020, section 363A.08, subdivision 1, is amended to read:
- 1.7 Subdivision 1. **Labor organization.** Except when based on a bona fide occupational
- 1.8 qualification, it is an unfair employment practice for a labor organization, because of race,
- 1.9 color, creed, religion, political affiliation, national origin, sex, marital status, status with
- 1.10 regard to public assistance, familial status, disability, sexual orientation, or age:
- 1.11 (1) to deny full and equal membership rights to a person seeking membership or to a
- 1.12 member;
- 1.13 (2) to expel a member from membership;
- 1.14 (3) to discriminate against a person seeking membership or a member with respect to
- 1.15 hiring, apprenticeship, tenure, compensation, terms, upgrading, conditions, facilities, or
- 1.16 privileges of employment; or
- 1.17 (4) to fail to classify properly, or refer for employment or otherwise to discriminate
- 1.18 against a person or member.
- 1.19 Sec. 2. Minnesota Statutes 2020, section 363A.08, subdivision 2, is amended to read:
- 1.20 Subd. 2. **Employer.** Except when based on a bona fide occupational qualification, it is
- 1.21 an unfair employment practice for an employer, because of race, color, creed, religion,

2.1 political affiliation, national origin, sex, marital status, status with regard to public assistance,
2.2 familial status, membership or activity in a local commission, disability, sexual orientation,
2.3 or age to:

2.4 (1) refuse to hire or to maintain a system of employment which unreasonably excludes
2.5 a person seeking employment; or

2.6 (2) discharge an employee; or

2.7 (3) discriminate against a person with respect to hiring, tenure, compensation, terms,
2.8 upgrading, conditions, facilities, or privileges of employment.

2.9 Sec. 3. Minnesota Statutes 2020, section 363A.08, subdivision 3, is amended to read:

2.10 Subd. 3. **Employment agency.** Except when based on a bona fide occupational
2.11 qualification, it is an unfair employment practice for an employment agency, because of
2.12 race, color, creed, religion, political affiliation, national origin, sex, marital status, status
2.13 with regard to public assistance, familial status, disability, sexual orientation, or age to:

2.14 (1) refuse or fail to accept, register, classify properly, or refer for employment or
2.15 otherwise to discriminate against a person; or

2.16 (2) comply with a request from an employer for referral of applicants for employment
2.17 if the request indicates directly or indirectly that the employer fails to comply with the
2.18 provisions of this chapter.

2.19 Sec. 4. Minnesota Statutes 2020, section 363A.08, subdivision 4, is amended to read:

2.20 Subd. 4. **Employer, employment agency, or labor organization.** (a) Except when
2.21 based on a bona fide occupational qualification, it is an unfair employment practice for an
2.22 employer, employment agency, or labor organization, before a person is employed by an
2.23 employer or admitted to membership in a labor organization, to:

2.24 (1) require or request the person to furnish information that pertains to race, color, creed,
2.25 religion, political affiliation, national origin, sex, marital status, status with regard to public
2.26 assistance, familial status, disability, sexual orientation, or age; or, subject to section 363A.20,
2.27 to require or request a person to undergo physical examination; unless for the sole and
2.28 exclusive purpose of national security, information pertaining to national origin is required
2.29 by the United States, this state or a political subdivision or agency of the United States or
2.30 this state, or for the sole and exclusive purpose of compliance with the Public Contracts
2.31 Act or any rule, regulation, or laws of the United States or of this state requiring the
2.32 information or examination. A law enforcement agency may, after notifying an applicant

for a peace officer or part-time peace officer position that the law enforcement agency is commencing the background investigation on the applicant, request the applicant's date of birth, gender, and race on a separate form for the sole and exclusive purpose of conducting a criminal history check, a driver's license check, and fingerprint criminal history inquiry. The form shall include a statement indicating why the data is being collected and what its limited use will be. No document which has date of birth, gender, or race information will be included in the information given to or available to any person who is involved in selecting the person or persons employed other than the background investigator. No person may act both as background investigator and be involved in the selection of an employee except that the background investigator's report about background may be used in that selection as long as no direct or indirect references are made to the applicant's race, age, or gender; or

(2) seek and obtain for purposes of making a job decision, information from any source that pertains to the person's race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, familial status, disability, sexual orientation, or age, unless for the sole and exclusive purpose of compliance with the Public Contracts Act or any rule, regulation, or laws of the United States or of this state requiring the information; or

(3) cause to be printed or published a notice or advertisement that relates to employment or membership and discloses a preference, limitation, specification, or discrimination based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, familial status, disability, sexual orientation, or age.

(b) Any individual who is required to provide information that is prohibited by this subdivision is an aggrieved party under sections 363A.06, subdivision 4, and 363A.28, subdivisions 1 to 9.

Sec. 5. Minnesota Statutes 2020, section 363A.08, is amended by adding a subdivision to read:

Subd. 8. **Exceptions; political affiliations.** A political appointment made in state or local government or an employment action by the state legislature and any office or department contained within the state legislature is immune from a claim for unfair employment discrimination under section 363A.08, subdivisions 1 to 4, for considering the individual's political affiliation. For the purposes of hiring related to political appointments in state and local government and hiring and retention by the state legislature, considering an individual's political affiliation is a bona fide occupational qualification.