

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 4292

(SENATE AUTHORS: WESTLIN)

DATE
02/26/2024

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Introduction and first reading
Referred to Judiciary and Public Safety

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to human rights; making changes to provisions in the Minnesota Human
1.3 Rights Act; providing for civil penalty and punitive damages; amending Minnesota
1.4 Statutes 2022, sections 363A.03, subdivisions 12, 13, 18, 29; 363A.06, subdivision
1.5 4; 363A.07, subdivision 4; 363A.19; 363A.28, subdivision 5; 363A.29, subdivisions
1.6 1, 2; 363A.33, subdivision 1, by adding subdivisions; Minnesota Statutes 2023
1.7 Supplement, sections 363A.02, subdivision 1; 363A.04; 363A.16, subdivision 1;
1.8 repealing Minnesota Statutes 2022, section 363A.03, subdivision 3.

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

1.10 Section 1. Minnesota Statutes 2023 Supplement, section 363A.02, subdivision 1, is
1.11 amended to read:

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

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

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

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

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

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

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

2.9 Sec. 2. Minnesota Statutes 2022, section 363A.03, subdivision 12, is amended to read:

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

2.16 Sec. 3. Minnesota Statutes 2022, section 363A.03, subdivision 13, is amended to read:

2.17 Subd. 13. **Discriminate.** The term "discriminate" includes segregate ~~or~~, separate ~~and~~,
2.18 ~~for purposes of discrimination based on sex, it includes sexual,~~ or harassment.

2.19 Sec. 4. Minnesota Statutes 2022, section 363A.03, subdivision 18, is amended to read:

2.20 Subd. 18. **Familial status.** "Familial status" means the condition of one or more minors
2.21 ~~being domiciled~~ having legal status or custody with (1) ~~their~~ the minor's parent or parents
2.22 or the minor's legal guardian or guardians or (2) the designee of the parent or parents or
2.23 guardian or guardians with the written permission of the parent or parents or guardian or
2.24 guardians. Familial status also means the condition of one or more individuals 18 years of
2.25 age or older who lack the ability to meet essential requirements for physical health, safety,
2.26 or self-care because the individual or individuals are unable to receive and evaluate
2.27 information or make or communicate decisions. The protections afforded against
2.28 discrimination on the basis of family status apply to any person who is pregnant or is in the
2.29 process of securing legal custody of an individual who has not attained the age of majority.

3.1 Sec. 5. Minnesota Statutes 2022, section 363A.03, subdivision 29, is amended to read:

3.2 Subd. 29. **Party in interest.** "Party in interest" means the complainant, respondent, or
3.3 commissioner ~~or board member~~.

3.4 Sec. 6. Minnesota Statutes 2023 Supplement, section 363A.04, is amended to read:

3.5 **363A.04 CONSTRUCTION AND EXCLUSIVITY.**

3.6 The provisions of this chapter shall be construed liberally for the accomplishment of the
3.7 purposes thereof. Nothing contained in this chapter shall be deemed to repeal any of the
3.8 provisions of the civil rights law or of any other law of this state relating to discrimination
3.9 because of race, creed, color, religion, sex, gender identity, age, disability, marital status,
3.10 status with regard to public assistance, national origin, sexual orientation, or familial status;
3.11 but, as to acts declared unfair by sections 363A.08 to 363A.19, and 363A.28, subdivision
3.12 10, the administrative procedure herein provided shall, while pending, be exclusive. The
3.13 rights and remedies herein provided are in addition to, and shall not preclude, those available
3.14 at law or in equity.

3.15 Sec. 7. Minnesota Statutes 2022, section 363A.06, subdivision 4, is amended to read:

3.16 Subd. 4. **Publication of case account.** The commissioner may publish an account of a
3.17 case in which the complaint has been dismissed or the terms of settlement of a case that has
3.18 been voluntarily ~~adjusted~~ resolved with the Department of Human Rights. ~~Except as provided~~
3.19 ~~in other sections of this chapter, the commissioner shall not disclose any information~~
3.20 ~~concerning efforts in a particular case to eliminate an unfair discriminatory practice through~~
3.21 ~~education, conference, conciliation and persuasion.~~

3.22 Sec. 8. Minnesota Statutes 2022, section 363A.07, subdivision 4, is amended to read:

3.23 Subd. 4. **Withdrawal from local commission.** Notwithstanding the provisions of any
3.24 law or ordinance to the contrary, a person who has filed a charge with a local commission
3.25 may bring a civil action as provided in section 363A.34 at the following times:

3.26 (1) within ~~45~~ 90 days after receipt of notice that the local commission has determined
3.27 that there is no probable cause to credit the allegations contained in the charge; receipt of
3.28 notice is presumed to be five days from the date of service by mail of the written notice; or

3.29 (2) after 45 days from the filing of the charge if a hearing has not been held or if the
3.30 local commission has not entered into a conciliation agreement to which the charging party

4.1 is a signator. The charging party shall notify the local commission of an intention to bring
4.2 a civil action, which shall be commenced within 90 days of giving the notice.

4.3 A charging party bringing a civil action shall mail by registered or certified mail a copy
4.4 of the summons and complaint to the local commission and upon their receipt the local
4.5 commission shall terminate all proceedings before the local commission relating to the
4.6 charge. No charge shall be filed or reinstated with the local commission after a civil action
4.7 relating to the same unfair discriminatory practice has been brought unless the civil action
4.8 has been dismissed without prejudice.

4.9 Sec. 9. Minnesota Statutes 2023 Supplement, section 363A.16, subdivision 1, is amended
4.10 to read:

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

4.16 Sec. 10. Minnesota Statutes 2022, section 363A.19, is amended to read:

4.17 **363A.19 DISCRIMINATION AGAINST ~~BLIND, DEAF, OR OTHER PERSONS~~**
4.18 **WITH ~~PHYSICAL OR SENSORY~~ DISABILITIES PROHIBITED.**

4.19 (a) It is an unfair discriminatory practice for an owner, operator, or manager of a hotel,
4.20 restaurant, public conveyance, or other public place to prohibit a ~~blind or deaf person or a~~
4.21 ~~person with a physical or sensory~~ disability from taking a service animal into the public
4.22 place or conveyance to aid ~~blind or deaf persons or persons with physical or sensory~~
4.23 disabilities, and if the service animal is properly harnessed or leashed so that the ~~blind or~~
4.24 ~~deaf person or a person with a physical or sensory~~ disability may maintain control of the
4.25 service animal.

4.26 (b) No person shall require a ~~blind, physically disabled, or deaf person~~ with a disability
4.27 to make an extra payment or pay an additional charge when taking a service animal into
4.28 any of the public places referred to in paragraph (a).

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

5.1 Sec. 11. Minnesota Statutes 2022, section 363A.28, subdivision 5, is amended to read:

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

5.10 Sec. 12. Minnesota Statutes 2022, section 363A.29, subdivision 1, is amended to read:

5.11 Subdivision 1. **Conduct of hearings.** A ~~complaint~~ determination issued by the
5.12 commissioner ~~shall~~ may be heard as a contested case, except that the report of the
5.13 administrative law judge shall be binding on all parties to the proceeding and if appropriate
5.14 shall be implemented by an order as provided for in subdivision 3. The party contesting the
5.15 determination issued by the commissioner may file a request with the commissioner to
5.16 appear at a hearing on the party's own behalf or through a private attorney. The commissioner
5.17 shall forward the request for hearing to the Office of Administrative Hearings, which shall
5.18 promptly set the matter for hearing. The hearing shall be conducted at a place designated
5.19 by the commissioner, within the county where the unfair discriminatory practice occurred
5.20 or where the respondent resides or has a principal place of business. The hearing shall be
5.21 conducted in accordance with sections 14.57 to 14.62, and is subject to appeal in accordance
5.22 with sections 14.63 to 14.68.

5.23 Sec. 13. Minnesota Statutes 2022, section 363A.29, subdivision 2, is amended to read:

5.24 Subd. 2. ~~Hearings 180 days after charge~~ **Tolling during investigation.** ~~At any time~~
5.25 ~~after 180 days from the filing of a charge, if there has been neither a finding of probable~~
5.26 ~~cause nor of no probable cause, the charging party may file a request with the commissioner~~
5.27 ~~to appear at a hearing on the party's own behalf or through a private attorney. The~~
5.28 commissioner shall make a determination of probable cause or no probable cause within
5.29 one year of the filing of a case in which the time has not been tolled. The amount of time
5.30 during which a case is involved in significant settlement negotiations, is being investigated
5.31 by another enforcement agency under a work sharing agreement, or has been referred to
5.32 mediation or to a local human rights commission for no fault grievance processing is ~~not~~
5.33 ~~counted in computing the 180 days~~ tolled. Tolling of the time during settlement negotiations

6.1 requires written approval of the charging party or the party's attorney. ~~The right of a charging~~
 6.2 ~~party to file a request for hearing does not apply in cases that have been certified as complex~~
 6.3 ~~by the commissioner within 60 days of the filing of the charge. A case may not be certified~~
 6.4 ~~as complex unless it involves multiple parties or issues, presents complex issues of law or~~
 6.5 ~~fact, or presents substantially new issues of law in the discrimination area. Within five days~~
 6.6 ~~of certifying a case as complex, the commissioner shall give notice of the certification to~~
 6.7 ~~the charging party and the respondent. The commissioner shall make a determination of~~
 6.8 ~~probable cause or no probable cause within one year of the filing of a case in which the~~
 6.9 ~~time has not been counted or a case certified as complex. Upon receipt of the request, the~~
 6.10 ~~commissioner shall review the documents and information held in the department's files~~
 6.11 ~~concerning the charge and shall release to the charging party and respondent all documents~~
 6.12 ~~and information that are accessible to the charging party and respondent under chapter 13.~~
 6.13 ~~The commissioner shall forward the request for hearing to the Office of Administrative~~
 6.14 ~~Hearings, which shall promptly set the matter for hearing. If the charging party prevails at~~
 6.15 ~~this hearing, the administrative law judge may require the respondent to reimburse the~~
 6.16 ~~charging party for reasonable attorney's fees.~~

6.17 Sec. 14. Minnesota Statutes 2022, section 363A.33, subdivision 1, is amended to read:

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

6.21 (1) within ~~45~~ 90 days after receipt of notice that the commissioner has dismissed a charge
 6.22 because it is frivolous or without merit, because the charging party has failed to provide
 6.23 required information, because the commissioner has determined that further use of department
 6.24 resources is not warranted, or because the commissioner has determined that there is no
 6.25 probable cause to credit the allegations contained in a charge filed with the commissioner;

6.26 (2) within ~~45~~ 90 days after receipt of notice that the commissioner has reaffirmed a
 6.27 determination of no probable cause if the charging party requested a reconsideration of the
 6.28 no probable cause determination, or has decided not to reopen a dismissed case that the
 6.29 charging party has asked to be reopened; or

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

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

7.3 Sec. 15. Minnesota Statutes 2022, section 363A.33, is amended by adding a subdivision
7.4 to read:

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

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

7.24 Sec. 16. Minnesota Statutes 2022, section 363A.33, is amended by adding a subdivision
7.25 to read:

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

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

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

8.7 Sec. 17. **REPEALER.**

8.8 Minnesota Statutes 2022, section 363A.03, subdivision 3, is repealed.

APPENDIX
Repealed Minnesota Statutes: 24-05638

363A.03 DEFINITIONS.

Subd. 3. **Board.** "Board" means the state Board of Human Rights.