

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 2206

(SENATE AUTHORS: HOUSLEY and Abeler)

DATE
03/20/2017

D-PG

OFFICIAL STATUS
Introduction and first reading
Referred to State Government Finance and Policy and Elections

1.1 A bill for an act
1.2 relating to employment; prohibiting discrimination against a public employee for
1.3 reporting certain information or refusing to perform certain actions; imposing civil
1.4 penalties; amending Minnesota Statutes 2016, sections 181.932, subdivision 1;
1.5 181.935.

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

1.7 Section 1. Minnesota Statutes 2016, section 181.932, subdivision 1, is amended to read:

1.8 Subdivision 1. **Prohibited action.** An employer shall not discharge, discipline, threaten,
1.9 otherwise discriminate against, or penalize an employee regarding the employee's
1.10 compensation, terms, conditions, location, or privileges of employment because:

1.11 (1) the employee, or a person acting on behalf of an employee, in good faith, reports a
1.12 violation, suspected violation, or planned violation of any federal or state law or common
1.13 law or rule adopted pursuant to law to an employer or to any governmental body or law
1.14 enforcement official;

1.15 (2) the employee is requested by a public body or office to participate in an investigation,
1.16 hearing, inquiry;

1.17 (3) the employee refuses an employer's order to perform an action that the employee
1.18 has an objective basis in fact to believe violates any state or federal law or rule or regulation
1.19 adopted pursuant to law, and the employee informs the employer that the order is being
1.20 refused for that reason;

1.21 (4) the employee, in good faith, reports a situation in which the quality of health care
1.22 services provided by a health care facility, organization, or health care provider violates a

2.1 standard established by federal or state law or a professionally recognized national clinical
 2.2 or ethical standard and potentially places the public at risk of harm;

2.3 (5) a public employee communicates the findings of a scientific or technical study that
 2.4 the employee, in good faith, believes to be truthful and accurate, including reports to a
 2.5 governmental body or law enforcement official; ~~or~~

2.6 (6) an employee in the classified service of state government communicates information
 2.7 that the employee, in good faith, believes to be truthful and accurate, and that relates to state
 2.8 services, including the financing of state services, to:

2.9 (i) a legislator or the legislative auditor; or

2.10 (ii) a constitutional officer; or

2.11 (7) a public employee engaged in work on behalf of a public employer who:

2.12 (i) refuses that public employer's order to perform an action that the employee has an
 2.13 objective basis in fact to believe would violate recognized ethical standards governing an
 2.14 occupation for which the employee holds a license; or

2.15 (ii) reports to a governmental body or official a situation that the employee has an
 2.16 objective basis in fact to believe violated or would violate recognized ethical standards
 2.17 governing the employee's licensed occupation.

2.18 The disclosures protected pursuant to this section do not authorize the disclosure of data
 2.19 otherwise protected by law. An action against a public employer under this section based
 2.20 on a report or other communication made by an employee to the person's employer may be
 2.21 brought at any time within ten years of the report or other communication.

2.22 **EFFECTIVE DATE.** This section is effective the day following final enactment and
 2.23 is retroactive so that an action against a public employer based on clause (7) may be brought
 2.24 based on conduct by the public employer that occurred any time after or ten years prior to
 2.25 the effective date of this section.

2.26 Sec. 2. Minnesota Statutes 2016, section 181.935, is amended to read:

2.27 **181.935 INDIVIDUAL REMEDIES; PENALTY.**

2.28 (a) In addition to any remedies otherwise provided by law, an employee injured by a
 2.29 violation of section 181.932 may bring a civil action to recover any and all damages
 2.30 recoverable at law, together with costs and disbursements, including reasonable attorney's
 2.31 fees, and may receive such injunctive and other equitable relief as determined by the court.

3.1 (b) An employer who failed to notify, as required under section 181.933 or 181.934, an
3.2 employee injured by a violation of section 181.932 is subject to a civil penalty of \$25 per
3.3 day per injured employee not to exceed \$750 per injured employee.

3.4 (c) If the district court determines that a violation of section 181.932 occurred, the court
3.5 may order any appropriate relief, including but not limited to reinstatement, back pay,
3.6 restoration of lost service credit, if appropriate, compensatory damages, and the expungement
3.7 of any adverse records of an employee who was the subject of the alleged acts of misconduct.

3.8 (d) In addition to other remedies and damages provided by this section, if a district court
3.9 determines that a violation of section 181.932, subdivision 1, clause (7), occurred, the court
3.10 must require the public employer to pay \$10,000 to the injured employee.

3.11 (e) A public employer who pays damages, costs, disbursements, or fees as a result of a
3.12 violation of section 181.932 may recover these amounts from one or more of its employees
3.13 if the public employer demonstrates that the employee's conduct caused the violation of
3.14 section 181.932 and that the employee knew the conduct violated section 181.932.