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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH  
SESSION

HOUSE FILE No. **3592**

March 9, 2010

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The bill was read for the first time and referred to the Committee on Commerce and Labor

1.1 A bill for an act  
1.2 relating to employment; prohibiting employment discrimination based on credit  
1.3 history; amending Minnesota Statutes 2008, section 363A.08, subdivisions 1, 2,  
1.4 3, 4.

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

1.6 Section 1. Minnesota Statutes 2008, section 363A.08, subdivision 1, is amended to  
1.7 read:

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

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

1.14 (2) to expel a member from membership;

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

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

1.20 Sec. 2. Minnesota Statutes 2008, section 363A.08, subdivision 2, is amended to read:

1.21 Subd. 2. **Employer.** Except when based on a bona fide occupational qualification, it  
1.22 is an unfair employment practice for an employer, because of race, color, creed, religion,

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

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

2.5 (2) discharge an employee; or

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

2.8 Sec. 3. Minnesota Statutes 2008, section 363A.08, subdivision 3, is amended to read:

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

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

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

2.18 Sec. 4. Minnesota Statutes 2008, section 363A.08, subdivision 4, is amended to read:

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

2.23 (1) require or request the person to furnish information that pertains to race, color,  
 2.24 creed, religion, national origin, sex, marital status, credit history, status with regard to  
 2.25 public assistance, disability, sexual orientation, or age; or, subject to section 363A.20,  
 2.26 to require or request a person to undergo physical examination; unless for the sole and  
 2.27 exclusive purpose of national security, information pertaining to national origin is required  
 2.28 by the United States, this state or a political subdivision or agency of the United States or  
 2.29 this state, or for the sole and exclusive purpose of compliance with the Public Contracts  
 2.30 Act or any rule, regulation, or laws of the United States or of this state requiring the  
 2.31 information or examination. A law enforcement agency may, after notifying an applicant  
 2.32 for a peace officer or part-time peace officer position that the law enforcement agency is  
 2.33 commencing the background investigation on the applicant, request the applicant's date of  
 2.34 birth, gender, and race on a separate form for the sole and exclusive purpose of conducting

3.1 a criminal history check, a driver's license check, and fingerprint criminal history inquiry.  
3.2 The form shall include a statement indicating why the data is being collected and what its  
3.3 limited use will be. No document which has date of birth, gender, or race information  
3.4 will be included in the information given to or available to any person who is involved  
3.5 in selecting the person or persons employed other than the background investigator. No  
3.6 person may act both as background investigator and be involved in the selection of an  
3.7 employee except that the background investigator's report about background may be used  
3.8 in that selection as long as no direct or indirect references are made to the applicant's  
3.9 race, age, or gender; or

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

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

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