

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

S.F. No. 360

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DATE
01/28/2021

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Introduction and first reading
Referred to Health and Human Services Finance and Policy

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to state government; establishing a Council on LGBTQI Minnesotans;
1.3 limiting criminal defenses and authorization for the use of force relating to a
1.4 victim's sexual orientation or identity; prohibiting conversion therapy with children
1.5 or vulnerable adults; prohibiting medical assistance coverage for conversion
1.6 therapy; prohibiting the misrepresentation of conversion therapy services or
1.7 products; amending Minnesota Statutes 2020, sections 256B.0625, by adding a
1.8 subdivision; 257.56; 325F.69, by adding a subdivision; 609.06, by adding a
1.9 subdivision; 609.075; 609.20; proposing coding for new law in Minnesota Statutes,
1.10 chapters 15; 214.

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

1.12 Section 1. [15.0146] COUNCIL ON LGBTQI MINNESOTANS.

1.13 Subdivision 1. Council established; membership. (a) The Council on LGBTQI
1.14 Minnesotans is established. The council consists of 16 voting members, appointed as provided
1.15 in this subdivision. The governor may additionally appoint a commissioner of a state agency
1.16 or a designee of that commissioner to serve as an ex officio, nonvoting member of the
1.17 council.

1.18 (b) The governor shall appoint a total of 12 public voting members as follows: two
1.19 members who identify as gay, two members who identify as lesbian, two members who
1.20 identify as bisexual, two members who identify as transgender, two members who identify
1.21 as queer, and two members who identify as intersex.

1.22 (c) Four legislators shall be appointed to the council as follows: the speaker of the house
1.23 and the minority leader of the house of representatives shall each appoint one member of
1.24 the house of representatives, and the senate Subcommittee on Committees of the Committee

2.1 on Rules and Administration shall appoint one member of the senate majority caucus and
2.2 one member of the senate minority caucus.

2.3 Subd. 2. **Appointments; terms; removal.** (a) In making appointments to the council,
2.4 the governor shall consider an appointee's proven dedication and commitment to Minnesota's
2.5 LGBTQI community and any expertise possessed by the appointee that might be beneficial
2.6 to the council, such as experience in public policy, legal affairs, social work, business, or
2.7 management. The executive director and legislative members may offer advice to the
2.8 governor on applicants seeking appointment.

2.9 (b) Terms, compensation, and filling of vacancies for members appointed by the governor
2.10 are as provided in section 15.059. Removal of members appointed by the governor is
2.11 governed by section 15.059, except that: (1) a member who missed more than half of the
2.12 council meetings convened during a 12-month period is automatically removed from the
2.13 council; and (2) a member appointed by the governor may be removed by a vote of three
2.14 of the four legislative members of the council. The chair of the council shall inform the
2.15 governor of the need for the governor to fill a vacancy on the council. Legislative members
2.16 serve at the pleasure of their appointing authority.

2.17 (c) A member appointed by the governor may serve no more than a total of eight years
2.18 on a council. A legislator may serve no more than eight consecutive years or 12
2.19 nonconsecutive years on any one council.

2.20 Subd. 3. **Training; executive committee; meetings; support.** (a) A member appointed
2.21 by the governor must attend orientation training within the first six months of service for
2.22 the member's initial term. The commissioner of administration must arrange for the training
2.23 to include but not be limited to the legislative process, government data practices, ethics,
2.24 conflicts of interest, Open Meeting Law, Robert's Rules of Order, fiscal management, and
2.25 human resources. The governor must remove a member who does not complete the training.

2.26 (b) The council shall annually elect from among the members appointed by the governor
2.27 a chair and other officers it deems necessary. These officers and one legislative member
2.28 selected by the council shall serve as the executive committee of the council.

2.29 (c) Forty percent of voting members of the council constitutes a quorum. A quorum is
2.30 required to conduct council business. A council member may not vote on any action if the
2.31 member has a conflict of interest under section 10A.07.

2.32 (d) The council shall receive administrative support from the commissioner of
2.33 administration under section 16B.371. The council may contract in its own name but may
2.34 not accept or receive a loan or incur indebtedness except as otherwise provided by law.

3.1 Contracts must be approved by a majority of the members of the council and executed by
3.2 the chair and the executive director. The council may apply for, receive, and expend in its
3.3 own name grants and gifts of money consistent with the powers and duties specified in this
3.4 section.

3.5 (e) The attorney general shall provide legal services to the council on behalf of the state
3.6 on all matters relating to the council, including matters relating to the state as the employer
3.7 of the executive director of the council and other council staff.

3.8 Subd. 4. **Executive director; staff.** (a) The Legislative Coordinating Commission must
3.9 appoint an executive director for the council. The executive director must be experienced
3.10 in administrative activities and familiar with the challenges and needs of Minnesota's
3.11 LGBTQI community. The executive director serves in the unclassified service at the pleasure
3.12 of the Legislative Coordinating Commission.

3.13 (b) The Legislative Coordinating Commission must establish a process for recruiting
3.14 and selecting applicants for the executive director position. This process must include
3.15 consultation and collaboration with the council.

3.16 (c) The executive director and council members must work together in fulfilling council
3.17 duties. The executive director must consult with the commissioner of administration to
3.18 ensure appropriate financial, purchasing, human resources, and other services for operation
3.19 of the council.

3.20 (d) Once appointed, the council is responsible for supervising the work of its director.
3.21 The council chair must report to the chair of the Legislative Coordinating Commission
3.22 regarding the performance of the executive director, including any recommendations
3.23 regarding disciplinary actions. The executive director must appoint and supervise the work
3.24 of other staff necessary to carry out the duties of the council. The executive director must
3.25 consult with the council chair prior to taking the following disciplinary actions with council
3.26 staff: written reprimand, suspension, demotion, or discharge. The executive director and
3.27 other council staff are executive branch employees.

3.28 (e) The executive director must submit the council's biennial budget request to the
3.29 commissioner of management and budget as provided under chapter 16A.

3.30 Subd. 5. **Duties of council.** (a) The council must work for the implementation of
3.31 economic, social, legal, and political equality for Minnesota's LGBTQI community. The
3.32 council shall work with the legislature and governor to carry out this work by performing
3.33 the duties in this section.

4.1 (b) The council shall advise the governor and the legislature on issues confronting the
4.2 community. This may include but is not limited to presenting the results of surveys, studies,
4.3 and community forums to the appropriate executive departments and legislative committees.

4.4 (c) The council shall advise the governor and the legislature of administrative and
4.5 legislative changes needed to improve the economic and social condition of Minnesota's
4.6 LGBTQI community. This may include but is not limited to working with legislators to
4.7 develop legislation to address these issues and to work for passage of the legislation. This
4.8 may also include making recommendations regarding the state's affirmative action program
4.9 and the state's targeted group small business program, or working with state agencies and
4.10 organizations to develop business opportunities and promote economic development for
4.11 the LGBTQI community.

4.12 (d) The council shall advise the governor and the legislature of the implications and
4.13 effect of proposed administrative and legislative changes on the constituency of the council.
4.14 This may include but is not limited to tracking legislation, testifying as appropriate, and
4.15 meeting with executive departments and legislators.

4.16 (e) The council shall serve as a liaison between state government and organizations that
4.17 serve Minnesota's LGBTQI community. This may include but is not limited to working
4.18 with these organizations to carry out the duties in paragraphs (a) to (d), and working with
4.19 these organizations to develop informational programs or publications to involve and
4.20 empower the community in seeking improvement in their economic and social conditions.

4.21 (f) The council shall perform or contract for the performance of studies designed to
4.22 suggest solutions to the problems of Minnesota's LGBTQI community in the areas of
4.23 education, employment, human rights, health, housing, social welfare, and other related
4.24 areas.

4.25 (g) In carrying out duties under this subdivision, the council may act to advise on issues
4.26 that affect the shared constituencies with the councils established in section 15.0145.

4.27 Subd. 6. **Duties of council members.** A council member shall:

4.28 (1) attend and participate in scheduled meetings and be prepared by reviewing meeting
4.29 notes;

4.30 (2) maintain and build communication with Minnesota's LGBTQI community;

4.31 (3) collaborate with the council and executive director in carrying out the council's duties;
4.32 and

5.1 (4) participate in activities the council or executive director deem appropriate and
 5.2 necessary to facilitate the goals and duties of the council.

5.3 Subd. 7. **Reports.** The council must report on the measurable outcomes achieved in the
 5.4 council's current strategic plan to meet its statutory duties, along with the specific objectives
 5.5 and outcome measures proposed for the following year. The council must submit the report
 5.6 by January 15 each year to the chairs and ranking minority members of the legislative
 5.7 committees with primary jurisdiction over state government operations. Each report must
 5.8 cover the calendar year of the year before the report is submitted. The specific objectives
 5.9 and outcome measures for the following current year must focus on three or four achievable
 5.10 objectives, action steps, and measurable outcomes for which the council will be held
 5.11 accountable. The strategic plan may include other items that support the statutory purposes
 5.12 of the council but should not distract from the primary statutory proposals presented. The
 5.13 biennial budget of each council must be submitted to the Legislative Coordinating
 5.14 Commission by February 1 in each odd-numbered year.

5.15 Sec. 2. **[214.078] PROTECTION FROM CONVERSION THERAPY.**

5.16 Subdivision 1. **Definition.** (a) "Conversion therapy" is a practice by a mental health
 5.17 practitioner or mental health professional as defined in section 245.462 that seeks to change
 5.18 an individual's sexual orientation or gender identity. The commissioner of health shall
 5.19 convene a working group to develop a detailed, uniform definition of conversion therapy.
 5.20 The working group shall consist of one board member from each of the following boards:

5.21 (1) Board of Medical Practice;

5.22 (2) Board of Psychology;

5.23 (3) Board of Nursing;

5.24 (4) Board of Social Work Practice;

5.25 (5) Board of Behavioral Health and Therapy; and

5.26 (6) Board of Marriage and Family Therapy.

5.27 The working group members shall be appointed by the executive director of each of the
 5.28 listed boards by September 1, 2021.

5.29 (b) The working group is subject to the Minnesota Open Meeting Law under chapter
 5.30 13D.

6.1 (c) The definition of conversion therapy developed by the working group must be
6.2 objective, nonjudgmental, and must be based on peer-reviewed scientific research that relies
6.3 on empirical data.

6.4 (d) By January 15, 2022, each board listed in paragraph (a) shall adopt the definition of
6.5 conversion therapy developed by the working group as exempt rules under section 14.386.
6.6 Section 14.386, paragraph (b), does not apply to rules adopted under this section.

6.7 (e) Each board listed in paragraph (a) shall inform its licensees of the adopted definition
6.8 of conversion therapy in a timely manner.

6.9 (f) The commissioner of health shall submit a report on the definition developed by the
6.10 working group and any additional recommendations to the chairs and ranking minority
6.11 members of the legislative committees with jurisdiction over health and human services
6.12 policy by February 15, 2022.

6.13 Subd. 2. **Prohibition.** (a) No health care professional shall engage in conversion therapy
6.14 with a client younger than 18 years of age or with a vulnerable adult as defined in section
6.15 626.5572, subdivision 21.

6.16 (b) Conversion therapy attempted by a health care professional with a client younger
6.17 than 18 years of age or with vulnerable adults shall be considered unprofessional conduct
6.18 and the health care professional may be subject to disciplinary action by the licensing board
6.19 of the health care professional.

6.20 (c) For purposes of this section, "health care professional" means a mental health
6.21 practitioner or mental health professional as defined under section 245.462.

6.22 **EFFECTIVE DATE.** Subdivision 1 is effective the day following final enactment.
6.23 Subdivision 2 is effective January 15, 2022.

6.24 Sec. 3. Minnesota Statutes 2020, section 256B.0625, is amended by adding a subdivision
6.25 to read:

6.26 Subd. 5n. **Conversion therapy.** Conversion therapy, as defined by rule adopted under
6.27 section 214.078, is not covered.

6.28 **EFFECTIVE DATE.** This section is effective January 15, 2022.

7.1 Sec. 4. Minnesota Statutes 2020, section 257.56, is amended to read:

7.2 **257.56 ARTIFICIAL INSEMINATION ASSISTED REPRODUCTION.**

7.3 Subdivision 1. **Husband Spouse treated as biological father parent.** If, under the
 7.4 supervision of a licensed physician and with the consent of her ~~husband~~ spouse, a ~~wife is~~
 7.5 ~~inseminated artificially~~ woman conceives through assisted reproduction with semen or ova
 7.6 or both, donated by a ~~man not her husband~~ donor or donors not her spouse, the ~~husband~~
 7.7 spouse is treated in law as ~~if he were the biological father~~ the parent of a child thereby
 7.8 conceived. The ~~husband's~~ spouse's consent must be in writing and signed by ~~him and his~~
 7.9 ~~wife~~ the spouse and the woman conceiving through assisted reproduction. The consent must
 7.10 be retained by the physician for at least four years after the confirmation of a pregnancy
 7.11 that occurs during the process of ~~artificial insemination~~ assisted reproduction.

7.12 All papers and records pertaining to the ~~insemination~~ assisted reproduction, whether
 7.13 part of the permanent record of a court or of a file held by the supervising physician or
 7.14 elsewhere, are subject to inspection only upon an order of the court for good cause shown.

7.15 Subd. 2. **Donor not treated as biological father parent.** The donor of semen or ova
 7.16 provided to a licensed physician for use in ~~artificial insemination of~~ assisted reproduction
 7.17 by a married woman other than the donor's ~~wife~~ spouse is treated in law as if ~~he were the~~
 7.18 donor is not the biological father parent of a child thereby conceived, unless a court finds
 7.19 satisfactory evidence that the donor and the woman intended for the donor to be a parent.

7.20 Sec. 5. Minnesota Statutes 2020, section 325F.69, is amended by adding a subdivision to
 7.21 read:

7.22 **Subd. 7. Advertisement and sales; misrepresentation of conversion therapy.** No
 7.23 person or entity shall, while conducting any trade or commerce, use or employ any fraud,
 7.24 false pretense, false promise, false guarantee, misrepresentation, false or misleading
 7.25 statements, or deceptive practice when advertising or otherwise offering conversion therapy
 7.26 services, as defined under section 214.078.

7.27 **EFFECTIVE DATE.** This section is effective January 15, 2022.

7.28 Sec. 6. Minnesota Statutes 2020, section 609.06, is amended by adding a subdivision to
 7.29 read:

7.30 **Subd. 4. Use of force not authorized; reaction to victim's sexual orientation.** Force
 7.31 may not be used against another based on the discovery of, knowledge about, or potential
 7.32 disclosure of the victim's actual or perceived sexual orientation, including gender identity

8.1 and expression, including under circumstances in which the victim made an unwanted
 8.2 nonforcible romantic or sexual advance toward the actor, or if the actor and victim dated
 8.3 or had a romantic or sexual relationship.

8.4 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to crimes
 8.5 committed on or after that date.

8.6 Sec. 7. Minnesota Statutes 2020, section 609.075, is amended to read:

8.7 **609.075 DEFENSES; INTOXICATION AS DEFENSE, REACTION TO VICTIM'S**
 8.8 **SEXUAL ORIENTATION.**

8.9 Subdivision 1. **Intoxication as defense.** An act committed while in a state of voluntary
 8.10 intoxication is not less criminal by reason thereof, but when a particular intent or other state
 8.11 of mind is a necessary element to constitute a particular crime, the fact of intoxication may
 8.12 be taken into consideration in determining such intent or state of mind.

8.13 Subd. 2. **Reaction to victim's sexual orientation.** It is not a defense to a crime that the
 8.14 defendant acted based on the discovery of, knowledge about, or potential disclosure of the
 8.15 victim's actual or perceived sexual orientation, including gender identity and expression,
 8.16 including under circumstances in which the victim made an unwanted nonforcible romantic
 8.17 or sexual advance toward the defendant, or if the defendant and victim dated or had a
 8.18 romantic or sexual relationship.

8.19 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to crimes
 8.20 committed on or after that date.

8.21 Sec. 8. Minnesota Statutes 2020, section 609.20, is amended to read:

8.22 **609.20 MANSLAUGHTER IN THE FIRST DEGREE.**

8.23 Whoever does any of the following is guilty of manslaughter in the first degree and may
 8.24 be sentenced to imprisonment for not more than 15 years or to payment of a fine of not
 8.25 more than \$30,000, or both:

8.26 (1) intentionally causes the death of another person in the heat of passion provoked by
 8.27 such words or acts of another as would provoke a person of ordinary self-control under like
 8.28 circumstances, provided that:

8.29 (i) the crying of a child; or

8.30 (ii) the discovery of, knowledge about, or potential disclosure of the victim's actual or
 8.31 perceived sexual orientation, including gender identity and expression, including under

9.1 circumstances in which the victim made an unwanted nonforcible romantic or sexual advance
9.2 toward the actor, or if the actor and victim dated or had a romantic or sexual relationship;
9.3 does not constitute provocation;

9.4 (2) violates section 609.224 and causes the death of another or causes the death of another
9.5 in committing or attempting to commit a misdemeanor or gross misdemeanor offense with
9.6 such force and violence that death of or great bodily harm to any person was reasonably
9.7 foreseeable, and murder in the first or second degree was not committed thereby;

9.8 (3) intentionally causes the death of another person because the actor is coerced by
9.9 threats made by someone other than the actor's coconspirator and which cause the actor
9.10 reasonably to believe that the act performed by the actor is the only means of preventing
9.11 imminent death to the actor or another;

9.12 (4) proximately causes the death of another, without intent to cause death by, directly
9.13 or indirectly, unlawfully selling, giving away, bartering, delivering, exchanging, distributing,
9.14 or administering a controlled substance classified in Schedule III, IV, or V; or

9.15 (5) causes the death of another in committing or attempting to commit a violation of
9.16 section 609.377 (malicious punishment of a child), and murder in the first, second, or third
9.17 degree is not committed thereby.

9.18 As used in this section, a "person of ordinary self-control" does not include a person
9.19 under the influence of intoxicants or a controlled substance.

9.20 **EFFECTIVE DATE.** This section is effective August 1, 2021, and applies to crimes
9.21 committed on or after that date.