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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2016

03/04/2019 Authored by Johnson and Grossell
The bill was read for the first time and referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to public safety; amending the fourth-degree assault crime; amending
1.3 Minnesota Statutes 2018, section 609.2231.

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

1.5 Section 1. Minnesota Statutes 2018, section 609.2231, is amended to read:

1.6 609.2231 ASSAULT IN THE FOURTH DEGREE.

1.7 Subdivision 1. Peace officers. (a) As used in this subdivision, "peace officer" means a
1.8 person who is licensed under section 626.845, subdivision 1, and effecting a lawful arrest
1.9 or executing any other duty imposed by law.

1.10 (b) Whoever physically assaults a peace officer is guilty of a gross misdemeanor.

1.11 (c) Whoever commits either of the following acts against a peace officer is guilty of a
1.12 felony and may be sentenced to imprisonment for not more than three years or to payment
1.13 of a fine of not more than \$6,000, or both: (1) physically assaults the officer if the assault
1.14 inflicts demonstrable bodily harm; or (2) intentionally throws or otherwise transfers bodily
1.15 fluids or feces at or onto the officer.

1.16 Subd. 2. Firefighters and emergency medical personnel. Whoever physically assaults
1.17 any of the following persons and inflicts demonstrable bodily harm on or intentionally
1.18 throws or otherwise transfers bodily fluids or feces at or onto a member of a municipal or
1.19 volunteer fire department or emergency medical services personnel unit in the performance
1.20 of the member's duties is guilty of a felony and may be sentenced to imprisonment for not
1.21 more than two years or to payment of a fine of not more than \$4,000, or both.

2.1 ~~(1) a member of a municipal or volunteer fire department or emergency medical services~~
 2.2 ~~personnel unit in the performance of the member's duties; or~~

2.3 ~~(2) a physician, nurse, or other person providing health care services in a hospital~~
 2.4 ~~emergency department.~~

2.5 Subd. 2a. **Certain Department of Natural Resources employees.** Whoever physically
 2.6 assaults and inflicts demonstrable bodily harm on or intentionally throws or otherwise
 2.7 transfers bodily fluids or feces at or onto an employee of the Department of Natural Resources
 2.8 who is engaged in forest fire activities is guilty of a gross misdemeanor.

2.9 Subd. 3. **Correctional employees; prosecuting attorneys; judges; probation**
 2.10 **officers.** Whoever commits either of the following acts against an employee of a correctional
 2.11 facility as defined in section 241.021, subdivision 1, paragraph (f), against a prosecuting
 2.12 attorney as defined in section 609.221, subdivision 2, paragraph (c), clause (4), against a
 2.13 judge as defined in section 609.221, subdivision 2, paragraph (c), clause (5), or against a
 2.14 probation or parole officer or other qualified person employed in supervising offenders
 2.15 while the person is engaged in the performance of a duty imposed by law, policy, or rule is
 2.16 guilty of a felony and may be sentenced to imprisonment for not more than two years or to
 2.17 payment of a fine of not more than \$4,000, or both:

2.18 (1) physically assaults the person and inflicts demonstrable bodily harm; or

2.19 (2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the person.

2.20 Subd. 3a. **Secure treatment facility personnel.** (a) As used in this subdivision, "secure
 2.21 treatment facility" includes facilities listed in sections 253B.02, subdivision 18a, and
 2.22 253D.02, subdivision 13.

2.23 (b) Whoever, while committed under chapter 253D, Minnesota Statutes 2012, section
 2.24 253B.185, or Minnesota Statutes 1992, section 526.10, commits either of the following acts
 2.25 against an employee or other individual who provides care or treatment at a secure treatment
 2.26 facility while the person is engaged in the performance of a duty imposed by law, policy,
 2.27 or rule is guilty of a felony and may be sentenced to imprisonment for not more than two
 2.28 years or to payment of a fine of not more than \$4,000, or both:

2.29 (1) physically assaults the person and inflicts demonstrable bodily harm; or

2.30 (2) intentionally throws or otherwise transfers bodily fluids or feces at or onto the person.

2.31 (c) Whoever, while committed under section 253B.18, or admitted under the provision
 2.32 of section 253B.10, subdivision 1, commits either of the following acts against an employee
 2.33 or other individual who supervises and works directly with patients at a secure treatment

3.1 facility while the person is engaged in the performance of a duty imposed by law, policy,
 3.2 or rule, is guilty of a felony and may be sentenced to imprisonment for not more than two
 3.3 years or to payment of a fine of not more than \$4,000, or both:

3.4 (1) physically assaults the person and inflicts demonstrable bodily harm; or

3.5 (2) intentionally throws or otherwise transfers ~~urine, blood, semen,~~ bodily fluids or feces
 3.6 at or onto the person.

3.7 (d) The court shall commit a person convicted of violating paragraph (b) to the custody
 3.8 of the commissioner of corrections for not less than one year and one day. The court may
 3.9 not, on its own motion or the prosecutor's motion, sentence a person without regard to this
 3.10 paragraph. A person convicted and sentenced as required by this paragraph is not eligible
 3.11 for probation, parole, discharge, work release, or supervised release, until that person has
 3.12 served the full term of imprisonment as provided by law, notwithstanding the provisions of
 3.13 sections 241.26, 242.19, 243.05, 244.04, 609.12, and 609.135.

3.14 (e) Notwithstanding the statutory maximum sentence provided in paragraph (b), when
 3.15 a court sentences a person to the custody of the commissioner of corrections for a violation
 3.16 of paragraph (b), the court shall provide that after the person has been released from prison,
 3.17 the commissioner shall place the person on conditional release for five years. The terms of
 3.18 conditional release are governed by sections 244.05 and 609.3455, subdivision 6, 7, or 8;
 3.19 and Minnesota Statutes 2004, section 609.109.

3.20 Subd. 4. **Assaults motivated by bias.** (a) Whoever assaults or intentionally throws or
 3.21 otherwise transfers bodily fluids or feces at or onto another because of the victim's or
 3.22 another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined
 3.23 in section 363A.03, age, or national origin ~~may be sentenced to imprisonment for not more~~
 3.24 ~~than one year or to payment of a fine of not more than \$3,000, or both~~ is guilty of a gross
 3.25 misdemeanor.

3.26 (b) Whoever violates the provisions of paragraph (a) within five years of a previous
 3.27 conviction under paragraph (a) is guilty of a felony and may be sentenced to imprisonment
 3.28 for not more than one year and a day or to payment of a fine of not more than \$3,000, or
 3.29 both.

3.30 Subd. 5. **School official.** Whoever physically assaults and inflicts demonstrable bodily
 3.31 harm on or intentionally throws or otherwise transfers bodily fluids or feces at or onto a
 3.32 school official while the official is engaged in the performance of the official's duties, ~~and~~
 3.33 ~~inflicts demonstrable bodily harm,~~ is guilty of a gross misdemeanor. As used in this

4.1 subdivision, "school official" includes teachers, school administrators, and other employees
4.2 of a public or private school.

4.3 Subd. 6. **Public employees with mandated duties.** A person is guilty of a gross
4.4 misdemeanor who:

4.5 (1) physically assaults and inflicts demonstrable bodily harm on or intentionally throws
4.6 or otherwise transfers bodily fluids or feces at or onto an agricultural inspector, occupational
4.7 safety and health investigator, child protection worker, public health nurse, or animal control
4.8 officer, or probation or parole officer while the employee is engaged in the performance of
4.9 a duty mandated by law, court order, or ordinance; and

4.10 (2) knows that the victim is a public employee engaged in the performance of the official
4.11 public duties of the office; ~~and~~

4.12 ~~(3) inflicts demonstrable bodily harm.~~

4.13 Subd. 7. **Community crime prevention group members.** (a) A person is guilty of a
4.14 gross misdemeanor who:

4.15 (1) physically assaults and inflicts demonstrable bodily harm on or intentionally throws
4.16 or otherwise transfers bodily fluids or feces at or onto a community crime prevention group
4.17 member while the member is engaged in neighborhood patrol; and

4.18 (2) should reasonably know that the victim is a community crime prevention group
4.19 member engaged in neighborhood patrol; ~~and~~

4.20 ~~(3) inflicts demonstrable bodily harm.~~

4.21 (b) As used in this subdivision, "community crime prevention group" means a community
4.22 group focused on community safety and crime prevention that:

4.23 (1) is organized for the purpose of discussing community safety and patrolling community
4.24 neighborhoods for criminal activity;

4.25 (2) is designated and trained by the local law enforcement agency as a community crime
4.26 prevention group; or

4.27 (3) interacts with local law enforcement regarding community safety issues.

4.28 Subd. 8. **Vulnerable adults.** (a) As used in this subdivision, "vulnerable adult" has the
4.29 meaning given in section 609.232, subdivision 11.

4.30 (b) Whoever physically assaults and inflicts demonstrable bodily harm on or intentionally
4.31 throws or otherwise transfers bodily fluids or feces at or onto a vulnerable adult, knowing

5.1 or having reason to know that the person is a vulnerable adult, is guilty of a gross
5.2 misdemeanor.

5.3 Subd. 9. **Reserve officer.** A person is guilty of a gross misdemeanor who:

5.4 (1) physically assaults and inflicts demonstrable bodily harm on or intentionally throws
5.5 or otherwise transfers bodily fluids or feces at or onto a reserve officer as defined in section
5.6 626.84, subdivision 1, paragraph (e), who is engaged in the performance of official public
5.7 duties at the direction of, under the control of, or on behalf of a peace officer or supervising
5.8 law enforcement officer or agency; and

5.9 (2) should reasonably know that the victim is a reserve officer engaged in the performance
5.10 of official public duties of the peace officer, or supervising law enforcement officer or
5.11 agency.

5.12 Subd. 10. **Utility and postal service employees and contractors.** (a) A person is guilty
5.13 of a gross misdemeanor who:

5.14 (1) physically assaults and inflicts demonstrable bodily harm on or intentionally throws
5.15 or otherwise transfers bodily fluids or feces at or onto an employee or contractor of a utility
5.16 or the United States Postal Service while the employee or contractor is engaged in the
5.17 performance of the employee's or contractor's duties; and

5.18 (2) should reasonably know that the victim is an employee or contractor of a utility or
5.19 the postal service who is:

5.20 (i) performing duties of the victim's employment; or

5.21 (ii) fulfilling the victim's contractual obligations; ~~and~~

5.22 ~~(3) inflicts demonstrable bodily harm.~~

5.23 (b) As used in this subdivision, "utility" has the meaning given it in section 609.594,
5.24 subdivision 1, clause (3).

5.25 Subd. 11. **Transit operators.** (a) A person is guilty of a gross misdemeanor if (1) the
5.26 person assaults a transit operator, or intentionally throws or otherwise transfers bodily fluids
5.27 at or onto a transit operator; and (2) the transit operator is acting in the course of the operator's
5.28 duties and is operating a transit vehicle, aboard a transit vehicle, or otherwise responsible
5.29 for a transit vehicle. A person convicted under this paragraph may be sentenced to
5.30 imprisonment for not more than one year or to payment of a fine of not more than \$3,000,
5.31 or both.

6.1 (b) For the purposes of this subdivision, "transit operator" means a driver or operator of
6.2 a transit vehicle that is used to provide any of the following services:

6.3 (1) public transit, as defined in section 174.22, subdivision 7;

6.4 (2) light rail transit service;

6.5 (3) special transportation service under section 473.386, whether provided by the
6.6 Metropolitan Council or by other providers under contract with the council; or

6.7 (4) commuter rail service.

6.8 Subd. 12. **Hospital emergency room personnel.** Whoever physically assaults and
6.9 inflicts demonstrable bodily harm on or intentionally throws or otherwise transfers bodily
6.10 fluids or feces at or onto a physician, nurse, or other person providing health care services
6.11 in a hospital emergency department is guilty of a felony and may be sentenced to
6.12 imprisonment for not more than two years or to payment of a fine of not more than \$4,000,
6.13 or both.

6.14 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
6.15 committed on or after that date.