CHAPTER 363A

HUMAN RIGHTS

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363A.001 MS 2006 [Renumbered 15.001]

GENERAL PROVISIONS

363A.01 CITATION.

This chapter shall be known as the "Minnesota Human Rights Act."

History: *1955 c 516 s 2; 1961 c 428 s 17; 1973 c 729 s 17*

363A.02 PUBLIC POLICY.

Subdivision 1. **Freedom from discrimination.** (a) It is the public policy of this state to secure for persons in this state, freedom from discrimination:

(1) in employment because of one or more of the following: race, color, creed, religion, national origin, sex, gender identity, marital status, disability, status with regard to public assistance, sexual orientation, familial status, and age;

(2) in housing and real property because of one or more of the following: race, color, creed, religion, national origin, sex, gender identity, marital status, disability, status with regard to public assistance, sexual orientation, and familial status;

(3) in public accommodations because of one or more of the following: race, color, creed, religion, national origin, sex, gender identity, sexual orientation, and disability;

(4) in public services because of one or more of the following: race, color, creed, religion, national origin, sex, gender identity, marital status, disability, sexual orientation, and status with regard to public assistance; and

(5) in education because of one or more of the following: race, color, creed, religion, national origin, sex, gender identity, marital status, disability, status with regard to public assistance, sexual orientation, and age.

(b) Such discrimination threatens the rights and privileges of the inhabitants of this state and menaces the institutions and foundations of democracy. It is also the public policy of this state to protect all persons from wholly unfounded charges of discrimination. Nothing in this chapter shall be interpreted as restricting the implementation of positive action programs to combat discrimination.

(c) Failure to engage in the process to determine if a reasonable accommodation exists that would allow people with disabilities as defined in section 363A.03, subdivision 12, to participate fully in employment, housing and real property, public accommodations, public services, and education may be an unfair discriminatory practice under this chapter.

Subd. 2. **Civil right.** The opportunity to obtain employment, housing, and other real estate, and full and equal utilization of public accommodations, public services, and educational institutions without such discrimination as is prohibited by this chapter is hereby recognized as and declared to be a civil right.

Subd. 3. **Severability.** If any provision of Laws 1967, chapter 897, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect the other provisions or applications of Laws 1967, chapter 897, which can be given effect without the invalid provision or application, and to this end the provisions of Laws 1967, chapter 897, are severable.

History: *1955 c 516 s 1; 1961 c 428 s 16; 1967 c 897 s 26; 1969 c 975 s 15,16; 1973 c 729 s 14,15; 1977 c 351 s 11; 1980 c 531 s 8; 1993 c 22 s 19; 1Sp2021 c 11 art 3 s 12; 2023 c 52 art 19 s 45; 2024 c 105 s 1; 2026 c 99 s 1*

363A.03 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of this chapter, the words defined in this section have the meanings ascribed to them.

Subd. 2. **Age.** The prohibition against unfair employment or education practices based on age prohibits using a person's age as a basis for a decision if the person is over the age of majority except for section 363A.13 which shall be deemed to protect any individual over the age of 25 years.

Subd. 3. MS 2022 [Repealed, 2024 c 105 s 20]

Subd. 4. **Business.** The term "business" includes any partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver, but excludes the state and its departments, agencies, and political subdivisions.

Subd. 5. **Charging party.** "Charging party" means a person filing a charge with the commissioner or the commissioner's designated agent pursuant to section 363A.28, subdivision 1.

Subd. 6. **Closed case file.** "Closed case file" means a file containing human rights investigative data in which an order or other decision resolving the alleged or suspected discrimination has been made or issued by the commissioner, a hearing officer, or a court, and the time for any reconsideration of or appeal from the order or decision has expired.

Subd. 7. **Commissioner.** "Commissioner" means the commissioner of human rights.

Subd. 8. **Complainant.** "Complainant" means the commissioner of human rights after issuing a complaint pursuant to sections 363A.06, subdivision 3, paragraph (8), and 363A.28, subdivisions 1 to 9.

Subd. 9. **Confidential, private, and public data on individuals and protected nonpublic data not on individuals.** "Confidential," "private," "public data on individuals," "protected nonpublic data not on individuals," and any other terms concerning the availability of human rights investigative data have the meanings given them by section 13.02 of the Minnesota Government Data Practices Act.

Subd. 10. **Demand responsive system.** "Demand responsive system" means a system of providing public transportation that is not a fixed route system.

Subd. 11. **Department.** "Department" means the Department of Human Rights.

Subd. 12. **Disability.** "Disability" means any condition or characteristic that renders a person a disabled person. A disabled person is any person who (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; (3) is regarded as having such an impairment; or (4) has an impairment that is episodic or in remission and would materially limit a major life activity when active.

Subd. 13. **Discriminate.** The term "discriminate" includes segregate, separate, or harassment.

Subd. 14. **Educational institution.** "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system and a business, nursing, professional, secretarial, technical, vocational school, and includes an agent of an educational institution.

Subd. 15. **Employee.** "Employee" means an individual who is employed by an employer and who resides or works in this state. Employee includes a commission salesperson, as defined in section 181.145, who resides or works in this state.

Subd. 16. **Employer.** "Employer" means a person who has one or more employees.

Subd. 17. **Employment agency.** "Employment agency" means a person or persons who, or an agency which regularly undertakes, with or without compensation, to procure employees or opportunities for employment.

Subd. 18. **Familial status.** "Familial status" means the condition of one or more minors having legal status or custody with (1) the minor's parent or parents or the minor's legal guardian or guardians or (2) the designee of the parent or parents or guardian or guardians with the written permission of the parent or parents

or guardian or guardians. Familial status also means residing with and caring for one or more individuals who lack the ability to meet essential requirements for physical health, safety, or self-care because the individual or individuals are unable to receive and evaluate information or make or communicate decisions. The protections afforded against discrimination on the basis of family status apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.

Subd. 19. **Fixed route system.** "Fixed route system" means a system of providing public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

Subd. 20. **Historic or antiquated rail passenger car.** "Historic or antiquated rail passenger car" means a rail passenger car:

(1) that is at least 30 years old at the time of its use for transporting individuals;

(2) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; or

(3) that has consequential association with events or persons significant to the past or embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past or to represent a time period that has passed.

Subd. 21. **Human rights investigative data.** "Human rights investigative data" means written documents issued or gathered by the department for the purpose of investigating and prosecuting alleged or suspected discrimination.

Subd. 22. **Labor organization.** "Labor organization" means any organization that exists wholly or partly for one or more of the following purposes:

(1) collective bargaining;

(2) dealing with employers concerning grievances, terms or conditions of employment; or

(3) mutual aid or protection of employees.

Subd. 23. **Local commission.** "Local commission" means an agency of a city, county, or group of counties created pursuant to law, resolution of a county board, city charter, or municipal ordinance for the purpose of dealing with discrimination on the basis of race, color, creed, religion, national origin, sex, gender identity, age, disability, marital status, status with regard to public assistance, sexual orientation, or familial status.

Subd. 24. **Marital status.** "Marital status" means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

Subd. 25. **National origin.** "National origin" means the place of birth of an individual or of any of the individual's lineal ancestors.

Subd. 26. **Open case file.** "Open case file" means a file containing human rights investigative data in which no order or other decision resolving the alleged or suspected discrimination has been made or issued by the commissioner, a hearing officer, or a court, or a file in which an order or other decision has been issued but the time for any reconsideration or appeal of the order or decision has either not yet expired or the reconsideration or appeal is then pending.

Subd. 27. **Operates.** "Operates," when used with respect to a demand responsive or fixed route system, includes the operation of the system by a person under a contractual or other arrangement or relationship with a public or private entity.

Subd. 28. **Over-the-road bus.** "Over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

Subd. 29. **Party in interest.** "Party in interest" means the complainant, respondent, or commissioner.

Subd. 30. **Person.** "Person" includes partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, receiver, and the state and its departments, agencies, and political subdivisions.

Subd. 31. **Physical access.** "Physical access" means (1) the absence of physical obstacles that limit a disabled person's opportunity for full and equal use of or benefit from goods, services, and privileges; or, when necessary, (2) the use of methods to overcome the discriminatory effect of physical obstacles. The methods may include redesign of equipment, assignment of aides, or use of alternate accessible locations.

Subd. 32. **Private entity.** "Private entity" means an entity other than a public service.

Subd. 33. **Program access.** "Program access" means (1) the use of auxiliary aids or services to ensure full and equal use of or benefit from goods, services, and privileges; and (2) the absence of criteria or methods of administration that directly, indirectly, or through contractual or other arrangements, have the effect of subjecting qualified disabled persons to discrimination on the basis of disability, or have the effect of defeating or impairing the accomplishment of the objectives of the program.

Subd. 34. **Place of public accommodation.** "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

Subd. 35. **Public service.** "Public service" means any public facility, department, agency, board or commission, owned, operated or managed by or on behalf of the state of Minnesota, or any subdivision thereof, including any county, city, town, township, or independent district in the state.

Subd. 36. **Qualified disabled person.** "Qualified disabled person" means:

(1) with respect to employment, a disabled person who, with reasonable accommodation, can perform the essential functions required of all applicants for the job in question; and

(2) with respect to public services, a person with a disability who, with or without reasonable modifications to rules, policies, or practices, removal of architectural, communications, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for receipt of services and for participation in programs and activities provided by the public service.

For the purposes of this subdivision, "disability" excludes any condition resulting from alcohol or drug abuse which prevents a person from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of others.

If a respondent contends that the person is not a qualified disabled person, the burden is on the respondent to prove that it was reasonable to conclude the disabled person, with reasonable accommodation, could not have met the requirements of the job or that the selected person was demonstrably better able to perform the job.

Subd. 36a. **Race.** "Race" is inclusive of traits associated with race, including but not limited to hair texture and hair styles such as braids, locs, and twists.

Subd. 37. **Rail passenger car.** "Rail passenger car" means, with respect to intercity or commuter rail transportation, single- and bi-level coach cars, dining cars, sleeping cars, lounge cars, restroom cars, and food service cars.

Subd. 38. **Real estate broker or salesperson.** "Real estate broker or salesperson" means, respectively, a real estate broker as defined by section 82.55, subdivision 19, and a real estate salesperson as defined by section 82.55, subdivision 20.

Subd. 39. **Real property.** "Real property" includes real estate, lands, tenements, and hereditaments, corporeal and incorporeal.

Subd. 40. **Religious or denominational educational institution.** "Religious or denominational educational institution" means an educational institution which is operated, supervised, controlled or sustained primarily by a religious or denominational organization, or one which is stated by the parent church body to be and is, in fact, officially related to that church by being represented on the board of the institution, and by providing substantial financial assistance and which has certified, in writing, to the board that it is a religious or denominational educational institution.

Subd. 41. **Respondent.** "Respondent" means a person against whom a complaint has been filed or issued.

Subd. 42. **Sex.** "Sex" includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.

Subd. 43. **Sexual harassment.** "Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

(1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, education, or housing;

(2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or

(3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment.

Subd. 44. **Sexual orientation.** "Sexual orientation" means to whom someone is, or is perceived of as being, emotionally, physically, or sexually attracted to based on sex or gender identity. A person may be attracted to men, women, both, neither, or to people who are genderqueer, androgynous, or have other gender identities.

Subd. 45. **Specified public transportation.** "Specified public transportation" means transportation by bus, rail, or any other conveyance other than aircraft that provides the general public with general or special service, including charter service, on a regular and continuing basis.

Subd. 46. **Station.** "Station" means property located next to a right-of-way on which intercity and commuter transportation is operated, which is used by the general public and is related to the provision of

the transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, drinking fountains, public telephones, and, if a public service providing rail transportation owns the property, concessions areas to the extent that the public service exercises control over the selection, design, construction, or alteration of the property. Station does not include flag stops.

Subd. 47. **Status with regard to public assistance.** "Status with regard to public assistance" means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

Subd. 48. **Unfair discriminatory practice.** "Unfair discriminatory practice" means any act described in sections 363A.08 to 363A.19 and 363A.28, subdivision 10.

Subd. 49. **Vehicle.** "Vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or railroad car.

Subd. 50. **Gender identity.** "Gender identity" means a person's inherent sense of being a man, woman, both, or neither. A person's gender identity may or may not correspond to their assigned sex at birth or to their primary or secondary sex characteristics. A person's gender identity is not necessarily visible to others.

History: *1955 c 516 s 3; 1961 c 428 s 1-3; 1967 c 897 s 1-9; 1969 c 975 s 1,2; 1973 c 123 art 5 s 7; 1973 c 729 s 1; 1976 c 2 s 130; 1977 c 351 s 1; 1977 c 408 s 1; 1980 c 531 s 1,2; 1982 c 492 s 1; 1982 c 619 s 2,3; 1983 c 276 s 1-4; 1Sp1985 c 13 s 320-324; 1986 c 444; 1987 c 23 s 1; 1987 c 282 s 2; 1988 c 660 s 1; 1989 c 144 art 2 s 8; 1989 c 280 s 1-3; 1989 c 329 art 9 s 26; 1989 c 335 art 1 s 243; 1989 c 356 s 18; 1990 c 567 s 1,10; 1992 c 527 s 1-10; 1993 c 22 s 1,2; 1993 c 277 s 1-4; 1994 c 465 art 3 s 20; 2001 c 194 s 1; 2004 c 203 art 2 s 61; 2023 c 3 s 1; 2023 c 52 art 19 s 46-48; 2024 c 105 s 2-5*

363A.04 CONSTRUCTION AND EXCLUSIVITY.

The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this chapter shall be deemed to repeal any of the provisions of the civil rights law or of any other law of this state relating to discrimination because of race, creed, color, religion, sex, gender identity, age, disability, marital status, status with regard to public assistance, national origin, sexual orientation, or familial status; but, as to acts declared unfair by sections 363A.08 to 363A.19, and 363A.28, subdivision 10, the administrative procedure herein provided shall, while pending, be exclusive. The rights and remedies herein provided are in addition to, and shall not preclude, those available at law or in equity.

History: *1955 c 516 s 13; 1973 c 729 s 12; 1977 c 351 s 9; 1980 c 531 s 6; 1989 c 280 s 21; 1993 c 22 s 17; 2023 c 52 art 19 s 49; 2024 c 105 s 6*

363A.05 DEPARTMENT OF HUMAN RIGHTS.

Subdivision 1. **Creation; commissioner.** There is established a Department of Human Rights under the direction and supervision of a commissioner who shall be appointed by the governor under the provisions of section 15.06.

Subd. 2. **Deputy commissioner, duties.** There shall be in the department a deputy commissioner, who shall be appointed by the commissioner and shall serve at the pleasure of the commissioner. The deputy commissioner shall act for, and exercise the powers of the commissioner during the absence or disability of the commissioner or in the event of a vacancy in the office of commissioner. The deputy commissioner shall perform such functions, powers and duties as the commissioner shall prescribe from time to time.

Subd. 3. **Task force, membership, appeals.** The commissioner may appoint a Human Rights Advisory Task Force.

Subd. 4. **Terms; compensation; removal; vacancies.** The expiration, membership terms, compensation, removal of members, and filling of vacancies on the task force shall be as provided in section 15.059.

Subd. 5. **Departmental organization.** Subject to other provisions of this chapter, the commissioner shall have the powers granted by section 15.06 to organize the department.

Subd. 6. **Continuity in operations.** In exercising the functions, powers and duties conferred on and transferred to the commissioner by Laws 1967, chapter 897, the commissioner shall give full consideration to the need for operational continuity of the functions transferred.

Subd. 7. **Successor agency.** The Department of Human Rights under the control of the commissioner of human rights is the successor of the State Commission Against Discrimination as it existed immediately prior to July 1, 1967.

History: *1955 c 516 s 1,6; 1961 c 428 s 6,16; 1965 c 586 s 2; 1967 c 897 s 17,26; 1969 c 975 s 6,7,15,16; 1969 c 1129 art 8 s 14; 1973 c 729 s 4,14,15; 1976 c 134 s 68,69; 1977 c 305 s 38; 1977 c 351 s 11; 1977 c 444 s 17-19; 1980 c 531 s 8; 1983 c 260 s 60,61; 1993 c 22 s 19*

363A.06 POWERS AND DUTIES OF COMMISSIONER.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(20) analyze civil rights trends pursuant to this chapter, including information compiled from community organizations that work directly with historically marginalized communities, and prepare a report each biennium that recommends policy and system changes to reduce and prevent further civil rights incidents across Minnesota. The report shall be provided to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over the Department of Human Rights. This report must also be posted on the Department of Human Rights' public website and shared with community organizations that work with historically marginalized communities.

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

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

Subd. 2. **Service, enforcement, and effect of subpoena.** (a) Disobedience of a subpoena issued by the commissioner pursuant to subdivision 1 shall be punishable in like manner as a contempt of the district court in proceedings instituted upon application of the commissioner made to the district court of the county where the alleged unfair discriminatory practice in connection with a charge made by a charging party or a complaint filed by the commissioner has occurred or where the respondent resides or has a principal place of business.

(b) It is not a violation of rights conferred by chapter 13 or any other statute related to the confidentiality of government data for a state agency, statewide system, or political subdivision, as defined in section 13.02, subdivision 11, to provide data or information under a subpoena issued by the commissioner under this section.

(c) A subpoena issued under subdivision 1 must be served personally or by mailing a copy of the subpoena, by first class mail, postage prepaid, to the person to be served. The subpoena must include two copies of a notice and acknowledgment of service on a form to be provided by the commissioner, and a return envelope, postage prepaid, addressed to the sender. If acknowledgment of service is not received by the commissioner within 20 days, service is not effective. Unless good cause is shown for not doing so, a court or administrative law judge shall order the payment of the costs of personal service by the person served if the person does not complete and return the notice and acknowledgment of receipt of the subpoena within the time allowed.

Subd. 3. **Mission; efficiency.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;

(3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;

(4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;

(6) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and

(7) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

Subd. 4. **Publication of case account.** The commissioner may publish an account of a case in which the complaint has been dismissed or the terms of settlement of a case that has been voluntarily resolved with the Department of Human Rights.

History: *1955 c 516 s 7,8; 1961 c 428 s 7,8; 1967 c 299 s 9; 1967 c 897 s 18,19; 1969 c 567 s 3; 1969 c 975 s 8,9,10; 1969 c 1129 art 10 s 2; 1971 c 24 s 45; 1973 c 254 s 3; 1973 c 729 s 5-8; 1974 c 406 s 70; 1976 c 301 s 1,2; 1977 c 351 s 8; 1977 c 408 s 4; 1977 c 430 s 25 subd 1; 1979 c 156 s 1; 1980 c 531 s 5; 1980 c 540 s 3; 1981 c 330 s 2-5; 1981 c 364 s 1; 1982 c 424 s 130; 1983 c 247 s 143; 1983 c 301 s 199,200; 1984 c 567 s 2,3; 1984 c 640 s 32; 1985 c 248 s 70; 1Sp1985 c 13 s 325,326; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 375 s 2-4; 1988 c 660 s 5,6; 1989 c 209 art 1 s 37; 1989 c 280 s 15; 1989 c 329 art 8 s 11; 1990 c 567 s 7,8; 1993 c 22 s 16; 1994 c 483 s 1; 1995 c 248 art 11 s 22; 1996 c 305 art 2 s 60; 1997 c 7 art 2 s 52; 1997 c 182 s 1; 1998 c 366 s 77; 2001 c 186 s 2; 2001 c 194 s 3; 2004 c 206 s 52; 2007 c 54 art 4 s 2; 2023 c 52 art 3 s 3; art 19 s 50; 2024 c 105 s 7*

363A.07 LOCAL COMMISSIONS.

Subdivision 1. **Jurisdiction of county commissions.** If a county or group of counties creates a local commission, the commission does not have jurisdiction over any part of the county that is within the jurisdiction of a local commission created by city charter or municipal ordinance.

Subd. 2. **Referral from commissioner.** The commissioner, whether or not a charge has been filed under this chapter, may refer a matter involving discrimination because of race, color, religion, sex, gender identity, creed, disability, marital status, status with regard to public assistance, national origin, age, sexual orientation, or familial status to a local commission for study and report.

Upon referral by the commissioner, the local commission shall make a report and make recommendations to the commissioner and take other appropriate action within the scope of its powers.

Subd. 3. **Referral to commissioner.** A local commission may refer a matter under its jurisdiction to the commissioner.

The charging party has the option of filing a charge either with a local commission or the department. Notwithstanding the provisions of any ordinance or resolution to the contrary, a charge may be filed with a local commission within one year after the occurrence of the practice. The exercise of such choice in filing a charge with one agency shall preclude the option of filing the same charge with the other agency. At the time a charge comes to the attention of a local agency, the agency or its representative shall inform the charging party of this option, and of the party's rights under Laws 1967, chapter 897.

Where this chapter provides additional protections and remedies not provided for under a local antidiscrimination ordinance, the local commission shall advise a party bringing a charge under a local ordinance of those additional protections and remedies and of the option to file a charge under this chapter.

The term "local commission" as used in this subdivision has the same meaning given the term in section 363A.03, subdivision 23.

Subd. 4. **Withdrawal from local commission.** Notwithstanding the provisions of any law or ordinance to the contrary, a person who has filed a charge with a local commission may bring a civil action as provided in section 363A.33 at the following times:

(1) within 90 days after receipt of notice that the local commission has determined that there is no probable cause to credit the allegations contained in the charge; receipt of notice is presumed to be five days from the date of service by mail of the written notice; or

(2) after 45 days from the filing of the charge if a hearing has not been held or if the local commission has not entered into a conciliation agreement to which the charging party is a signator. The charging party shall notify the local commission of an intention to bring a civil action, which shall be commenced within 90 days of giving the notice.

A charging party bringing a civil action shall mail by registered or certified mail a copy of the summons and complaint to the local commission and upon their receipt the local commission shall terminate all proceedings before the local commission relating to the charge. No charge shall be filed or reinstituted with

the local commission after a civil action relating to the same unfair discriminatory practice has been brought unless the civil action has been dismissed without prejudice.

History: *1967 c 897 s 24,25; 1973 c 729 s 13; 1980 c 531 s 7; 1981 c 330 s 7; 1984 c 567 s 7; 1Sp1985 c 13 s 328,329; 1986 c 444; 1987 c 129 s 4; 1989 c 280 s 17; 1990 c 567 s 9; 1993 c 22 s 18; 2023 c 52 art 19 s 51; 2024 c 105 s 8; 2026 c 88 art 1 s 195*

UNFAIR DISCRIMINATORY PRACTICES

363A.08 UNFAIR DISCRIMINATORY PRACTICES RELATING TO EMPLOYMENT OR UNFAIR EMPLOYMENT PRACTICE.

Subdivision 1. **Labor organization.** Except when based on a bona fide occupational qualification, it is an unfair employment practice for a labor organization, because of race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, familial status, disability, sexual orientation, or age:

(1) to deny full and equal membership rights to a person seeking membership or to a member;

(2) to expel a member from membership;

(3) to discriminate against a person seeking membership or a member with respect to hiring, apprenticeship, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment; or

(4) to fail to classify properly, or refer for employment or otherwise to discriminate against a person or member.

Subd. 2. **Employer.** Except when based on a bona fide occupational qualification, it is an unfair employment practice for an employer, because of race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, familial status, membership or activity in a local commission, disability, sexual orientation, or age to:

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

(2) discharge an employee; or

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

[See Note.]

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

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

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

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

(1) require or request the person to furnish information that pertains to race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, familial status, disability, sexual orientation, or age; or, subject to section 363A.20, to require or request a person to undergo physical examination; unless for the sole and exclusive purpose of national security, information pertaining to national origin is required by the United States, this state or a political subdivision or agency of the United States or this state, or 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 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, gender identity, 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, gender identity, 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 section 363A.28, subdivisions 1 to 9.

Subd. 5. **Fringe benefits.** Except when based on a bona fide occupational qualification, it is an unfair employment practice for an employer, an employment agency, or a labor organization, with respect to all employment related purposes, including receipt of benefits under fringe benefit programs, not to treat women affected by pregnancy, childbirth, or disabilities related to pregnancy or childbirth, the same as other persons who are not so affected but who are similar in their ability or inability to work, including a duty to make reasonable accommodations as provided by subdivision 6.

Subd. 6. **Reasonable accommodation.** (a) Except when based on a bona fide occupational qualification, it is an unfair employment practice for an employer with a number of part-time or full-time employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year equal to or greater than 25 effective July 1, 1992, and equal to or greater than 15 effective July 1, 1994, an employment agency, or a labor organization, not to provide a reasonable accommodation for a job applicant or qualified employee with a disability unless the employer, agency, or organization can demonstrate that the

accommodation would impose an undue hardship on the business, agency, or organization. "Reasonable accommodation" means steps which must be taken to accommodate the known physical or mental limitations of a qualified individual with a disability. To determine the appropriate reasonable accommodation the employer, agency, or organization shall initiate an informal, interactive process with the individual with a disability in need of the accommodation. This process should identify the limitations resulting from the disability and any potential reasonable accommodations that could overcome those limitations. "Reasonable accommodation" may include but is not limited to, nor does it necessarily require: (1) making facilities readily accessible to and usable by individuals with disabilities; and (2) job restructuring, modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis.

(b) In determining whether an accommodation would impose an undue hardship on the operation of a business or organization, factors to be considered include:

(1) the overall size of the business or organization with respect to number of employees or members and the number and type of facilities;

(2) the type of the operation, including the composition and structure of the work force, and the number of employees at the location where the employment would occur;

(3) the nature and cost of the needed accommodation;

(4) the reasonable ability to finance the accommodation at each site of business; and

(5) documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the disabled person or with knowledgeable disabled persons or organizations.

A prospective employer need not pay for an accommodation for a job applicant if it is available from an alternative source without cost to the employer or applicant.

Subd. 7. **Interference with age and pension rights.** For purposes of this section, discrimination on account of age shall include acts which interfere with an employee's opportunity to acquire pension credits or pension benefits when the interference cannot be shown to have been based on just cause unrelated to the employee's status with regard to pension credits or pension benefits.

[See Note.]

Subd. 8. **Inquiries into pay history prohibited.** (a) "Pay history" as used in this subdivision means any prior or current wage, salary, earnings, benefits, or any other compensation about an applicant for employment.

(b) An employer, employment agency, or labor organization shall not inquire into, consider, or require disclosure from any source the pay history of an applicant for employment for the purpose of determining wages, salary, earnings, benefits, or other compensation for that applicant. The general prohibition against inquiring into the pay history of an applicant does not apply if the job applicant's pay history is a matter of public record under federal or state law, unless the employer, employment agency, or labor organization sought access to those public records with the intent of obtaining pay history of the applicant for the purpose of determining wages, salary, earnings, benefits, or other compensation for that applicant.

(c) Nothing in this subdivision shall prevent an applicant for employment from voluntarily and without asking, encouraging, or prompting disclosing pay history for the purposes of negotiating wages, salary, benefits, or other compensation. If an applicant for employment voluntarily and without asking, encouraging, or prompting discloses pay history to a prospective employer, employment agency, or labor organization,

nothing in this subdivision shall prohibit that employer, employment agency, or labor organization from considering or acting on that voluntarily disclosed salary history information to support a wage or salary higher than initially offered by the employer, employment agency, or labor organization.

(d) Nothing in this subdivision limits, prohibits, or prevents a person from bringing a charge, grievance, or any other cause of action alleging wage discrimination because of race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, familial status, membership or activity in a local commission, disability, sexual orientation, or age, as otherwise provided in this chapter.

(e) Nothing in this subdivision shall be construed to prevent an employer from:

(1) providing information about the wages, benefits, compensation, or salary offered in relation to a position; or

(2) inquiring about or otherwise engaging in discussions with an applicant about the applicant's expectations or requests with respect to wages, salary, benefits, or other compensation.

History: *1955 c 516 s 5; 1961 c 428 s 5; 1965 c 585 s 2; 1965 c 586 s 1; 1967 c 897 s 12-16; 1969 c 9 s 80; 1969 c 975 s 3-5; 1973 c 296 s 1; 1973 c 729 s 3,16; 1974 c 354 s 1; 1975 c 206 s 2-5; 1977 c 351 s 5-7; 1977 c 408 s 3; 1980 c 531 s 4; 1980 c 540 s 1,2; 1981 c 330 s 1; 1982 c 517 s 8; 1983 c 216 art 1 s 59; 1983 c 276 s 7-10; 1984 c 533 s 2,3; 1985 c 248 s 70; 1986 c 444; 1987 c 23 s 3; 1987 c 129 s 3; 1987 c 141 s 2; 1987 c 245 s 1; 1988 c 660 s 4; 1989 c 280 s 9-14,21; 1990 c 567 s 3-6; 1992 c 527 s 12-16; 1993 c 22 s 8-15; 1993 c 277 s 5-7; 1994 c 630 art 12 s 1; 1995 c 212 art 2 s 10; 1997 c 171 s 1; 2001 c 186 s 1; 2001 c 194 s 2; 2014 c 239 art 4 s 6-9 ; 1Sp2021 c 11 art 3 s 13; 2023 c 52 art 19 s 52-56; 2026 c 88 art 1 s 196*

NOTE: Any statutory exemptions to this section are covered under sections 363A.20 and 363A.26.

NOTE: Causes of action under subdivision 2 which require interpretation of a federal labor agreement were found preempted by the federal National Labor Relations Act in *Boldt v. Northern States Power Co.*, 195 F.Supp.3d 1057 (D. Minn. 2016).

NOTE: Subdivision 7 was found preempted by the federal Employment Retirement Income Security Act (ERISA) for ERISA pension plans in *McLain v. Andersen Corp.*, 567 F.3d 956 (8th Cir. 2009).

363A.09 UNFAIR DISCRIMINATORY PRACTICES RELATING TO REAL PROPERTY.

Subdivision 1. **Real property interest; action by owner, lessee, and others.** It is an unfair discriminatory practice for an owner, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease any real property, or any agent of any of these:

(1) to refuse to sell, rent, or lease or otherwise deny to or withhold from any person or group of persons any real property because of race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, disability, sexual orientation, or familial status; or

(2) to discriminate against any person or group of persons because of race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, disability, sexual orientation, or familial status in the terms, conditions or privileges of the sale, rental or lease of any real property or in the furnishing of facilities or services in connection therewith, except that nothing in this clause shall be construed to prohibit the adoption of reasonable rules intended to protect the safety of minors in their use of the real property or any facilities or services furnished in connection therewith; or

(3) in any transaction involving real property, to print, circulate or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for the purchase, rental or lease of real property, or make any record or inquiry in connection with the prospective purchase, rental, or lease of real property which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, disability, sexual orientation, or familial status, or any intent to make any such limitation, specification, or discrimination except that nothing in this clause shall be construed to prohibit the advertisement of a dwelling unit as available to adults-only if the person placing the advertisement reasonably believes that the provisions of this section prohibiting discrimination because of familial status do not apply to the dwelling unit.

Subd. 2. **Real property interest; action by brokers, agents, and others.** It is an unfair discriminatory practice for a real estate broker, real estate salesperson, or employee, or agent thereof:

(1) to refuse to sell, rent, or lease or to offer for sale, rental, or lease any real property to any person or group of persons or to negotiate for the sale, rental, or lease of any real property to any person or group of persons because of race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, disability, sexual orientation, or familial status or represent that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or otherwise deny or withhold any real property or any facilities of real property to or from any person or group of persons because of race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, disability, sexual orientation, or familial status; or

(2) to discriminate against any person because of race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, disability, sexual orientation, or familial status in the terms, conditions or privileges of the sale, rental or lease of real property or in the furnishing of facilities or services in connection therewith; or

(3) to print, circulate, or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for the purchase, rental, or lease of any real property or make any record or inquiry in connection with the prospective purchase, rental or lease of any real property, which expresses directly or indirectly, any limitation, specification or discrimination as to race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, disability, sexual orientation, or familial status or any intent to make any such limitation, specification, or discrimination except that nothing in this clause shall be construed to prohibit the advertisement of a dwelling unit as available to adults-only if the person placing the advertisement reasonably believes that the provisions of this section prohibiting discrimination because of familial status do not apply to the dwelling unit.

Subd. 3. **Real property interest; action by financial institution.** It is an unfair discriminatory practice for a person, bank, banking organization, mortgage company, insurance company, or other financial institution or lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair or maintenance of any real property or any agent or employee thereof:

(1) to discriminate against any person or group of persons because of race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, disability, sexual orientation, or familial status of the person or group of persons or of the prospective occupants or tenants of the real property in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions, or privileges of the financial assistance or in the extension of services in connection therewith; or

(2) to use any form of application for the financial assistance or make any record or inquiry in connection with applications for the financial assistance which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, national origin, sex, gender identity, marital status, status with regard to public assistance, disability, sexual orientation, or familial status or any intent to make any such limitation, specification, or discrimination; or

(3) to discriminate against any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair, or maintain real property in a specific urban or rural area or any part thereof solely because of the social, economic, or environmental conditions of the area in the granting, withholding, extending, modifying, or renewing, or in the rates, terms, conditions, or privileges of the financial assistance or in the extension of services in connection therewith.

Subd. 4. **Real property transaction.** It is an unfair discriminatory practice for any real estate broker or real estate salesperson, for the purpose of inducing a real property transaction from which the person, the person's firm, or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, sex, gender identity, marital status, status with regard to public assistance, sexual orientation, or disability of the owners or occupants in the block, neighborhood, or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood, or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other public facilities.

Subd. 5. **Real property full and equal access.** It is an unfair discriminatory practice for a person to deny full and equal access to real property provided for in sections 363A.08 to 363A.19, and 363A.28, subdivision 10, to a person who has a disability and who uses a service animal. The person may not be required to pay extra compensation for the service animal but is liable for damage done to the premises by the service animal.

Subd. 6. **Real property interest; interference with.** It is an unfair discriminatory practice for a person to coerce, intimidate, threaten, or interfere with a person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged a third person in the exercise or enjoyment of, any right granted or protected by this section.

History: *1955 c 516 s 5; 1961 c 428 s 5; 1965 c 585 s 2; 1965 c 586 s 1; 1967 c 897 s 12-16; 1969 c 9 s 80; 1969 c 975 s 3-5; 1973 c 296 s 1; 1973 c 729 s 3,16; 1974 c 354 s 1; 1975 c 206 s 2-5; 1977 c 351 s 5-7; 1977 c 408 s 3; 1980 c 531 s 4; 1980 c 540 s 1,2; 1981 c 330 s 1; 1982 c 517 s 8; 1983 c 216 art 1 s 59; 1983 c 276 s 7-10; 1984 c 533 s 2,3; 1985 c 248 s 70; 1986 c 444; 1987 c 23 s 3; 1987 c 129 s 3; 1987 c 141 s 2; 1987 c 245 s 1; 1988 c 660 s 4; 1989 c 280 s 9-14,21; 1990 c 567 s 3-6; 1992 c 527 s 12-16; 1993 c 22 s 8-15; 1993 c 277 s 5-7; 1994 c 630 art 12 s 1; 1995 c 212 art 2 s 10; 1997 c 171 s 1; 2001 c 186 s 1; 2001 c 194 s 2 ; 1Sp2021 c 8 art 2 s 5; 2023 c 52 art 19 s 57-60*

NOTE: Any statutory exemptions to this section are covered under sections 363A.21, 363A.22, and 363A.26.

363A.10 REAL PROPERTY; DISABILITY DISCRIMINATION.

Subdivision 1. **Reasonable modifications/accommodations.** For purposes of section 363A.09, discrimination includes:

(1) a refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the disabled person if modifications may be necessary to afford the

disabled person full enjoyment of the premises; a landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, excluding reasonable wear and tear;

(2) a refusal to make reasonable accommodations in rules, policies, practices, or services, when accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling; or

(3) in connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in a manner that:

(i) the public use and common use portions are readily accessible to and usable by a disabled person;

(ii) all the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by disabled persons in wheelchairs; and

(iii) all premises contain the following features of adaptive design: an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

Subd. 2. **Covered multifamily dwellings; definition.** As used in this section, the term "covered multifamily dwellings" means:

(1) a building consisting of four or more units if the building has one or more elevators; and

(2) ground floor units in other buildings consisting of four or more units.

Subd. 3. **Applicability.** This section does not invalidate or limit any law of the state or political subdivision of the state, or other jurisdiction in which this section applies, that requires dwellings to be designed and constructed in a manner that affords disabled persons greater access than is required by this section.

Subd. 4. **Limitations on compliance.** This section does not require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

History: *1955 c 516 s 5; 1961 c 428 s 5; 1965 c 585 s 2; 1965 c 586 s 1; 1967 c 897 s 12-16; 1969 c 9 s 80; 1969 c 975 s 3-5; 1973 c 296 s 1; 1973 c 729 s 3,16; 1974 c 354 s 1; 1975 c 206 s 2-5; 1977 c 351 s 5-7; 1977 c 408 s 3; 1980 c 531 s 4; 1980 c 540 s 1,2; 1981 c 330 s 1; 1982 c 517 s 8; 1983 c 216 art 1 s 59; 1983 c 276 s 7-10; 1984 c 533 s 2,3; 1985 c 248 s 70; 1986 c 444; 1987 c 23 s 3; 1987 c 129 s 3; 1987 c 141 s 2; 1987 c 245 s 1; 1988 c 660 s 4; 1989 c 280 s 9-14,21; 1990 c 567 s 3-6; 1992 c 527 s 12-16; 1993 c 22 s 8-15; 1993 c 277 s 5-7; 1994 c 630 art 12 s 1; 1995 c 212 art 2 s 10; 1997 c 171 s 1; 2001 c 186 s 1; 2001 c 194 s 2*

NOTE: Any statutory exemptions to this section are covered under sections 363A.21, 363A.22, and 363A.26.

363A.11 PUBLIC ACCOMMODATIONS.

Subdivision 1. **Full and equal enjoyment of public accommodations.** (a) It is an unfair discriminatory practice:

(1) to deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation because of race, color, creed, religion, disability, national origin, marital status, sexual orientation, sex, or gender identity, or for a taxicab company to discriminate in the access to, full utilization of, or benefit from service because of a person's disability; or

(2) for a place of public accommodation not to make reasonable accommodation to the known physical, sensory, or mental disability of a disabled person. In determining whether an accommodation is reasonable, the factors to be considered may include:

(i) the frequency and predictability with which members of the public will be served by the accommodation at that location;

(ii) the size of the business or organization at that location with respect to physical size, annual gross revenues, and the number of employees;

(iii) the extent to which disabled persons will be further served from the accommodation;

(iv) the type of operation;

(v) the nature and amount of both direct costs and legitimate indirect costs of making the accommodation and the reasonableness for that location to finance the accommodation; and

(vi) the extent to which any persons may be adversely affected by the accommodation.

(b) State or local building codes control where applicable. Violations of state or local building codes are not violations of this chapter and must be enforced under normal building code procedures.

Subd. 2. **General prohibitions.** This subdivision lists general prohibitions against discrimination on the basis of disability. For purposes of this subdivision, "individual" or "class of individuals" refers to the clients or customers of the covered public accommodation that enter into the contractual, licensing, or other arrangement.

(1) It is discriminatory to:

(i) subject an individual or class of individuals on the basis of a disability of that individual or class, directly or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity;

(ii) afford an individual or class of individuals on the basis of the disability of that individual or class, directly or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations that are not equal to those afforded to other individuals;

(iii) provide an individual or class of individuals, on the basis of a disability of that individual or class, directly or through contractual, licensing, or other arrangements, with goods, services, facilities, privileges, advantages, or accommodations that are different or separate from those provided to other individuals, unless the action is necessary to provide the individual or class of individuals with goods, services, facilities, privileges, advantages, or accommodations, or other opportunities that are as effective as those provided to others; and

(iv) not provide a deaf or hard-of-hearing individual or class of deaf or hard-of-hearing individuals with closed-captioned television when television services are provided to other individuals.

(2) Goods, services, facilities, privileges, advantages, and accommodations must be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(3) Notwithstanding the existence of separate or different programs or activities provided in accordance with sections 363A.08 to 363A.19, and 363A.28, subdivision 10, the individual with a disability may not be denied the opportunity to participate in the programs or activities that are not separate or different.

(4) An individual or entity may not, directly or through contractual or other arrangements, use standards or criteria and methods of administration:

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

Subd. 3. **Specific prohibitions.** This subdivision lists specific prohibitions against discrimination on the basis of disability. For purposes of this subdivision, discrimination includes:

(1) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless the criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations;

(2) failure to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to afford the goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations;

(3) failure to take all necessary steps to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking the steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered and would result in an undue burden;

(4) failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles used by an establishment for transporting individuals, not including barriers that can only be removed through the retrofitting of vehicles by the installation of hydraulic or other lifts, if the removal is readily achievable; and

(5) if an entity can demonstrate that the removal of a barrier under clause (4) is not readily achievable or cannot be considered a reasonable accommodation, a failure to make the goods, services, facilities, privileges, advantages, or accommodations available through alternative means if the means are readily achievable.

Subd. 4. **Direct threat to health and safety.** Nothing in this chapter requires an entity to permit an individual to participate in and benefit from the goods, services, facilities, privileges, advantages, and accommodations of the entity if the individual poses a direct threat to the health or safety of others. "Direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

Subd. 5. **Private entity providing public transportation.** No individual may be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce. For purposes of this subdivision, it is an unfair discriminatory practice for a private entity providing public transportation to engage in one or more of the following practices:

(1) imposition or application of eligibility criteria that screen out, or tend to screen out, an individual with a disability or a class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless the criteria can be shown to be necessary for the provision of the services being offered;

(2) failure to make reasonable modifications, provide auxiliary aids and services, and remove barriers, consistent with section 363A.11, subdivision 3;

(3) the purchase or lease of a new vehicle, other than an automobile or van with a seating capacity of fewer than eight passengers, including the driver, or an over-the-road bus, that is to be used to provide specified public transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, except that a new vehicle need not be readily accessible to and usable by individuals with disabilities if the vehicle is to be used solely in a demand responsive system and if the private entity can demonstrate that the system, when viewed in its entirety, provides a level of services to individuals with disabilities equivalent to the level of service provided to the general public;

(4) purchase or lease a new railroad passenger car that is to be used to provide specified public transportation if the car is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, or to manufacture railroad passenger cars or purchase used cars that have been remanufactured so as to extend their usable life by ten years or more, unless the remanufactured car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, except that compliance with this clause is not required to the extent that compliance would significantly alter the historic or antiquated character of historic or antiquated railroad passenger cars or rail stations served exclusively by those cars;

(5) purchase or lease a new, used, or remanufactured vehicle with a seating capacity in excess of 16 passengers, including the driver, for use on a fixed route public transportation system, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. If a private entity that operates a fixed route public transportation system purchases or leases a new, used, or remanufactured vehicle with a seating capacity of 16 passengers or fewer, including the driver, for use on the system which is not readily accessible to and usable by individuals with disabilities, it is an unfair discriminatory practice for the entity to fail to operate the system so that, when viewed in its entirety, the system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; or

(6) to fail to operate a demand responsive system so that, when viewed in its entirety, the system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities. It is an unfair discriminatory practice for the entity to purchase or lease for use on a demand responsive system a new, used, or remanufactured vehicle with a seating capacity in excess of 16 passengers, including the driver, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the entity can demonstrate that the system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

Subd. 6. **Construction of new facility or station; accessibility.** It is an unfair discriminatory practice to construct a new facility or station to be used in the provision of public transportation services, unless the facilities or stations are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. It is an unfair discriminatory practice for a facility or station currently used for the provision of public transportation services defined in this section to fail to make alterations necessary in order, to the maximum extent feasible, to make the altered portions of facilities or stations readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. If the private entity is undertaking an alteration that affects or could affect the usability of or access to an area of the facility containing a primary function, the entity shall make the alterations so that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, drinking fountains, and telephones serving the altered area, are readily accessible to and usable by individuals with disabilities if the alterations to the path of travel or to the functions mentioned are not disproportionate to the overall alterations in terms of cost and scope. The entity raising this defense has the burden of proof, and the department shall review these cases on a case-by-case basis.

History: *1955 c 516 s 5; 1961 c 428 s 5; 1965 c 585 s 2; 1965 c 586 s 1; 1967 c 897 s 12-16; 1969 c 9 s 80; 1969 c 975 s 3-5; 1973 c 296 s 1; 1973 c 729 s 3,16; 1974 c 354 s 1; 1975 c 206 s 2-5; 1977 c 351 s 5-7; 1977 c 408 s 3; 1980 c 531 s 4; 1980 c 540 s 1,2; 1981 c 330 s 1; 1982 c 517 s 8; 1983 c 216 art 1 s 59; 1983 c 276 s 7-10; 1984 c 533 s 2,3; 1985 c 248 s 70; 1986 c 444; 1987 c 23 s 3; 1987 c 129 s 3; 1987 c 141 s 2; 1987 c 245 s 1; 1988 c 660 s 4; 1989 c 280 s 9-14,21; 1990 c 567 s 3-6; 1992 c 527 s 12-16; 1993 c 22 s 8-15; 1993 c 277 s 5-7; 1994 c 630 art 12 s 1; 1995 c 212 art 2 s 10; 1997 c 171 s 1; 2001 c 186 s 1; 2001 c 194 s 2 ; 2023 c 52 art 19 s 61,62*

NOTE: Any statutory exemptions to this section are covered under section 363A.24.

363A.12 PUBLIC SERVICES.

Subdivision 1. **Access to public service.** It is an unfair discriminatory practice to discriminate against any person in the access to, admission to, full utilization of or benefit from any public service because of race, color, creed, religion, national origin, disability, sex, gender identity, sexual orientation, or status with regard to public assistance or to fail to ensure physical and program access for disabled persons unless the public service can demonstrate that providing the access would impose an undue hardship on its operation. In determining whether providing physical and program access would impose an undue hardship, factors to be considered include:

(1) the type and purpose of the public service's operation;

(2) the nature and cost of the needed accommodation;

(3) documented good faith efforts to explore less restrictive or less expensive alternatives; and

(4) the extent of consultation with knowledgeable disabled persons and organizations.

Physical and program access must be accomplished within six months of June 7, 1983, except for needed architectural modifications, which must be made within two years of June 7, 1983.

Subd. 2. **Access to public transit services.** It is an unfair discriminatory practice for public transit services to discriminate in the access to, full utilization of, or benefit from service because of a person's disability. Public transit services may use any of a variety of methods to provide transportation for disabled people, provided that persons who are disabled are offered transportation that, in relation to the transportation offered nondisabled persons, is:

(1) in a similar geographic area of operation. To the extent that the transportation provided disabled people is not provided in the same geographic area of operation as that provided nondisabled people, priority must be given to those areas which contain the largest percent of disabled riders. A public transit service may not fail to provide transportation to disabled persons in a geographic area for which it provides service to nondisabled persons if doing so will exclude a sizable portion of the disabled ridership;

(2) during similar hours of operation;

(3) for comparable fares;

(4) with similar or no restrictions as to trip purpose; and

(5) with reasonable response time.

Public transit services must meet these five criteria for the provision of transit services within three years of June 7, 1983.

Subd. 3. **Public service operating fixed route system.** It is an unfair discriminatory practice for a public service that operates a fixed route system to:

(1) purchase or lease a new bus or vehicle for use on the system if the bus or vehicle is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs;

(2) purchase or lease a used bus or vehicle for use on its system unless the public service makes a demonstrated good faith effort to purchase or lease a used bus or vehicle for use on the system that is accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; or

(3) purchase or lease remanufactured buses or vehicles, or to remanufacture buses or vehicles for use on its system, if the bus or vehicle has been remanufactured to extend its usable life by five years or more, unless after the remanufacture, the bus or vehicle is, to the maximum extent feasible, readily accessible to and usable by persons with disabilities, including individuals who use wheelchairs. If a public service operates a fixed route system, any segment of which is included on the National or State Register of Historic Places, and if making a vehicle of historic character to be used solely on that segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of the vehicle, the public service shall make whatever modifications are possible while retaining the historic character of the vehicle.

Subd. 4. **Public service operating demand responsive system.** It is an unfair discriminatory practice for a public service operating a demand responsive system to purchase or lease new, used, or remanufactured vehicles that are not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to individuals without disabilities who use the fixed route system or demand responsive system, or for a light or rapid rail public transportation system offering intercity or commuter rail services to purchase or lease new, used, or remanufactured railroad cars, including single- and bi-level dining cars, sleeping cars, coach cars, lounge cars, restroom cars, and food service cars, unless all the cars, to the maximum extent feasible, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

With respect to the remanufacture of a vehicle or railroad car which is to be used on a segment of a light or rapid rail system which is included on the State or National Register of Historic Places, if making the vehicle readily accessible to and usable by individuals with disabilities would significantly alter the historic character of the vehicle, the public service that operates the system only has to make, or purchase or lease

a remanufactured vehicle with, those modifications that do not significantly alter the historic character of the vehicle.

Subd. 5. **New facility or station; light and rapid rail transportation.** It is an unfair discriminatory practice to construct a new facility or station to be used in the provision of public transportation services, including intercity and commuter light and rapid rail transportation, unless the facility or station is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, or for a facility or station currently used for the provision of public transportation services covered by this subdivision, to fail to make alterations necessary in order, to the maximum extent feasible, to make the altered portions of the facilities or stations, including restrooms, passenger platforms and waiting or ticketing areas, publicly owned concessions areas, and drinking fountains and public telephones, accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

If a public service can demonstrate that the provision of paratransit and other transportation services otherwise required under this section would impose an undue financial burden on the public service, the public service is only required to provide services to the extent that providing those services would not impose such a burden.

Nothing in this section may be construed to prevent a public service from providing paratransit services or other special transportation services at a level greater than that required by this section, providing additional paratransit services to those required under this section or extending those services to additional individuals not covered under this section.

History: *1955 c 516 s 5; 1961 c 428 s 5; 1965 c 585 s 2; 1965 c 586 s 1; 1967 c 897 s 12-16; 1969 c 9 s 80; 1969 c 975 s 3-5; 1973 c 296 s 1; 1973 c 729 s 3,16; 1974 c 354 s 1; 1975 c 206 s 2-5; 1977 c 351 s 5-7; 1977 c 408 s 3; 1980 c 531 s 4; 1980 c 540 s 1,2; 1981 c 330 s 1; 1982 c 517 s 8; 1983 c 216 art 1 s 59; 1983 c 276 s 7-10; 1984 c 533 s 2,3; 1985 c 248 s 70; 1986 c 444; 1987 c 23 s 3; 1987 c 129 s 3; 1987 c 141 s 2; 1987 c 245 s 1; 1988 c 660 s 4; 1989 c 280 s 9-14,21; 1990 c 567 s 3-6; 1992 c 527 s 12-16; 1993 c 22 s 8-15; 1993 c 277 s 5-7; 1994 c 630 art 12 s 1; 1995 c 212 art 2 s 10; 1997 c 171 s 1; 2001 c 186 s 1; 2001 c 194 s 2; 2023 c 52 art 19 s 63*

363A.13 EDUCATIONAL INSTITUTION.

Subdivision 1. **Utilization; benefit or services.** It is an unfair discriminatory practice to discriminate in any manner in the full utilization of or benefit from any educational institution, or the services rendered thereby to any person because of race, color, creed, religion, national origin, sex, gender identity, age, marital status, status with regard to public assistance, sexual orientation, or disability, or to fail to ensure physical and program access for disabled persons. For purposes of this subdivision, program access includes but is not limited to providing taped texts, interpreters or other methods of making orally delivered materials available, readers in libraries, adapted classroom equipment, and similar auxiliary aids or services. Program access does not include providing attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

Subd. 2. **Exclude, expel, or selection.** It is an unfair discriminatory practice to exclude, expel, or otherwise discriminate against a person seeking admission as a student, or a person enrolled as a student because of race, color, creed, religion, national origin, sex, gender identity, age, marital status, status with regard to public assistance, sexual orientation, or disability.

Subd. 3. **Admission form or inquiry.** It is an unfair discriminatory practice to make or use a written or oral inquiry, or form of application for admission that elicits or attempts to elicit information, or to make or

keep a record, concerning the creed, religion, gender identity, sexual orientation, or disability of a person seeking admission, except as permitted by rules of the department.

Subd. 4. **Purpose for information and record.** It is an unfair discriminatory practice to make or use a written or oral inquiry or form of application that elicits or attempts to elicit information, or to keep a record concerning the race, color, national origin, sex, gender identity, sexual orientation, age, or marital status of a person seeking admission, unless the information is collected for purposes of evaluating the effectiveness of recruitment, admissions, and other educational policies, and is maintained separately from the application.

History: *1955 c 516 s 5; 1961 c 428 s 5; 1965 c 585 s 2; 1965 c 586 s 1; 1967 c 897 s 12-16; 1969 c 9 s 80; 1969 c 975 s 3-5; 1973 c 296 s 1; 1973 c 729 s 3,16; 1974 c 354 s 1; 1975 c 206 s 2-5; 1977 c 351 s 5-7; 1977 c 408 s 3; 1980 c 531 s 4; 1980 c 540 s 1,2; 1981 c 330 s 1; 1982 c 517 s 8; 1983 c 216 art 1 s 59; 1983 c 276 s 7-10; 1984 c 533 s 2,3; 1985 c 248 s 70; 1986 c 444; 1987 c 23 s 3; 1987 c 129 s 3; 1987 c 141 s 2; 1987 c 245 s 1; 1988 c 660 s 4; 1989 c 280 s 9-14,21; 1990 c 567 s 3-6; 1992 c 527 s 12-16; 1993 c 22 s 8-15; 1993 c 277 s 5-7; 1994 c 630 art 12 s 1; 1995 c 212 art 2 s 10; 1997 c 171 s 1; 2001 c 186 s 1; 2001 c 194 s 2 ; 2023 c 52 art 19 s 64-67*

NOTE: Any statutory exemptions to this section are covered under section 363A.23.

363A.14 AIDING AND ABETTING AND OBSTRUCTION.

It is an unfair discriminatory practice for any person:

(1) intentionally to aid, abet, incite, compel, or coerce a person to engage in any of the practices forbidden by this chapter;

(2) intentionally to attempt to aid, abet, incite, compel, or coerce a person to engage in any of the practices forbidden by this chapter;

(3) to intentionally obstruct or prevent any person from complying with the provisions of this chapter, or any order issued thereunder, or to resist, prevent, impede, or interfere with the commissioner or any of the commissioner's employees or representatives in the performance of duty under this chapter.

History: *1955 c 516 s 5; 1961 c 428 s 5; 1965 c 585 s 2; 1965 c 586 s 1; 1967 c 897 s 12-16; 1969 c 9 s 80; 1969 c 975 s 3-5; 1973 c 296 s 1; 1973 c 729 s 3,16; 1974 c 354 s 1; 1975 c 206 s 2-5; 1977 c 351 s 5-7; 1977 c 408 s 3; 1980 c 531 s 4; 1980 c 540 s 1,2; 1981 c 330 s 1; 1982 c 517 s 8; 1983 c 216 art 1 s 59; 1983 c 276 s 7-10; 1984 c 533 s 2,3; 1985 c 248 s 70; 1986 c 444; 1987 c 23 s 3; 1987 c 129 s 3; 1987 c 141 s 2; 1987 c 245 s 1; 1988 c 660 s 4; 1989 c 280 s 9-14,21; 1990 c 567 s 3-6; 1992 c 527 s 12-16; 1993 c 22 s 8-15; 1993 c 277 s 5-7; 1994 c 630 art 12 s 1; 1995 c 212 art 2 s 10; 1997 c 171 s 1; 2001 c 186 s 1; 2001 c 194 s 2*

363A.15 REPRISALS.

It is an unfair discriminatory practice for any individual who participated in the alleged discrimination as a perpetrator, employer, labor organization, employment agency, public accommodation, public service, educational institution, or owner, lessor, lessee, sublessee, assignee or managing agent of any real property, or any real estate broker, real estate salesperson, or employee or agent thereof to intentionally engage in any reprisal against any person because that person:

(1) opposed a practice forbidden under this chapter or has filed a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter; or

(2) associated with a person or group of persons who are disabled or who are of different race, color, creed, religion, gender identity, sexual orientation, or national origin.

A reprisal includes, but is not limited to, any form of intimidation, retaliation, or harassment. It is a reprisal for an employer to do any of the following with respect to an individual because that individual has engaged in the activities listed in clause (1) or (2): refuse to hire the individual; depart from any customary employment practice; transfer or assign the individual to a lesser position in terms of wages, hours, job classification, job security, or other employment status; or inform another employer that the individual has engaged in the activities listed in clause (1) or (2).

History: *1955 c 516 s 5; 1961 c 428 s 5; 1965 c 585 s 2; 1965 c 586 s 1; 1967 c 897 s 12-16; 1969 c 9 s 80; 1969 c 975 s 3-5; 1973 c 296 s 1; 1973 c 729 s 3,16; 1974 c 354 s 1; 1975 c 206 s 2-5; 1977 c 351 s 5-7; 1977 c 408 s 3; 1980 c 531 s 4; 1980 c 540 s 1,2; 1981 c 330 s 1; 1982 c 517 s 8; 1983 c 216 art 1 s 59; 1983 c 276 s 7-10; 1984 c 533 s 2,3; 1985 c 248 s 70; 1986 c 444; 1987 c 23 s 3; 1987 c 129 s 3; 1987 c 141 s 2; 1987 c 245 s 1; 1988 c 660 s 4; 1989 c 280 s 9-14,21; 1990 c 567 s 3-6; 1992 c 527 s 12-16; 1993 c 22 s 8-15; 1993 c 277 s 5-7; 1994 c 630 art 12 s 1; 1995 c 212 art 2 s 10; 1997 c 171 s 1; 2001 c 186 s 1; 2001 c 194 s 2; 2023 c 52 art 19 s 68*

363A.16 CREDIT DISCRIMINATION.

Subdivision 1. **Personal or commercial credit.** It is an unfair discriminatory practice to discriminate in the extension of personal or commercial credit to a person, or in the requirements for obtaining credit, because of race, color, creed, religion, disability, national origin, sex, gender identity, sexual orientation, familial status, or marital status, or due to the receipt of federal, state, or local public assistance including medical assistance.

Subd. 2. **Personal or commercial credit; tenant on assistance.** It is an unfair discriminatory practice to discriminate in the extension of personal or commercial credit against any person who is a tenant receiving federal, state, or local housing subsidies, including rental assistance or rent supplements because the person is a recipient of those subsidies or assistance.

Subd. 3. **Credit card issuer.** It is an unfair discriminatory practice for a credit card issuer to refuse to issue a credit card to a woman under her current or former surname unless there is an intent to defraud or mislead, except that a credit card issuer may require that a woman requesting a card under a former surname open a separate account in that name. A credit card issuer may also require disclosure of any other names under which the credit card applicant may have a credit history.

History: *1955 c 516 s 5; 1961 c 428 s 5; 1965 c 585 s 2; 1965 c 586 s 1; 1967 c 897 s 12-16; 1969 c 9 s 80; 1969 c 975 s 3-5; 1973 c 296 s 1; 1973 c 729 s 3,16; 1974 c 354 s 1; 1975 c 206 s 2-5; 1977 c 351 s 5-7; 1977 c 408 s 3; 1980 c 531 s 4; 1980 c 540 s 1,2; 1981 c 330 s 1; 1982 c 517 s 8; 1983 c 216 art 1 s 59; 1983 c 276 s 7-10; 1984 c 533 s 2,3; 1985 c 248 s 70; 1986 c 444; 1987 c 23 s 3; 1987 c 129 s 3; 1987 c 141 s 2; 1987 c 245 s 1; 1988 c 660 s 4; 1989 c 280 s 9-14,21; 1990 c 567 s 3-6; 1992 c 527 s 12-16; 1993 c 22 s 8-15; 1993 c 277 s 5-7; 1994 c 630 art 12 s 1; 1995 c 212 art 2 s 10; 1997 c 171 s 1; 2001 c 186 s 1; 2001 c 194 s 2; 2023 c 52 art 19 s 69; 2024 c 105 s 9*

363A.17 BUSINESS DISCRIMINATION.

It is an unfair discriminatory practice for a person engaged in a trade or business or in the provision of a service:

(1) to refuse to do business with or provide a service to a woman based on her use of her current or former surname; or

(2) to impose, as a condition of doing business with or providing a service to a woman, that a woman use her current surname rather than a former surname; or

(3) to intentionally refuse to do business with, to refuse to contract with, or to discriminate in the basic terms, conditions, or performance of the contract because of a person's race, national origin, color, sex, gender identity, sexual orientation, or disability, unless the alleged refusal or discrimination is because of a legitimate business purpose.

Nothing in this section shall prohibit positive action plans.

History: *1955 c 516 s 5; 1961 c 428 s 5; 1965 c 585 s 2; 1965 c 586 s 1; 1967 c 897 s 12-16; 1969 c 9 s 80; 1969 c 975 s 3-5; 1973 c 296 s 1; 1973 c 729 s 3,16; 1974 c 354 s 1; 1975 c 206 s 2-5; 1977 c 351 s 5-7; 1977 c 408 s 3; 1980 c 531 s 4; 1980 c 540 s 1,2; 1981 c 330 s 1; 1982 c 517 s 8; 1983 c 216 art 1 s 59; 1983 c 276 s 7-10; 1984 c 533 s 2,3; 1985 c 248 s 70; 1986 c 444; 1987 c 23 s 3; 1987 c 129 s 3; 1987 c 141 s 2; 1987 c 245 s 1; 1988 c 660 s 4; 1989 c 280 s 9-14,21; 1990 c 567 s 3-6; 1992 c 527 s 12-16; 1993 c 22 s 8-15; 1993 c 277 s 5-7; 1994 c 630 art 12 s 1; 1995 c 212 art 2 s 10; 1997 c 171 s 1; 2001 c 186 s 1; 2001 c 194 s 2; 2023 c 52 art 19 s 70*

NOTE: Causes of action under this section which require interpretation of a federal labor agreement were found preempted by the federal National Labor Relations Act in *Boldt v. Northern States Power Co.*, 195 F.Supp.3d 1057 (D. Minn. 2016).

363A.18 [Reserved]

363A.19 DISCRIMINATION AGAINST PERSONS WITH DISABILITIES PROHIBITED.

(a) It is an unfair discriminatory practice for an owner, operator, or manager of a hotel, restaurant, public conveyance, or other public place to prohibit a person with a disability from taking a service animal into the public place or conveyance to aid persons with disabilities, and if the service animal is properly harnessed or leashed so that the person with a disability may maintain control of the service animal.

(b) No person shall require a person with a disability to make an extra payment or pay an additional charge when taking a service animal into any of the public places referred to in paragraph (a).

(c) For purposes of this section, "service animal" means a service animal as defined by the federal Americans with Disabilities Act, as amended.

History: *1955 c 516 s 5; 1961 c 428 s 5; 1965 c 585 s 2; 1965 c 586 s 1; 1967 c 897 s 12-16; 1969 c 9 s 80; 1969 c 975 s 3-5; 1973 c 296 s 1; 1973 c 729 s 3,16; 1974 c 354 s 1; 1975 c 206 s 2-5; 1977 c 351 s 5-7; 1977 c 408 s 3; 1980 c 531 s 4; 1980 c 540 s 1,2; 1981 c 330 s 1; 1982 c 517 s 8; 1983 c 216 art 1 s 59; 1983 c 276 s 7-10; 1984 c 533 s 2,3; 1985 c 248 s 70; 1986 c 444; 1987 c 23 s 3; 1987 c 129 s 3; 1987 c 141 s 2; 1987 c 245 s 1; 1988 c 660 s 4; 1989 c 280 s 9-14,21; 1990 c 567 s 3-6; 1992 c 527 s 12-16; 1993 c 22 s 8-15; 1993 c 277 s 5-7; 1994 c 630 art 12 s 1; 1995 c 212 art 2 s 10; 1997 c 171 s 1; 2001 c 186 s 1; 2001 c 194 s 2; 2005 c 56 s 1; 2013 c 14 s 1 ; 2024 c 105 s 10*

NOTE: Any statutory exemptions to this section are covered under section 363A.25.

EXEMPTIONS TO UNFAIR DISCRIMINATORY PRACTICES

363A.20 EXEMPTION BASED ON EMPLOYMENT.

Subdivision 1. **Employment.** The provisions of section 363A.08 shall not apply to the employment of any individual:

(1) by the individual's parent, grandparent, spouse, child, or grandchild; or

(2) in the domestic service of any person.

Subd. 2. **Fraternal organization.** The provisions of section 363A.08 shall not apply to a fraternal corporation, association, or society, with respect to qualifications based on religion, when religion is a bona fide occupational qualification for employment.

Subd. 3. MS 2022 [Repealed, 2023 c 52 art 19 s 72]

Subd. 4. **Employment selection.** The provisions of section 363A.08 do not apply to the employment of one person in place of another, standing by itself, shall not be evidence of an unfair discriminatory practice.

Subd. 5. **Seniority system.** The provisions of section 363A.08 do not apply to the operation of a bona fide seniority system which mandates differences in such things as wages, hiring priorities, layoff priorities, vacation credit, and job assignments based on seniority, so long as the operation of the system is not a subterfuge to evade the provisions of this chapter.

Subd. 6. **Insurance, fringe benefits, and age requirements.** (a) With respect to age discrimination, the provisions of section 363A.08 do not apply to a practice by which a labor organization or employer offers or supplies varying insurance benefits or other fringe benefits to members or employees of differing ages, so long as the cost to the labor organization or employer for the benefits is reasonably equivalent for all members or employees.

(b) Nothing in this chapter concerning age discrimination shall be construed to validate or permit age requirements which have a disproportionate impact on persons of any class otherwise protected by section 363A.08 or 363A.13.

Subd. 7. **Peace officer or firefighter.** The provisions of section 363A.08 do not apply to a restriction imposed by state statute, home rule charter, ordinance, or civil service rule, and applied uniformly and without exception to all individuals, which establishes a maximum age for entry into employment as a peace officer or firefighter.

Subd. 8. **Physical exam.** (a) It is not an unfair employment practice for an employer, employment agency, or labor organization:

(1) to require or request a person to undergo physical examination, which may include a medical history, for the purpose of determining the person's capability to perform available employment, provided:

(i) that an offer of employment has been made on condition that the person meets the physical or mental requirements of the job, except that a law enforcement agency filling a peace officer position or part-time peace officer position may require or request an applicant to undergo psychological evaluation before a job offer is made provided that the psychological evaluation is for those job-related abilities set forth by the Board of Peace Officer Standards and Training for psychological evaluations and is otherwise lawful;

(ii) that the examination tests only for essential job-related abilities;

(iii) that the examination except for examinations authorized under chapter 176 is required of all persons conditionally offered employment for the same position regardless of disability; and

(iv) that the information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations; first aid safety personnel may be informed, when appropriate, if the disability might require emergency treatment; government officials investigating compliance with this chapter must be provided relevant information on request; and information may be released for purposes mandated by local, state, or federal law; provided that the results of the examination are used only in accordance with this chapter;

(2) with the consent of the employee, after employment has commenced, to obtain additional medical information for the purposes of assessing continuing ability to perform the job or employee health insurance eligibility; for purposes mandated by local, state, or federal law; for purposes of assessing the need to reasonably accommodate an employee or obtaining information to determine eligibility for the second injury fund under chapter 176; or pursuant to sections 181.950 to 181.957; or other legitimate business reason not otherwise prohibited by law;

(3) to administer preemployment tests, provided that the tests: (i) measure only essential job-related abilities; (ii) are required of all applicants for the same position regardless of disability, except for tests authorized under chapter 176; and (iii) accurately measure the applicant's aptitude, achievement level, or whatever factors they purport to measure rather than reflecting the applicant's impaired sensory, manual, or speaking skills except when those skills are the factors that the tests purport to measure;

(4) to limit receipt of benefits payable under a fringe benefit plan for disabilities to that period of time which a licensed physician reasonably determines a person is unable to work; or

(5) to provide special safety considerations for pregnant women involved in tasks which are potentially hazardous to the health of the unborn child, as determined by medical criteria.

(b) Information obtained under paragraph (a), clauses (1) to (5), subdivisions 1 to 7, sections 363A.21 to 363A.26, and 363A.38, regarding the medical condition or history of any employee, is subject to the requirements of paragraph (a), clause (1)(iv).

(c) If any health care records or medical information adversely affects any hiring, firing, or promotional decision concerning an applicant or employee, the employer must notify the affected party of that information within ten days of the final decision.

Subd. 9. **Mandatory retirement age.** By law or published retirement policy, a mandatory retirement age may be established without being a violation of this chapter if it is established consistent with section 181.81. Nothing in this chapter nor in section 181.81 shall prohibit employee pension and retirement plans from granting pension credit to employees over the age of 65 at a lesser rate than is granted to other employees, provided that in no event may an employee's accumulated pension credits be reduced by continued employment, and further provided that no other state or federal law is violated by the reduced rate of pension credit accrual. Nothing in this chapter shall be construed to prohibit the establishment of differential privileges, benefits, services, or facilities for persons of designated ages if (1) such differential treatment is provided pursuant to statute, or (2) the designated age is greater than 59 years or less than 21 years. Clause (1) does not apply to hiring, tenure, compensation, upgrading, or conditions of employment.

Subd. 10. **Summer youth employment program.** The provisions of section 363A.08 with regard to age shall not apply to the state summer youth employment program administered by the commissioner of employment and economic development.

History: *1955 c 516 s 4; 1961 c 428 s 4; 1965 c 584 s 1; 1967 c 897 s 10,11; 1973 c 729 s 2; 1975 c 206 s 1; 1977 c 351 s 2-4; 1977 c 408 s 2; 1977 c 430 s 25 subd 1; 1978 c 649 s 4; 1980 c 355 s 3; 1980 c 509 s 143; 1980 c 531 s 3; 1982 c 492 s 2; 1982 c 526 art 2 s 16; 1983 c 276 s 5,6; 1983 c 301 s 198; 1984 c 608 s 3; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 23 s 2; 1987 c 129 s 1,2; 1988 c 660 s 2,3; 1989 c 280 s 4-8; 1990 c 567 s 2; 1992 c 527 s 11; 1993 c 22 s 3-6; 1994 c 483 s 1; 1996 c 431 s 1; 1997 c 239 art 12 s 2; 1998 c 291 s 1; 1998 c 397 art 11 s 3; 2004 c 206 s 52; 2024 c 105 s 11*

363A.21 EXEMPTION BASED ON REAL PROPERTY.

Subdivision 1. **Housing.** The provisions of section 363A.09 shall not apply to:

(1) rooms in a temporary or permanent residence home run by a nonprofit organization, if the discrimination is by sex; or

(2) the rental by a resident owner or occupier of a one-family accommodation of a room or rooms in the accommodation to another person or persons if the discrimination is by sex, gender identity, marital status, status with regard to public assistance, sexual orientation, or disability. Except as provided elsewhere in this chapter or other state or federal law, no person or group of persons selling, renting, or leasing property is required to modify the property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this chapter be construed to relieve any person or persons of any obligations generally imposed on all persons regardless of any disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations of the lease, agreement, or contract.

Subd. 2. **Familial status.** (a) The provisions of section 363A.09 prohibiting discrimination because of familial status shall not be construed to defeat the applicability of any local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling unit and shall not apply to any owner-occupied building containing four or fewer dwelling units or housing for elderly persons.

(b) "Housing for elderly persons" means housing:

(1) provided under any state or federal program that the commissioner determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program;

(2) intended for, and solely occupied by, persons 62 years of age or older; or

(3) intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit, and there is publication of, and adherence to, policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

(c) Housing does not fail to meet the requirements for housing for elderly persons by reason of persons residing in the housing as of August 1, 1989, who do not meet the age requirements of paragraph (b), clauses (2) and (3), if new occupants of the housing meet the age requirements of paragraph (b), clause (2) or (3). In addition, housing does not fail to meet the requirements by reason of unoccupied units if unoccupied units are reserved for occupancy by persons who meet the age requirements of paragraph (b), clause (2) or (3).

Subd. 3. **Age.** Notwithstanding the provisions of any law, ordinance, or home rule charter to the contrary, no person shall be deemed to have committed an unfair discriminatory practice based upon age if the unfair discriminatory practice alleged is attempted or accomplished for the purpose of obtaining or maintaining one of the exemptions provided for a dwelling unit provided for in this section.

History: *1955 c 516 s 4; 1961 c 428 s 4; 1965 c 584 s 1; 1967 c 897 s 10,11; 1973 c 729 s 2; 1975 c 206 s 1; 1977 c 351 s 2-4; 1977 c 408 s 2; 1977 c 430 s 25 subd 1; 1978 c 649 s 4; 1980 c 355 s 3; 1980 c 509 s 143; 1980 c 531 s 3; 1982 c 492 s 2; 1982 c 526 art 2 s 16; 1983 c 276 s 5,6; 1983 c 301 s 198; 1984 c 608 s 3; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 23 s 2; 1987 c 129 s 1,2; 1988 c 660 s 2,3; 1989 c 280 s 4-8; 1990 c 567 s 2; 1992 c 527 s 11; 1993 c 22 s 3-6; 1994 c 483 s 1; 1996 c 431 s 1; 1997 c 239 art 12 s 2; 1998 c 291 s 1; 1998 c 397 art 11 s 3; 2023 c 52 art 19 s 71*

363A.22 EXEMPTION BASED ON FAMILIAL STATUS IN HOUSING.

The provisions of section 363A.09 prohibiting discrimination because of familial status do not apply to eviction from, or denial of continuing tenancy in, dwelling units exempt under sections 363A.20 to 363A.26, and 363A.38, provided that: (1) one year has elapsed from the commencement of the familial status; and (2) six months prior written notice has been given to the tenant, unless the eviction or denial of continuing tenancy is for nonpayment of rent, damage to the premises, disturbance of other tenants, or other breach of the lease.

History: *1955 c 516 s 4; 1961 c 428 s 4; 1965 c 584 s 1; 1967 c 897 s 10,11; 1973 c 729 s 2; 1975 c 206 s 1; 1977 c 351 s 2-4; 1977 c 408 s 2; 1977 c 430 s 25 subd 1; 1978 c 649 s 4; 1980 c 355 s 3; 1980 c 509 s 143; 1980 c 531 s 3; 1982 c 492 s 2; 1982 c 526 art 2 s 16; 1983 c 276 s 5,6; 1983 c 301 s 198; 1984 c 608 s 3; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 23 s 2; 1987 c 129 s 1,2; 1988 c 660 s 2,3; 1989 c 280 s 4-8; 1990 c 567 s 2; 1992 c 527 s 11; 1993 c 22 s 3-6; 1994 c 483 s 1; 1996 c 431 s 1; 1997 c 239 art 12 s 2; 1998 c 291 s 1; 1998 c 397 art 11 s 3*

363A.23 EXEMPTION BASED ON EDUCATION.

Subdivision 1. **Religious or denominational institution.** It is not an unfair discriminatory practice for a religious or denominational institution to limit admission or give preference to applicants of the same religion. The provisions of section 363A.13 relating to sex, shall not apply to a private educational institution, or branch or level of a private educational institution, in which students of only one sex are permitted to enroll. Nothing in this chapter shall prohibit an educational institution from using academic qualifications or achievements as criteria for admission or requiring from applicants information which relates to academic qualifications or achievements.

Subd. 2. **Athletic teams.** Notwithstanding any other provisions of this chapter or any law to the contrary, it is not an unfair discriminatory practice for an educational institution or a public service to operate or sponsor separate athletic teams and activities for members of each sex or to restrict membership on an athletic team to participants of one sex, if this separation or restriction meets the requirements of section 121A.04.

Subd. 3. **Process for investigating charges against some athletic programs.** The Department of Human Rights shall investigate all charges alleging sex discrimination in athletic programs in educational institutions and public services pursuant to the standards and requirements of section 121A.04 and the procedures enumerated in this chapter.

Subd. 4. **Other rights, procedures, and remedies.** Nothing in this chapter restricts or limits the rights, procedures, and remedies available under section 504 of the Rehabilitation Act of 1973, United States Code,

title 29, section 794, or the Individuals with Disabilities Education Act, United States Code, title 20, sections 1401 and following.

History: *1955 c 516 s 4; 1961 c 428 s 4; 1965 c 584 s 1; 1967 c 897 s 10,11; 1973 c 729 s 2; 1975 c 206 s 1; 1977 c 351 s 2-4; 1977 c 408 s 2; 1977 c 430 s 25 subd 1; 1978 c 649 s 4; 1980 c 355 s 3; 1980 c 509 s 143; 1980 c 531 s 3; 1982 c 492 s 2; 1982 c 526 art 2 s 16; 1983 c 276 s 5,6; 1983 c 301 s 198; 1984 c 608 s 3; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 23 s 2; 1987 c 129 s 1,2; 1988 c 660 s 2,3; 1989 c 280 s 4-8; 1990 c 567 s 2; 1992 c 527 s 11; 1993 c 22 s 3-6; 1994 c 483 s 1; 1996 c 431 s 1; 1997 c 239 art 12 s 2; 1998 c 291 s 1; 1998 c 397 art 11 s 3; 2005 c 56 s 1*

363A.24 EXEMPTION BASED ON PUBLIC ACCOMMODATIONS.

Subdivision 1. **Restrooms, locker rooms, and similar places.** The provisions of section 363A.11 relating to sex, shall not apply to such facilities as restrooms, locker rooms, and other similar places. The provisions of section 363A.11 do not apply to employees or volunteers of a nonpublic service organization whose primary function is providing occasional services to minors, such as youth sports organizations, scouting organizations, boys' or girls' clubs, programs providing friends, counselors, or role models for minors, youth theater, dance, music or artistic organizations, agricultural organizations for minors, and other youth organizations, with respect to qualifications based on sexual orientation.

Subd. 2. **Athletic team, program, or event.** The provisions of section 363A.11 relating to sex, do not apply to restricting membership on an athletic team or in a program or event to participants of one sex if the restriction is necessary to preserve the unique character of the team, program, or event and it would not substantially reduce comparable athletic opportunities for the other sex.

History: *1955 c 516 s 4; 1961 c 428 s 4; 1965 c 584 s 1; 1967 c 897 s 10,11; 1973 c 729 s 2; 1975 c 206 s 1; 1977 c 351 s 2-4; 1977 c 408 s 2; 1977 c 430 s 25 subd 1; 1978 c 649 s 4; 1980 c 355 s 3; 1980 c 509 s 143; 1980 c 531 s 3; 1982 c 492 s 2; 1982 c 526 art 2 s 16; 1983 c 276 s 5,6; 1983 c 301 s 198; 1984 c 608 s 3; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 23 s 2; 1987 c 129 s 1,2; 1988 c 660 s 2,3; 1989 c 280 s 4-8; 1990 c 567 s 2; 1992 c 527 s 11; 1993 c 22 s 3-6; 1994 c 483 s 1; 1996 c 431 s 1; 1997 c 239 art 12 s 2; 1998 c 291 s 1; 1998 c 397 art 11 s 3*

363A.25 EXEMPTION BASED ON DISABILITY.

Nothing in this chapter shall be construed to prohibit any program, service, facility, or privilege afforded to a person with a disability which is intended to habilitate, rehabilitate, or accommodate that person. It is a defense to a complaint or action brought under the employment provisions of this chapter that the person bringing the complaint or action has a disability which in the circumstances and even with reasonable accommodation, as defined in section 363A.08, subdivision 6, poses a serious threat to the health or safety of the disabled person or others. The burden of proving this defense is upon the respondent.

History: *1955 c 516 s 4; 1961 c 428 s 4; 1965 c 584 s 1; 1967 c 897 s 10,11; 1973 c 729 s 2; 1975 c 206 s 1; 1977 c 351 s 2-4; 1977 c 408 s 2; 1977 c 430 s 25 subd 1; 1978 c 649 s 4; 1980 c 355 s 3; 1980 c 509 s 143; 1980 c 531 s 3; 1982 c 492 s 2; 1982 c 526 art 2 s 16; 1983 c 276 s 5,6; 1983 c 301 s 198; 1984 c 608 s 3; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 23 s 2; 1987 c 129 s 1,2; 1988 c 660 s 2,3; 1989 c 280 s 4-8; 1990 c 567 s 2; 1992 c 527 s 11; 1993 c 22 s 3-6; 1994 c 483 s 1; 1996 c 431 s 1; 1997 c 239 art 12 s 2; 1998 c 291 s 1; 1998 c 397 art 11 s 3*

363A.26 EXEMPTION BASED ON RELIGIOUS ASSOCIATION.

Nothing in this chapter prohibits any religious association, religious corporation, or religious society that is not organized for private profit, or any institution organized for educational purposes that is operated,

supervised, or controlled by a religious association, religious corporation, or religious society that is not organized for private profit, consistent with the protections or privileges of the First Amendment of the United States Constitution and article I, section 16, of the Minnesota Constitution, including ministerial exceptions provided therein, from:

(1) limiting admission to or giving preference to persons of the same religion or denomination;

(2) taking any action with respect to education, employment, housing and real property, or use of facilities; or

(3) taking any action with respect to the provision of goods, services, facilities, or accommodations directly related to the solemnization or celebration of a civil marriage that is in violation of its religious beliefs.

This section shall not apply to secular business activities engaged in by the religious association, religious corporation, religious society, or any institution organized for educational purposes that is operated, supervised, or controlled by a religious association, religious corporation, or religious society that is not organized for private profit, the conduct of which is unrelated to the religious and educational purposes for which it is organized.

History: *1955 c 516 s 4; 1961 c 428 s 4; 1965 c 584 s 1; 1967 c 897 s 10,11; 1973 c 729 s 2; 1975 c 206 s 1; 1977 c 351 s 2-4; 1977 c 408 s 2; 1977 c 430 s 25 subd 1; 1978 c 649 s 4; 1980 c 355 s 3; 1980 c 509 s 143; 1980 c 531 s 3; 1982 c 492 s 2; 1982 c 526 art 2 s 16; 1983 c 276 s 5,6; 1983 c 301 s 198; 1984 c 608 s 3; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 23 s 2; 1987 c 129 s 1,2; 1988 c 660 s 2,3; 1989 c 280 s 4-8; 1990 c 567 s 2; 1992 c 527 s 11; 1993 c 22 s 3-6; 1994 c 483 s 1; 1996 c 431 s 1; 1997 c 239 art 12 s 2; 1998 c 291 s 1; 1998 c 397 art 11 s 3; 2013 c 74 s 1; 2024 c 105 s 12*

LEGAL PROCEEDINGS AND ACTIONS

363A.27 MS 2022 [Repealed, 2023 c 52 art 19 s 72]

363A.28 GRIEVANCES.

Subdivision 1. **Actions.** Any person aggrieved by a violation of this chapter may bring a civil action as provided in section 363A.33, subdivision 1, or may file a verified charge with the commissioner or the commissioner's designated agent. A charge filed with the commissioner must be in writing by hand, or electronically with an unsworn declaration under penalty of perjury, on a form provided by the commissioner and signed by the charging party. The charge must state the name of the person alleged to have committed an unfair discriminatory practice and set out a summary of the details of the practice complained of. The commissioner may require a charging party to provide the address of the person alleged to have committed the unfair discriminatory practice, names of witnesses, documents, and any other information necessary to process the charge. The commissioner may dismiss a charge when the charging party fails to provide required information. The commissioner within ten days of the filing shall serve a copy of the charge and a form for use in responding to the charge upon the respondent personally, electronically with the receiving party's consent, or by mail. The respondent shall file with the department a written response setting out a summary of the details of the respondent's position relative to the charge within 30 days of receipt of the charge. If the respondent fails to respond with a written summary of the details of the respondent's position within 30 days after service of the charge, and service was consistent with rule 4 of the Rules of Civil Procedure, the

commissioner, on behalf of the complaining party, may bring an action for default in district court pursuant to rule 55.01 of the Rules of Civil Procedure.

[See Note.]

Subd. 2. **Commissioner's charge.** Whenever the commissioner has reason to believe that a person is engaging in an unfair discriminatory practice, the commissioner may issue a charge stating in statutory language an alleged violation of subdivision 10 and sections 363A.08 to 363A.19.

Subd. 3. **For filing claim; filing options.** (a) A claim of an unfair discriminatory practice must be brought as a civil action pursuant to section 363A.33, subdivision 1, filed in a charge with a local commission pursuant to section 363A.07, subdivision 3, or filed in a charge with the commissioner within one year after the occurrence of the practice.

(b) The running of the one-year limitation period is suspended during the time a potential charging party and respondent are voluntarily engaged in a dispute resolution process involving a claim of unlawful discrimination under this chapter, including arbitration, conciliation, mediation or grievance procedures pursuant to a collective bargaining agreement or statutory, charter, ordinance provisions for a civil service or other employment system or a school board sexual harassment or sexual violence policy. A potential respondent who participates in such a process with a potential charging party before a charge is filed or a civil action is brought shall notify the department and the charging party in writing of the participation in the process and the date the process commenced and shall also notify the department and the charging party of the ending date of the process. A respondent who fails to provide this notification is barred from raising the defense that the statute of limitations has run unless one year plus a period of time equal to the suspension period has passed.

(c) The running of the one-year limitation period is suspended during the applicable time period under section 363A.331, subdivision 2, during which a civil action may not be brought.

Subd. 4. **Basis for filing a claim.** For purposes of subdivision 3, the first application of an unfair discriminatory practice, employment policy, or seniority system to a new person establishes a basis for the filing of a claim by that person.

Subd. 5. **Alternative dispute resolution.** Charging parties and respondents shall be offered and may request an opportunity to resolve a charge through mediation or another alternative dispute resolution process. Neutrals providing mediation and alternative dispute resolution processes for parties are bound by the Code of Ethics for Court-Annexed ADR Neutrals. The running of the 12-month period during which the commissioner must make a determination of probable cause to credit allegations is suspended during a period of time specified by the commissioner during which the parties are involved in mediation or other alternative dispute resolution process that has been sanctioned by the commissioner.

Subd. 6. **Charge processing.** (a) Consistent with paragraph (h), the commissioner shall promptly inquire into the truth of the allegations of the charge. The commissioner shall make an immediate inquiry when a charge alleges actual or threatened physical violence. The commissioner shall also make an inquiry when it appears that a charge is frivolous or without merit and shall dismiss those charges.

(b) The commissioner shall give priority to investigating and processing those charges, in the order below, which the commissioner determines have the following characteristics:

(1) there is evidence of irreparable harm if immediate action is not taken;

(2) there is evidence that the respondent has intentionally engaged in a reprisal;

(3) a significant number of recent charges have been filed against the respondent;

(4) the respondent is a government entity;

(5) there is potential for broadly promoting the policies of this chapter; or

(6) the charge is supported by substantial and credible documentation, witnesses, or other evidence.

The commissioner shall inform charging parties of these priorities and shall tell each party if their charge is a priority case or not.

On other charges the commissioner shall make a determination within 12 months after the charge was filed as to whether or not there is probable cause to credit the allegation of unfair discriminatory practices.

(c) If the commissioner determines after investigation that no probable cause exists to credit the allegations of the unfair discriminatory practice, the commissioner shall, within ten days of the determination, serve upon the charging party and respondent written notice of the determination. Within 30 days after receipt of notice, the charging party may request in writing, on forms prepared by the department, that the commissioner reconsider the determination. The request shall contain a brief statement of the reasons for and new evidence in support of the request for reconsideration. At the time of submission of the request to the commissioner, the charging party shall deliver or mail to the respondent a copy of the request for reconsideration. The commissioner shall reaffirm, reverse, or vacate and remand for further consideration the determination of no probable cause within 20 days after receipt of the request for reconsideration, and shall within ten days notify in writing the charging party and respondent of the decision to reaffirm, reverse, or vacate and remand for further consideration.

A decision by the commissioner that no probable cause exists to credit the allegations of an unfair discriminatory practice shall not be appealed to the court of appeals pursuant to section 363A.34 or sections 14.63 to 14.68.

(d) If the commissioner determines after investigation that probable cause exists to credit the allegations of unfair discriminatory practices, the commissioner shall serve on the respondent and the respondent's attorney if the respondent is represented by counsel, by first class mail, or electronically with the receiving party's consent, a notice setting forth a short plain written statement of the alleged facts which support the finding of probable cause and an enumeration of the provisions of law allegedly violated. Within 30 days after receipt of notice, the respondent may request in writing, on forms prepared by the department, that the commissioner reconsider the determination. If the commissioner determines that attempts to eliminate the alleged unfair practices through conciliation pursuant to subdivision 8 have been or would be unsuccessful or unproductive, the commissioner may issue a complaint and serve on the respondent, by registered or certified mail, or electronically with the receiving party's consent, a written notice of hearing together with a copy of the complaint, requiring the respondent to answer the allegations of the complaint at a hearing before an administrative law judge at a time and place specified in the notice, not less than ten days after service of said complaint. A copy of the notice shall be furnished to the charging party and the attorney general.

(e) If, at any time after the filing of a charge, the commissioner has reason to believe that a respondent has engaged in any unfair discriminatory practice, the commissioner may file a petition in the district court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this chapter, including an order or decree restraining the respondent from doing or procuring an act tending to render ineffectual an order the commissioner may enter with respect to the

complaint. The court shall have power to grant temporary relief or a restraining order as it deems just and proper, but no relief or order extending beyond ten days shall be granted except by consent of the respondent or after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice. Except as modified by subdivisions 1 to 9 and section 363A.06, subdivision 4, the Minnesota Rules of Civil Procedure shall apply to an application, and the district court shall have authority to grant or deny the relief sought on conditions as it deems just and equitable. All hearings under subdivisions 1 to 9 and section 363A.06, subdivision 4, shall be given precedence as nearly as practicable over all other pending civil actions.

(f) If a lessor, after engaging in a discriminatory practice defined in section 363A.09, subdivision 1, clause (1), leases or rents a dwelling unit to a person who has no knowledge of the practice or of the existence of a charge with respect to the practice, the lessor shall be liable for actual damages sustained by a person by reason of a final order as provided in subdivisions 1 to 9 and section 363A.06, subdivision 4, requiring the person to be evicted from the dwelling unit.

(g) In any complaint issued under subdivisions 1 to 9 and section 363A.06, subdivision 4, the commissioner may seek relief for a class of individuals affected by an unfair discriminatory practice occurring on or after a date one year prior to the filing of the charge from which the complaint originates.

(h) The commissioner may adopt policies to determine which charges are processed and the order in which charges are processed based on their particular social or legal significance, administrative convenience, difficulty of resolution, or other standard consistent with the provisions of this chapter.

(i) The chief administrative law judge shall adopt policies to provide sanctions for intentional and frivolous delay caused by any charging party or respondent in an investigation, hearing, or any other aspect of proceedings before the department under this chapter.

Subd. 7. **Application of rules.** Rules adopted pursuant to this subdivision apply to cases pending before the commissioner on the date of adoption.

Subd. 8. **Attempts to eliminate unfair practices.** The commissioner, in complying with subdivision 6, shall endeavor to eliminate the unfair discriminatory practice through education, conference, conciliation and persuasion at the place where the practice occurred, or the respondent resides or has a principal place of business.

Subd. 9. **Access to documents.** The commissioner shall provide the respondent with a copy of the charge. The charging party or the party's representative may review the answer of the respondent to the charge submitted pursuant to subdivision 1. The department shall make these documents available to the charging party.

Subd. 10. **Disparate impact cases in employment.** If the complaining party has met its burden of showing that an employment practice is responsible for a statistically significant adverse impact on a particular class of persons protected by section 363A.08, subdivision 2, an employer must justify that practice by demonstrating that the practice is manifestly related to the job or significantly furthers an important business purpose. Upon establishment of this justification, the charging party may prevail upon demonstration of the existence of a comparably effective practice that the court finds would cause a significantly lesser adverse impact on the identified protected class.

History: *1955 c 516 s 5,8; 1961 c 428 s 5,8; 1965 c 585 s 2; 1965 c 586 s 1,3; 1967 c 897 s 12-16,19; 1969 c 9 s 80; 1969 c 975 s 3-5,9,10; 1973 c 296 s 1; 1973 c 729 s 3,6-8,16; 1974 c 354 s 1; 1975 c 206 s 2-5; 1976 c 301 s 1,2; 1977 c 351 s 5-7; 1977 c 408 s 3; 1979 c 156 s 1; 1980 c 531 s 4; 1980 c 540 s 1-3;*

1981 c 330 s 1-5; 1981 c 364 s 1; 1982 c 424 s 130; 1982 c 517 s 8; 1983 c 216 art 1 s 59; 1983 c 247 s 143; 1983 c 276 s 7-10; 1983 c 301 s 199,200; 1984 c 533 s 2,3; 1984 c 567 s 2,3; 1984 c 640 s 32; 1985 c 248 s 70; 1Sp1985 c 13 s 326; 1986 c 444; 1987 c 23 s 3; 1987 c 129 s 3; 1987 c 141 s 2; 1987 c 245 s 1; 1987 c 375 s 3,4; 1988 c 660 s 4-6; 1989 c 209 art 1 s 37; 1989 c 280 s 9-14,21; 1989 c 329 art 8 s 11; 1990 c 567 s 3-8; 1992 c 527 s 12-16; 1993 c 22 s 8-15; 1993 c 277 s 5-7; 1994 c 630 art 12 s 1; 1995 c 212 art 2 s 10; 1996 c 305 art 2 s 60; 1997 c 171 s 1; 1997 c 182 s 1; 2001 c 186 s 1; 2001 c 194 s 2,3; 2016 c 159 s 1; 2017 c 80 s 1; 1Sp2021 c 11 art 3 s 14,15; 2024 c 105 s 13

NOTE: Causes of action under subdivision 1 which seek to remedy activity proscribed under ERISA were found preempted by the federal Employee Retirement Income Security Act (ERISA) in *Alwin v. Sprint Communications Co.*, 870 F.Supp. 275 (D. Minn. 1994).

NOTE: Causes of action under subdivision 1 which seek to remedy violations of the duty of fair representation were found preempted by the federal National Labor Relations Act in *Patterson v. IATSE Local 13*, 754 F.Supp.2d 1043 (D. Minn. 2010).

363A.29 HEARINGS.

Subdivision 1. **Conduct of hearings.** A determination issued by the commissioner may be heard as a contested case. The report of the administrative law judge shall be binding on all parties to the proceeding and if appropriate shall be implemented by an order as provided for in subdivision 3. The party contesting the determination issued by the commissioner may file a request with the commissioner to appear at a hearing on the party's own behalf or through a private attorney. The commissioner shall decide within 30 days whether to forward the request for hearing to the Court of Administrative Hearings, which shall promptly set the matter for hearing. The hearing shall be conducted in accordance with sections 14.57 to 14.62, and is subject to appeal in accordance with sections 14.63 to 14.68.

Subd. 2. **Tolling during investigation.** The commissioner shall make a determination of probable cause or no probable cause within one year of the filing of a case in which the time has not been tolled. The amount of time during which a case is involved in significant settlement negotiations, is being investigated by another enforcement agency under a work sharing agreement, or has been referred to mediation or to a local human rights commission for no fault grievance processing is tolled. Tolling of the time during settlement negotiations requires written approval of the charging party or the party's attorney.

Subd. 3. **Determination of discriminatory practice.** The administrative law judge shall make findings of fact and conclusions of law, and if the administrative law judge finds that the respondent has engaged in an unfair discriminatory practice, the administrative law judge shall issue an order directing the respondent to cease and desist from the unfair discriminatory practice found to exist and to take such affirmative action as in the judgment of the administrative law judge will effectuate the purposes of this chapter. The order shall be a final decision of the department.

Subd. 4. **Civil penalty; punitive damages.** (a) The administrative law judge shall order any respondent found to be in violation of any provision of sections 363A.08 to 363A.19 and 363A.28, subdivision 10, to pay a civil penalty to the state. This penalty is in addition to compensatory and punitive damages to be paid to an aggrieved party. The administrative law judge shall determine the amount of the civil penalty to be paid, taking into account the seriousness and extent of the violation, the public harm occasioned by the violation, whether the violation was intentional, and the financial resources of the respondent. Any penalties imposed under this provision shall be paid into the general fund of the state. In all cases where the administrative law judge finds that the respondent has engaged in an unfair discriminatory practice, the administrative law judge shall order the respondent to pay an aggrieved party, who has suffered discrimination,

compensatory damages in an amount up to three times the actual damages sustained. In all cases, the administrative law judge may also order the respondent to pay an aggrieved party, who has suffered discrimination, damages for mental anguish or suffering and reasonable attorney's fees, in addition to punitive damages in an amount not more than $25,000 pursuant to section 549.20.

(b) In any case where a political subdivision is a respondent, the total of punitive damages awarded an aggrieved party may not exceed $25,000 and in that case if there are two or more respondents the punitive damages may be apportioned among them. Punitive damages may only be assessed against a political subdivision in its capacity as a corporate entity and no regular or ex officio member of a governing body of a political subdivision shall be personally liable for payment of punitive damages pursuant to subdivisions 3 to 6.

Subd. 5. **Other remedies.** In addition to the remedies in subdivision 4, in a case involving discrimination in:

(1) employment, the administrative law judge may order the hiring, reinstatement or upgrading of an aggrieved party, who has suffered discrimination, with or without back pay, admission or restoration to membership in a labor organization, or admission to or participation in an apprenticeship training program, on-the-job training program, or other retraining program, or any other relief the administrative law judge deems just and equitable; or

(2) housing, the administrative law judge may order the sale, lease, or rental of the housing accommodation or other real property to an aggrieved party, who has suffered discrimination, or the sale, lease, or rental of a like accommodation or other real property owned by or under the control of the person against whom the complaint was filed, according to terms as listed with a real estate broker, or if no such listing has been made, as otherwise advertised or offered by the vendor or lessor, or any other relief the administrative law judge deems just and equitable.

Subd. 6. **Service of findings.** The administrative law judge shall cause the findings of fact, conclusions of law, and order to be served on the respondent personally, on the charging party by registered or certified mail, and shall furnish copies to the attorney general and the commissioner.

Subd. 7. **Dismissal of hearing.** If the administrative law judge makes findings of fact, conclusions of law, and an order in favor of the respondent, the order shall be a final decision of the department.

Subd. 8. **Respondents subject to state licensing or regulatory power.** In the case of a respondent which is subject to the licensing or regulatory power of the state or any political subdivision or agency thereof, if the administrative law judge determines that the respondent has engaged in a discriminatory practice, and if the respondent does not cease to engage in such discriminatory practice, the commissioner may so certify to the licensing or regulatory agency. Unless such determination of discriminatory practice is reversed in the course of judicial review, a final determination is binding on the licensing or regulatory agency. Such agency may take appropriate administrative action, including suspension or revocation of the respondent's license or certificate of public convenience and necessity, if the agency is otherwise authorized to take such action.

Subd. 9. **Public contracts.** In the case of a respondent which is a party to a public contract, if the administrative law judge determines that the respondent has engaged in a discriminatory practice, the commissioner may so certify to the contract letting agency. Unless the finding of a discriminatory practice is reversed in the course of judicial review, a final determination is binding on the contract letting agency and the agency may take appropriate administrative action, including the imposition of financial penalties or termination of the contract, in whole or in part, if the agency is otherwise authorized to take the action.

Subd. 10. **Subpoenas.** After the issuance of a complaint pursuant to section 363A.28, subdivision 6, a charging party or a respondent may request that the administrative law judge issue subpoenas requiring the presence of witnesses or the production for examination of books or papers not privileged and relevant to any matter in question at the hearing.

Subd. 11. **Litigation and hearing costs.** The administrative law judge shall order a respondent who is determined to have engaged in an unfair discriminatory practice to reimburse the department and the attorney general for all appropriate litigation and hearing costs expended in preparing for and conducting the hearing, unless payment of the costs would impose a financial hardship on the respondent. Appropriate costs include but are not limited to the costs of services rendered by the attorney general, private attorneys if engaged by the department, administrative law judges, court reporters, and expert witnesses as well as the costs of transcripts and other necessary supplies and materials.

Money reimbursed to the Department of Human Rights under this subdivision must be paid into the state treasury and credited to a special revenue account. Money in that account is appropriated to the commissioner of human rights to the extent the reimbursements were made to cover the department's costs and are available for the department's activities in enforcing the Minnesota Human Rights Act.

History: *1967 c 897 s 20; 1969 c 975 s 11-13; 1973 c 729 s 9; 1976 c 301 s 3; 1980 c 540 s 4; 1981 c 364 s 2; 1983 c 301 s 201; 1984 c 567 s 4,5; 1985 c 248 s 56; 1986 c 444; 1987 c 375 s 5; 1988 c 660 s 7; 1992 c 513 art 9 s 34; 1996 c 390 s 34; 1999 c 227 s 22; 2008 c 215 s 1; 2024 c 105 s 14,15; 2026 c 97 art 13 s 1*

363A.30 DISTRICT COURT, REVIEW ORDERS OF PANEL OR EXAMINER; ENFORCEMENT; MISDEMEANOR.

Subdivision 1. **Appeal.** The commissioner or a person aggrieved by a final decision of the department reached after a hearing held pursuant to section 363A.29 may seek judicial review in accordance with chapter 14. The attorney general shall represent on appeal, a charging party who prevailed at a hearing authorized by section 363A.29, subdivision 2, if the charging party requests representation within ten days after receipt of the petition for appeal.

Subd. 2. **Review procedure.** The judicial review proceedings shall be in accordance with chapter 14.

Subd. 3. **Enforcement.** When a respondent fails or refuses to comply with a final decision of the department, the commissioner may file with the court administrator of district court in the judicial district in which the hearing was held a petition requesting the court to order the respondent to comply with the order of the department. Thereupon the court shall issue an order to show cause directed to the respondent why an order directing compliance should not be issued. If the panel or examiner has ordered an award of damages pursuant to section 363A.30, the court shall enter judgment on the order or modified order in the same manner as in the case of an order of the district court, as provided in section 546.27.

Subd. 4. **Unfair discriminatory practice a misdemeanor.** In addition to all other remedies provided under this chapter, every person who commits an unfair discriminatory act as set forth in section 363A.11, or aids, abets, incites, compels, or coerces another to do so, shall be guilty of a misdemeanor.

History: *1967 c 897 s 21,22; 1969 c 975 s 14,18; 1973 c 729 s 10,11; 1977 c 408 s 5; 1982 c 424 s 130; 1983 c 247 s 144,145; 1984 c 567 s 6; 1Sp1986 c 3 art 1 s 82; 1988 c 660 s 10*

363A.31 LIMITATIONS ON WAIVER.

Subdivision 1. **Prospective waiver prohibited.** Any provision, whether oral or written, of a lease, contract, or other agreement or instrument which purports to be a waiver by an individual of any right or remedy provided in this chapter is contrary to public policy and void if the waiver or release purports to waive claims arising out of acts or practices which occur after the execution of the waiver or release.

[See Note.]

Subd. 2. **Rescission of waiver.** A waiver or release of rights or remedies secured by this chapter which purports to apply to claims arising out of acts or practices prior to, or concurrent with, the execution of the waiver or release may be rescinded within 15 calendar days of its execution, except that a waiver or release given in settlement of a claim filed with the department or with another administrative agency or judicial body is valid and final upon execution. A waiving or releasing party shall be informed in writing of the right to rescind the waiver or release. To be effective, the rescission must be in writing and delivered to the waived or released party by hand, electronically with the receiving party's consent, or by mail within the 15-day period. If delivered by mail, the rescission must be:

(1) postmarked within the 15-day period;

(2) properly addressed to the waived or released party; and

(3) sent by certified mail return receipt requested.

History: *1984 c 567 s 1; 1985 c 175 s 1; 1Sp2021 c 11 art 3 s 16*

NOTE: Subdivision 1 (formerly section 363.031) was found preempted by federal law with regard to arbitration agreements in *Johnson v. Piper Jaffray, Inc.*, 530 N.W.2d 790 (Minn. 1995).

363A.32 DEPARTMENT ATTORNEY.

Subdivision 1. **Attorney general; privileged communication.** The attorney general shall be the attorney for the department. When a matter has been referred to the attorney general by the commissioner after a finding of probable cause or for the purpose of interim relief, communications between members of the attorney general's office and charging parties or members of a class formed pursuant to section 363A.28, subdivision 6, paragraph (g), are privileged as would be a communication between an attorney and a client.

Subd. 2. **Legal representation costs.** The Department of Human Rights may not be charged by the attorney general for legal representation on behalf of complaining parties who have filed a charge of discrimination with the department. This subdivision is effective retroactive to July 1, 1989. The department does not have an obligation to pay for any services rendered by the attorney general since July 1, 1985, in excess of the amounts already paid for those services.

History: *1967 c 897 s 27; 1988 c 660 s 11; 1991 c 345 art 1 s 90*

363A.33 COURT ACTIONS, SUITS BY PRIVATE PARTIES, INTERVENTION, DISTRICT COURT JURISDICTION, ATTORNEY'S FEES, AND COSTS.

Subdivision 1. **Court actions, suits by private parties, intervention.** The commissioner or a person may bring a civil action seeking redress for an unfair discriminatory practice directly to district court. In addition, a person may bring a civil action:

(1) within 90 days after receipt of notice that the commissioner has dismissed a charge because it is frivolous or without merit, because the charging party has failed to provide required information, because the commissioner has determined that further use of department resources is not warranted, or because the commissioner has determined that there is no probable cause to credit the allegations contained in a charge filed with the commissioner;

(2) within 90 days after receipt of notice that the commissioner has reaffirmed a determination of no probable cause if the charging party requested a reconsideration of the no probable cause determination, or has decided not to reopen a dismissed case that the charging party has asked to be reopened; or

(3) after 45 days from the filing of a charge pursuant to section 363A.28, subdivision 1, if a hearing has not been held pursuant to section 363A.29 or if the commissioner has not entered into a conciliation agreement to which the charging party is a signator. The charging party shall notify the commissioner of an intention to bring a civil action, which shall be commenced within 90 days of giving the notice.

For purposes of clauses (1) and (2), receipt of notice is presumed to be five days from the date of service by mail of the written notice.

Subd. 2. **Treatment of separate issues in same charge.** If the commissioner has issued both probable cause and no probable cause determinations on separate issues in the same charge, the charging party may, if a hearing is held, require that all matters be heard at the hearing or may bring a civil action for the no probable cause charges at the same time as the probable cause charges under the rules and time frames that govern the probable cause charges.

Subd. 3. **Summons and complaints in a civil action.** A charging party bringing a civil action shall mail by registered or certified mail, or electronically with the receiving party's consent, a copy of the summons and complaint to the commissioner, and upon their receipt the commissioner shall terminate all proceedings in the department relating to the charge. No charge shall be filed or reinstituted with the commissioner after a civil action relating to the same unfair discriminatory practice has been brought unless the civil action has been dismissed without prejudice.

Subd. 4. **Court-appointed attorney for complaining party and costs.** Upon application by the complaining party to the district court at a special term and under circumstances the court deems just, the court may appoint an attorney for the person and may authorize the commencement of the action without payment of fees, costs, or security.

Subd. 5. **Department as intervenor in civil action.** Upon timely application, the court may permit the department to intervene in a civil action brought pursuant to this section upon certification that the case is of general public importance.

Subd. 6. **District court jurisdiction.** Any action brought pursuant to this section shall be filed in the district court of the county wherein the unlawful discriminatory practice is alleged to have been committed or where the respondent resides or has a principal place of business.

A person bringing a civil action seeking redress for an unfair discriminatory practice or a respondent is entitled to a jury trial.

If the court or jury finds that the respondent has engaged in an unfair discriminatory practice, it shall issue an order or verdict directing appropriate relief as provided by this section.

When the court issues an order providing for payment to the state of a civil penalty pursuant to this section, it shall serve a copy of that order upon the attorney general at the same time as it makes service upon the parties.

Subd. 7. **Attorney's fees and costs.** In any action or proceeding brought pursuant to this section the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. In any case brought by the department, the court shall order a respondent who is determined to have engaged in an unfair discriminatory practice to reimburse the department and the attorney general for all appropriate litigation and court costs expended in preparing for and conducting the hearing, unless payment of the costs would impose a financial hardship on the respondent. Appropriate costs include but are not limited to the costs of services rendered by the attorney general, private attorneys if engaged by the department, court costs, court reporters, and expert witnesses as well as the costs of transcripts and other necessary supplies and materials.

Subd. 8. **Civil penalty; punitive damages.** (a) The court shall order any respondent found to be in violation of any provision of sections 363A.08 to 363A.19 and 363A.28, subdivision 10, to pay a civil penalty to the state. This penalty is in addition to all damages recoverable at law and punitive damages to be paid to an aggrieved party. The court shall determine the amount of the civil penalty to be paid, taking into account the seriousness and extent of the violation, the public harm occasioned by the violation, whether the violation was intentional, and the financial resources of the respondent. Any penalties imposed under this provision shall be paid into the general fund of the state. In all cases where the court finds that the respondent has engaged in an unfair discriminatory practice, the court shall order the respondent to pay an aggrieved party who has suffered discrimination compensatory damages, including mental anguish or suffering, in an amount up to three times the actual damages sustained. In all cases, the court may also order the respondent to pay an aggrieved party punitive damages pursuant to section 549.20. In any case under this chapter that is decided by a jury, the jury shall determine the amount of all damages to be awarded.

(b) In any case where a political subdivision is a respondent, the total of punitive damages awarded an aggrieved party may not exceed $25,000 and if there are two or more respondents the punitive damages may be apportioned among them. Punitive damages may only be assessed against a political subdivision in its capacity as a corporate entity and no regular or ex officio member of a governing body of a political subdivision shall be personally liable for payment of punitive damages pursuant to this section.

Subd. 9. **Other remedies.** In addition to the remedies in subdivision 8, where a case involves discrimination in:

(1) employment, the court may order: (i) the hiring, reinstatement, or upgrading of an aggrieved party who has suffered discrimination, with or without back pay; (ii) admission or restoration to membership in a labor organization; (iii) admission to or participation in an apprenticeship training program, on-the-job training program, or other retraining program; or (iv) any other relief the court deems just and equitable; or

(2) housing, the court may order: (i) the sale, lease, or rental of the housing accommodation or other real property to an aggrieved party who has suffered discrimination; (ii) the sale, lease, or rental of a like accommodation or other real property owned by or under the control of the person against whom the complaint was filed, according to the terms as listed with a real estate broker, or if no such listing has been made, as advertised or offered by the vendor or lessor; or (iii) any other relief the court deems just and equitable.

History: *1973 c 729 s 18; 1976 c 301 s 4; 1977 c 455 s 85; 1978 c 793 s 74; 1981 c 330 s 6; 1984 c 567 s 8,9; 1986 c 444; 1988 c 660 s 12,13; 1989 c 280 s 19; 1992 c 513 art 9 s 35,36; 2014 c 233 s 1; 1Sp2021 c 11 art 3 s 17; 2024 c 105 s 16-19*

363A.331 ACTIONS INVOLVING ARCHITECTURAL BARRIERS THAT LIMIT ACCESSIBILITY.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Accessibility requirements under law" means requirements governing removal of architectural barriers that limit access to business establishments or public accommodations by persons with disabilities under the following laws or rules:

(1) section 363A.11, subdivision 3, clause (4) or (5);

(2) United States Code, title 42, section 12182, paragraph (b), clause (2), subparagraph (A), subclause (iv) or (v); or

(3) Code of Federal Regulations, title 28, section 36.304 or 36.305.

(c) "Certified professional" means a licensed, registered, or otherwise certified professional with demonstrated knowledge of accessibility requirements under law.

Subd. 2. **Notice of architectural barrier.** (a) Before bringing a civil action under section 363A.33, a person who is an attorney or is represented by an attorney and who alleges that a business establishment or place of public accommodation has violated accessibility requirements under law must provide a notice of architectural barrier consistent with subdivision 3. The notice of architectural barrier must be dated and must:

(1) cite the law alleged to be violated;

(2) identify each architectural barrier that is the subject of an alleged violation and specify its location on the premises;

(3) provide a reasonable time for a response, which may not be less than 60 days; and

(4) comply with subdivision 3.

(b) A notice described in paragraph (a) must not include a request or demand for money or an offer or agreement to accept money, but may offer to engage in settlement negotiations before litigation.

(c) A civil action may not be brought before expiration of the period to respond provided in the notice under paragraph (a), clause (3). Subject to paragraph (d), a civil action may be brought after the response time provided in the notice.

(d) If, within the response time provided under paragraph (a), clause (3), the business establishment or place of public accommodation indicates in writing an intent to remove the barrier but can demonstrate that weather prevents a timely removal, a civil action may not be brought before 30 days after the date of the response time in the notice, provided the business establishment or place of public accommodation specifies in writing the steps that will be taken to remove the barrier and the date by which the barrier will be removed.

Subd. 2a. **Representation by attorney after action brought.** If a person who is not represented by an attorney retains an attorney within 60 days after a civil action under section 363A.33 is brought, the attorney must provide a dated notice to the defendant that includes the items required under subdivision 2, paragraph (a), clauses (1) and (2), and the accessibility audit portion of the form under subdivision 3. The notice must include additional time for the defendant to serve an answer to the complaint or amend a previous answer to the complaint, which must be at least 60 days after the date of the notice or service of the complaint, whichever is later. If the civil action has not been filed with the court, the action must not be filed until

expiration of the time provided for in the notice. The time period for serving an answer to the complaint under rule 12 of the Rules of Civil Procedure and proceedings under the complaint are stayed for the period of time specified in the notice.

Subd. 3. **Statutory short form; notice of architectural barrier.** A notice of an architectural barrier must be in the following, or a substantially similar, form:

"This notice is to advise you of a claim that [insert name of business establishment or place of public accommodation] is in violation of the Americans with Disabilities Act and/or the Minnesota Human Rights Act for failure to remove one or more architectural barriers limiting access to the premises by persons with disabilities.

Allegation of Violation

The undersigned attorney represents [insert client's name or organization], who alleges that [insert name of business establishment or place of public accommodation] is in violation of [insert citation of all statute(s) and rule(s) alleged to be violated] because [insert client's name] attempted on [insert date(s)] to access [insert name of business establishment or place of public accommodation] but was unable to or was deterred from doing so due to the following architectural barrier or barriers limiting access by persons with disabilities: [insert description of each architectural barrier that is the subject of the alleged violation and its location on the premises].

Accessibility Audit

Licensed, registered, or otherwise certified professionals with knowledge of the Americans with Disabilities Act and Minnesota Human Rights Act requirements regarding physical barriers to access may be available to conduct an audit of your business establishment or place of public accommodation to advise you regarding compliance with the law. For more information, contact the Minnesota State Council on Disability at 1-800-945-8913 or visit MSCOD's website at http://www.disability.state.mn.us.

Response

Please contact, or have your attorney contact, the undersigned attorney no later than [insert date by which response is required] to provide a response or if you would like to engage in prelitigation settlement negotiations. Failure to respond to this notice may result in a lawsuit being filed against you."

Subd. 4. **Affirmative defense; challenging audit.** (a) In a civil action brought against a business establishment or place of public accommodation for violation of accessibility requirements under law, the defendant has an affirmative defense to the action if the defendant demonstrates that:

(1) the architectural barrier has been removed in a manner that complies with accessibility requirements under law;

(2) compliance with the accessibility requirements under law is not readily achievable or cannot be accomplished by alternative means; or

(3) the alleged architectural barrier does not violate accessibility requirements under law.

(b) In a civil action brought against a business establishment or place of public accommodation for violation of accessibility requirements under law, a plaintiff challenging a finding in an audit, performed by a certified professional, that an alleged architectural barrier complies with accessibility requirements under law, or that compliance is not readily achievable or alternative means cannot be employed, has the burden

to show that the architectural barrier does not comply with those accessibility requirements or that compliance is readily achievable or can be accomplished by alternative means.

Subd. 5. **Exemptions.** (a) Subdivisions 2 and 3 do not apply to:

(1) a person who is not an attorney and is not represented by an attorney;

(2) attorneys representing the state or a political subdivision of the state; or

(3) a person who is challenging a finding contained in an audit prepared by a certified professional.

(b) This section does not affect the right of a person to file a charge with the commissioner or the right of a person who has filed a charge to bring a civil action authorized under section 363A.33, subdivision 1.

History: *2016 c 159 s 2; 2017 c 80 s 2-4*

363A.34 NOTICE OF APPEAL TO COMMISSIONER.

In any case that is appealed to the supreme court or the court of appeals in which an issue is raised under this chapter, the party raising the issue shall serve a copy of the notice of appeal on the commissioner. At the time of filing a notice of appeal or other papers, documents, or briefs in the case, a party shall file proof of service of the papers, documents, or briefs upon the commissioner.

History: *1988 c 660 s 14; 1989 c 280 s 20*

363A.35 ACCESS TO CASE FILES.

Subdivision 1. **General provisions.** Notwithstanding section 13.39, and except as provided in section 363A.06, subdivision 4, and 363A.28, subdivision 9, the availability of human rights investigative data to persons other than department employees is governed by this section.

Subd. 2. **Access to open files.** (a) Except as otherwise provided in this subdivision, human rights investigative data contained in an open case file are confidential data on individuals or protected nonpublic data. The name and address of the charging party and respondent, factual basis of the allegations, and the statute under which the action is brought are private data on individuals or nonpublic data but are accessible to the charging party and the respondent.

(b) After a charge has been filed, the commissioner may disclose information to persons as the commissioner deems necessary (1) to facilitate investigation or disposition of the charge, or (2) to promote public health or safety. The commissioner may also disclose data about an open case file to another governmental entity to assist that entity or the department in processing a complaint or to eliminate duplication of efforts in the investigation of the same or similar facts as alleged in the charge. To the extent that data are disclosed to other governmental entities, it must be stipulated that section 13.03, subdivision 4, applies to the classification of the data.

(c) After making a finding of probable cause, the commissioner may make human rights investigative data contained in an open case file accessible to a person, government agency, or the public if access will aid the investigative and enforcement process.

Subd. 3. **Access to closed files.** (a) Except as otherwise provided in this subdivision, human rights investigative data contained in a closed case file are private data on individuals or nonpublic data. The name and address of the charging party and respondent, factual basis of the allegations, the statute under which the action is brought, the part of the summary of the investigation that does not contain identifying data on

a person other than the complainant or respondent, and the commissioner's memorandum determining whether probable cause has been shown are public data.

(b) The commissioner may make human rights investigative data contained in a closed case file inaccessible to the charging party or the respondent in order to protect medical or other security interests of the parties or third persons.

(c) Except for paragraph (b), when the charging party files a case in district court, the commissioner may provide private data or nonpublic data in a closed case file to the charging party and respondent.

Subd. 4. **Charging party access.** Data comprised of materials and documentation provided by a charging party that is part of an open or closed case file is accessible to the charging party in accordance with section 13.04, subdivision 3. The charging party may consent to the release of the data to the charging party's attorney or other legal representative.

History: *1Sp1985 c 13 s 327; 1988 c 670 s 13; 1995 c 259 art 1 s 52; 1997 c 172 s 1,2; 2001 c 194 s 4; 1Sp2019 c 5 art 2 s 9*

COMPLIANCE REQUIREMENTS

363A.36 CERTIFICATES OF COMPLIANCE FOR PUBLIC CONTRACTS.

Subdivision 1. **Scope of application.** (a) No department, agency of the state, the Metropolitan Council, or agency subject to section 473.143, subdivision 1, shall execute a contract for goods or services in excess of $100,000 with a business that has 40 or more full-time employees in this state or a state where the business has its primary place of business on a single day during the prior 12 months, unless the business has a workforce certificate from the commissioner of human rights or has certified in writing that it is exempt. Determinations of exempt status shall be made by the commissioner of human rights. A certificate is valid for four years. A municipality as defined in section 466.01, subdivision 1, that receives state money for any reason is encouraged to prepare and implement an affirmative action plan for the employment of people with disabilities, people of color, and women, and to submit the plan to the commissioner.

(b) This section does not apply to contracts entered into by the State Board of Investment for investment options under section 356.645.

(c) The commissioner shall issue a certificate of compliance or notice of denial within 15 days of the application submitted by the business or firm.

Subd. 1a. **Scope of application; state capital funding.** (a) An agency that uses state money to pay for part or all of a capital project is subject to and must comply with the restrictions in subdivision 1, for contracts exceeding $100,000. A political subdivision that uses state money to pay for part or all of a capital project is subject to and must comply with the restrictions in subdivision 1, for contracts exceeding $250,000.

(b) For the purposes of this subdivision, the following terms have the meanings given them:

(1) "agency" means a state board, commission, authority, department, or other agency of the executive branch of state government; the Metropolitan Council; the Minnesota Historical Society; the Minnesota State Colleges and Universities; or the University of Minnesota;

(2) "capital project" means the acquisition and betterment of land and buildings and other public improvements in the state, including acquisition of real property or an interest in real property, predesign,

design, engineering, site preparation and related environmental work, renovation, construction, furnishing, and equipping;

(3) "political subdivision" means a county, home rule charter or statutory city, town, school district, metropolitan or regional agency other than the Metropolitan Council, public corporation established in law, or other special or limited purpose district created or authorized by law; and

(4) "state money" means the proceeds of state general obligation bonds issued under article XI, section 5, clause (a), of the Minnesota Constitution.

(c) This subdivision applies to a capital project or discrete phase of a capital project for which state money has been appropriated on or after January 1, 2022.

Subd. 2. **Filing fee; account; appropriation.** The commissioner shall collect a $250 fee for each certificate of compliance issued by the commissioner or the commissioner's designated agent. The proceeds of the fee must be deposited in a human rights fee special revenue account. Money in the account is appropriated to the commissioner to fund the cost of issuing certificates and investigating grievances.

Subd. 3. **Violations; remedies.** Certificates of compliance may be suspended or revoked by the commissioner if a holder of a certificate has not made a good faith effort to implement an affirmative action plan that has been approved by the commissioner. If a contractor does not effectively implement an affirmative action plan approved by the commissioner pursuant to subdivision 1, or fails to make a good faith effort to do so, the commissioner may refuse to approve subsequent plans submitted by that firm or business. If a certificate holder is in violation of this section, the commissioner may impose one or both of the following actions:

(1) issue fines up to $5,000 per calendar year for each contract; or

(2) suspend or revoke a certificate of compliance until the contractor has paid all outstanding fines and otherwise complies with this section.

Subd. 4. **Revocation of contract.** A contract awarded by a department or agency of the state, the Metropolitan Council, or an agency subject to section 473.143, subdivision 1, may be terminated or abridged by the awarding entity because of suspension or revocation of a certificate based upon a contractor's failure to implement or make a good faith effort to implement an affirmative action plan approved by the commissioner under this section. If a contract is awarded to a person who does not have a contract compliance certificate required under subdivision 1, the commissioner may void the contract on behalf of the state.

Subd. 5. **Technical assistance.** In the case of a contractor whose certificate of compliance has been suspended, the commissioner shall provide technical assistance that may enable the contractor to be recertified within 90 days after the contractor's certificate has been suspended.

Subd. 6. **Access to data.** Data submitted to the commissioner related to a certificate of compliance are private data on individuals or nonpublic data with respect to persons other than department employees. The commissioner's decision to issue, not issue, revoke, or suspend or otherwise penalize a certificate holder of a certificate of compliance is public data. Applications, forms, or similar documents submitted by a business seeking a certificate of compliance are public data. The commissioner may disclose data classified as private or nonpublic under this subdivision to other state agencies, statewide systems, and political subdivisions for the purposes of achieving compliance with this section.

History: *1969 c 975 s 19; 1974 c 527 s 1; 1981 c 326 s 1; 1981 c 356 s 377; 1Sp1981 c 4 art 3 s 14; art 4 s 33; 1988 c 660 s 8,9; 1989 c 280 s 16; 1989 c 329 art 9 s 27; 1989 c 335 art 1 s 244; 1991 c 19 s 1;*

1997 c 202 art 2 s 47; 1997 c 239 art 12 s 3; 1998 c 386 art 1 s 33; 2001 c 186 s 3; 1Sp2003 c 2 art 2 s 5; 2008 c 349 art 11 s 9; 2013 c 72 s 1; 2013 c 86 art 3 s 7,8; 2014 c 296 art 13 s 24; 5Sp2020 c 3 art 5 s 18; 1Sp2021 c 11 art 3 s 18-22

363A.37 CERTIFICATES OF COMPLIANCE.

Subdivision 1. **Rules.** The commissioner shall adopt rules to implement section 363A.36 specifying the criteria used to review affirmative action plans and the standards used to review implementation of affirmative action plans. A firm or business certified to be in compliance with affirmative action requirements of a local human rights agency or the federal government shall be deemed to be in compliance with section 363A.36 upon receipt by the commissioner of an affirmative action plan approved by a local human rights agency or the federal government and amendments to the plan which are necessary to address the employment of disabled persons protected by section 363A.08.

Subd. 2. **Issuing certificates of compliance.** The commissioner shall issue a certificate of compliance or a letter stating notice of deficiencies within 15 days after the department has received the information required in Minnesota Rules, part 5000.3560, subpart 1. The notification must state specifically the ways in which the submission fails to meet the requirements of Minnesota Rules, part 5000.3560, subpart 1. Certificates of compliance shall be issued 15 days after the department has received a revised submission that complies with Minnesota Rules, part 5000.3560, subpart 1.

History: *1981 c 326 s 2; 2001 c 186 s 4; 2013 c 72 s 2*

363A.38 MANUFACTURED HOME PARKS.

A park owner must comply with section 327C.02, subdivision 2, 327C.05, or 327C.07, subdivision 4, when adopting or amending a rule concerning the permitted familial status of residents or of buyers of homes offered for in park sale.

History: *1955 c 516 s 4; 1961 c 428 s 4; 1965 c 584 s 1; 1967 c 897 s 10,11; 1973 c 729 s 2; 1975 c 206 s 1; 1977 c 351 s 2-4; 1977 c 408 s 2; 1977 c 430 s 25 subd 1; 1978 c 649 s 4; 1980 c 355 s 3; 1980 c 509 s 143; 1980 c 531 s 3; 1982 c 492 s 2; 1982 c 526 art 2 s 16; 1983 c 276 s 5,6; 1983 c 301 s 198; 1984 c 608 s 3; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 23 s 2; 1987 c 129 s 1,2; 1988 c 660 s 2,3; 1989 c 280 s 4-8; 1990 c 567 s 2; 1992 c 527 s 11; 1993 c 22 s 3-6; 1994 c 483 s 1; 1996 c 431 s 1; 1997 c 239 art 12 s 2; 1998 c 291 s 1; 1998 c 397 art 11 s 3*

363A.39 AFFIRMATIVE MARKETING REGULATIONS.

To promote and encourage open housing policies, the commissioner must establish affirmative marketing regulations for housing developers that receive more than $50,000 in state or local funds. The regulations must require the management or marketing agency for the housing development to adopt an information distribution or marketing plan for actively informing minorities and other protected groups of available housing opportunities. For purposes of this section, "protected groups" has the meaning given it in section 43A.02, subdivision 33. The commissioner may adopt rules to carry out the purposes of this section.

History: *1989 c 328 art 3 s 1*

363A.40 RENTAL HOUSING PRIORITY; ACCESSIBLE UNITS.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Accessible unit" means an accessible rental housing unit that meets the persons with disabilities requirements of the State Building Code.

(c) "Landlord" has the meaning given it in section 504B.001, subdivision 7.

Subd. 2. **Priority requirement.** (a) A landlord of rental housing that contains accessible units must give priority for the rental of an accessible unit to a disabled person or a family with a disabled family member who will reside in the unit. The landlord must inform nondisabled persons and families that do not include a disabled family member of the possibility of being offered a non-disability-equipped unit as provided under this section before a rental agreement to rent an accessible unit is entered.

(b) If a nondisabled person or a family that does not include a disabled person is living in an accessible unit, the person or family must be offered a non-disability-equipped unit if the following conditions occur:

(1) a disabled person or a family with a disabled family member who will reside in the unit has signed a rental agreement to rent the accessible unit; and

(2) a similar non-disability-equipped unit in the same rental housing complex is available at the same rent.

History: *1989 c 328 art 3 s 2; 1999 c 199 art 2 s 14; 2005 c 56 s 1; 2007 c 140 art 12 s 13*

363A.41 CRIMINAL CODE; EFFECT.

Nothing in this chapter alters the provisions of chapter 609 or other law relating to criminal penalties.

History: *1993 c 22 s 20*

363A.42 PUBLIC RECORDS; ACCESSIBILITY.

Subdivision 1. **Definitions.** For purposes of this section, "records" means any publicly available recorded information that is collected, created, received, maintained or disseminated by the executive, judicial or legislative branches of the state, the Minnesota State Colleges and Universities, the University of Minnesota, cities, towns, counties, school districts and all other political subdivisions of the state, regardless of physical form or method of storage.

Subd. 2. **Accessibility.** Upon request by an individual, records must be made available within a reasonable time period to persons with disabilities in a manner consistent with state and federal laws prohibiting discrimination against persons with disabilities. Reasonable modifications must be made in any policies, practices and procedures that might otherwise deny equal access to records to individuals with disabilities.

Subd. 2a. **Exemptions.** Notwithstanding any law to the contrary except Laws 2009, chapter 131, this section does not apply to: (1) technology procured or developed prior to January 1, 2013, unless substantially modified or substantially enhanced after January 1, 2013; or (2) records that cannot be reasonably modified to be accessible without an undue burden as defined in section 16E.015, subdivision 4, to the public entity.

Subd. 3. **Penalties.** Violation of this section is subject to a penalty of $500 per violation, plus reasonable attorney fees, costs and disbursements, payable to a qualified disabled person under section 363A.03, subdivision 36, who sought the accessible record under subdivision 2, by the public entity in violation of this section. The total amount of penalties payable to any individual or class regardless of the number of violations is limited to $15,000. In any class action or series of class actions which arise from a violation of this section, the amount of attorney fees awarded against the violating public entity may not exceed $15,000. Any action must be commenced within one year of the occurrence of the alleged violation.

History: *2010 c 271 s 2; 2010 c 347 art 1 s 22*

363A.43 CONTINUING EDUCATION; ACCESSIBILITY.

Subdivision 1. **Accessibility.** Upon request by an individual, any continuing education or professional development course, offering, material or activity approved or administered by the state, political subdivisions of the state, the University of Minnesota or the Minnesota State Colleges and Universities, must be made available within a reasonable time period to persons with disabilities in a manner consistent with state and federal laws prohibiting discrimination against persons with disabilities. Reasonable modifications must be made in any policies, practices and procedures that might otherwise deny equal access to continuing education or professional development to individuals with disabilities.

Subd. 2. **Penalties.** Violation of this section is subject to a penalty of $500 per violation, plus reasonable attorney fees, costs and disbursements, payable to a qualified disabled person under section 363A.03, subdivision 36, who sought the accessible format under subdivision 1, by the public entity or the entity offering the course, material, or activity under a contract with a public entity. The total amount of penalties payable to any individual or class regardless of the number of violations is limited to $15,000. In any class action or series of class actions which arise from a violation of this section, the amount of attorney fees awarded against the violating public entity may not exceed $15,000. Any action must be commenced within one year of the occurrence of the alleged violation.

History: *2010 c 271 s 3; 2010 c 347 art 1 s 23*

363A.44 EQUAL PAY CERTIFICATE.

Subdivision 1. **Scope.** (a) No department, agency of the state, the Metropolitan Council, or an agency subject to section 473.143, subdivision 1, shall execute a contract for goods or services or an agreement for goods or services in excess of $500,000 with a business that has 40 or more full-time employees in this state or a state where the business has its primary place of business on a single day during the prior 12 months, unless the business has an equal pay certificate or it has certified in writing that it is exempt. A certificate is valid for four years.

(b) An agency that uses state money to pay for part or all of a capital project is subject to and must comply with the restrictions in this section for contracts exceeding $500,000. A political subdivision that uses state money to pay for part or all of a capital project is subject to and must comply with the restrictions in this section for contracts exceeding $1,000,000. For purposes of this paragraph, "agency," "political subdivision," "capital project," and "state money" have the meanings given in section 363A.36, subdivision 1a. This paragraph applies to a capital project or discrete phase of a capital project for which state money has been appropriated on or after January 1, 2022.

(c) This section does not apply to a business with respect to a specific contract if the commissioner of administration determines that application of this section would cause undue hardship to the contracting entity. This section does not apply to a contract to provide goods and services to individuals under chapters 43A, 62A, 62C, 62D, 62E, 256B, 256I, 256L, and 268A, with a business that has a license, certification, registration, provider agreement, or provider enrollment contract that is prerequisite to providing those goods and services. This section does not apply to contracts entered into by the State Board of Investment for investment options under section 352.965, subdivision 4.

Subd. 2. **Application.** (a) A business shall apply for an equal pay certificate by paying a $250 filing fee and submitting an equal pay compliance statement to the commissioner. The proceeds from the fees collected under this subdivision shall be deposited in an equal pay certificate special revenue account. Money in the account is appropriated to the commissioner for the purposes of this section. The commissioner shall issue

an equal pay certificate of compliance to a business that submits to the commissioner a statement signed by the chairperson of the board or chief executive officer of the business:

(1) that the business is in compliance with Title VII of the Civil Rights Act of 1964, Equal Pay Act of 1963, Minnesota Human Rights Act, and Minnesota Equal Pay for Equal Work Law;

(2) that the average compensation for its female employees is not consistently below the average compensation for its male employees within each of the major job categories in the EEO-1 employee information report for which an employee is expected to perform work under the contract, taking into account factors such as length of service, requirements of specific jobs, experience, skill, effort, responsibility, working conditions of the job, or other mitigating factors;

(3) that the business does not restrict employees of one sex to certain job classifications and makes retention and promotion decisions without regard to sex;

(4) that wage and benefit disparities are corrected when identified to ensure compliance with the laws cited in clause (1) and with clause (2); and

(5) how often wages and benefits are evaluated to ensure compliance with the laws cited in clause (1) and with clause (2).

(b) The equal pay compliance statement shall also indicate whether the business, in setting compensation and benefits, utilizes:

(1) a market pricing approach;

(2) state prevailing wage or union contract requirements;

(3) a performance pay system;

(4) an internal analysis; or

(5) an alternative approach to determine what level of wages and benefits to pay its employees. If the business uses an alternative approach, the business must provide a description of its approach.

(c) Receipt of the equal pay compliance statement by the commissioner does not establish compliance with the laws set forth in paragraph (a), clause (1).

Subd. 3. **Issuance or rejection of certificate.** The commissioner must issue an equal pay certificate, or a statement of why the application was rejected, within 15 days of receipt of the application. An application may be rejected only if it does not comply with the requirements of subdivision 2.

Subd. 4. **Violations; remedies.** An equal pay certificate for a business may be suspended or revoked by the commissioner when the business fails to make a good-faith effort to comply with the laws identified in subdivision 2, paragraph (a), clause (1), fails to make a good-faith effort to comply with this section, or has multiple violations of this section or the laws identified in subdivision 2, paragraph (a), clause (1). The commissioner may also issue a fine due to lack of compliance with this section of up to $5,000 per calendar year for each contract. The commissioner may suspend or revoke an equal pay certificate until the business has paid all outstanding fines and otherwise complies with this section. Prior to issuing a fine or suspending or revoking a certificate, the commissioner must first have sought to conciliate with the business regarding wages and benefits due to employees.

Subd. 5. **Revocation of contract.** (a) If a contract is awarded to a business that does not have an equal pay certificate as required under subdivision 1, or that is not in compliance with subdivision 2, paragraph (a), the commissioner may void the contract on behalf of the state. The contract award entity that is a party to the agreement must be notified by the commissioner prior to the commissioner taking action to void the contract.

(b) A contract may be abridged or terminated by the contract award entity identified in subdivision 1 upon notice that the commissioner has suspended or revoked the certificate of the business.

Subd. 6. **Administrative review.** (a) A business may obtain an administrative hearing pursuant to sections 14.57 to 14.69 before the suspension or revocation of its certificate is effective by filing a written request for hearing 20 days after service of notice by the commissioner.

(b) A business may obtain an administrative hearing pursuant to sections 14.57 to 14.69 before the contract award entity's abridgement or termination of a contract is effective by filing a written request for a hearing 20 days after service of notice by the contract award entity.

Subd. 7. **Technical assistance.** The commissioner must provide technical assistance to any business that requests assistance regarding this section.

Subd. 8. **Audit.** The commissioner may audit the business's compliance with this section. As part of an audit, upon request, a business must provide the commissioner the following information with respect to employees expected to perform work under the contract in each of the major job categories in the EEO-1 employee information report:

(1) number of male employees;

(2) number of female employees;

(3) average annualized salaries paid to male employees and to female employees, in the manner most consistent with the employer's compensation system, within each major job category;

(4) information on performance payments, benefits, or other elements of compensation, in the manner most consistent with the employer's compensation system, if requested by the commissioner as part of a determination as to whether these elements of compensation are different for male and female employees;

(5) average length of service for male and female employees in each major job category; and

(6) other information identified by the business or by the commissioner, as needed, to determine compliance with items specified in subdivision 2, paragraph (a).

Subd. 9. **Access to data.** Data submitted to the commissioner related to equal pay certificates are private data on individuals or nonpublic data with respect to persons other than department employees. The commissioner's decision to issue, not issue, revoke, or suspend or otherwise penalize a certificate holder of an equal pay certificate is public data. Applications, forms, or similar documents submitted by a business seeking an equal pay certificate are public data. The commissioner may disclose data classified as private or nonpublic under this subdivision to other state agencies, statewide systems, and political subdivisions for the purposes of achieving compliance with this section.

Subd. 10. **Report.** The commissioner shall report to the governor and the chairs and ranking minority members of the committees in the senate and the house of representatives with primary jurisdiction over the department by January 31 of every even-numbered year, beginning January 31, 2016. The report shall indicate the number of equal pay certificates issued, the number of audits conducted, the processes used by

contractors to ensure compliance with subdivision 2, paragraph (a), and a summary of its auditing efforts. The commissioner shall consult with the Legislative Coordinating Commission Office on the Economic Status of Women in preparing the report.

History: *2014 c 239 art 2 s 6; 2014 c 312 art 4 s 24; 5Sp2020 c 3 art 5 s 19; 1Sp2021 c 11 art 3 s 23-25*

363A.50 NONDISCRIMINATION IN ACCESS TO TRANSPLANTS.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given unless the context clearly requires otherwise.

(b) "Anatomical gift" has the meaning given in section 525A.02, subdivision 4.

(c) "Auxiliary aids and services" include, but are not limited to:

(1) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments and to non-English-speaking individuals;

(2) qualified readers, taped texts, texts in accessible electronic format, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) the provision of information in a format that is accessible for individuals with cognitive, neurological, developmental, intellectual, or physical disabilities;

(4) the provision of supported decision-making services; and

(5) the acquisition or modification of equipment or devices.

(d) "Covered entity" means:

(1) any licensed provider of health care services, including licensed health care practitioners, hospitals, nursing facilities, laboratories, intermediate care facilities, psychiatric residential treatment facilities, institutions for individuals with intellectual or developmental disabilities, and prison health centers; or

(2) any entity responsible for matching anatomical gift donors to potential recipients.

(e) "Disability" has the meaning given in section 363A.03, subdivision 12.

(f) "Organ transplant" means the transplantation or infusion of a part of a human body into the body of another for the purpose of treating or curing a medical condition.

(g) "Qualified individual" means an individual who, with or without available support networks, the provision of auxiliary aids and services, or reasonable modifications to policies or practices, meets the essential eligibility requirements for the receipt of an anatomical gift.

(h) "Reasonable modifications" include, but are not limited to:

(1) communication with individuals responsible for supporting an individual with postsurgical and post-transplantation care, including medication; and

(2) consideration of support networks available to the individual, including family, friends, and home and community-based services, including home and community-based services funded through Medicaid, Medicare, another health plan in which the individual is enrolled, or any program or source of funding available to the individual, in determining whether the individual is able to comply with post-transplant medical requirements.

(i) "Supported decision making" has the meaning given in section 524.5-102, subdivision 16a.

Subd. 2. **Prohibition of discrimination.** (a) A covered entity may not, on the basis of a qualified individual's race, ethnicity, mental disability, or physical disability:

(1) deem an individual ineligible to receive an anatomical gift or organ transplant;

(2) deny medical or related organ transplantation services, including evaluation, surgery, counseling, and postoperative treatment and care;

(3) refuse to refer the individual to a transplant center or other related specialist for the purpose of evaluation or receipt of an anatomical gift or organ transplant;

(4) refuse to place an individual on an organ transplant waiting list or place the individual at a lower-priority position on the list than the position at which the individual would have been placed if not for the individual's race, ethnicity, or disability; or

(5) decline insurance coverage for any procedure associated with the receipt of the anatomical gift or organ transplant, including post-transplantation and postinfusion care.

(b) Notwithstanding paragraph (a), a covered entity may take an individual's disability into account when making treatment or coverage recommendations or decisions, solely to the extent that the physical or mental disability has been found by a physician, following an individualized evaluation of the potential recipient to be medically significant to the provision of the anatomical gift or organ transplant. The provisions of this section may not be deemed to require referrals or recommendations for, or the performance of, organ transplants that are not medically appropriate given the individual's overall health condition.

(c) If an individual has the necessary support system to assist the individual in complying with post-transplant medical requirements, an individual's inability to independently comply with those requirements may not be deemed to be medically significant for the purposes of paragraph (b).

(d) A covered entity must make reasonable modifications to policies, practices, or procedures, when such modifications are necessary to make services such as transplantation-related counseling, information, coverage, or treatment available to qualified individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such services.

(e) A covered entity must take such steps as may be necessary to ensure that no qualified individual with a disability is denied services such as transplantation-related counseling, information, coverage, or treatment because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the services being offered or result in an undue burden. A covered entity is not required to provide supported decision-making services.

(f) A covered entity must otherwise comply with the requirements of Titles II and III of the Americans with Disabilities Act of 1990, the Americans with Disabilities Act Amendments Act of 2008, and the Minnesota Human Rights Act.

(g) The provisions of this section apply to each part of the organ transplant process.

Subd. 3. **Remedies.** In addition to all other remedies available under this chapter, any individual who has been subjected to discrimination in violation of this section may initiate a civil action in a court of competent jurisdiction to enjoin violations of this section.

History: *2021 c 30 art 14 s 2; 2022 c 98 art 13 s 11*