

## CHAPTER 363

## DEPARTMENT OF HUMAN RIGHTS

Sec.	
363.01	Definitions.
363.02	Exemptions.
363.03	Unfair discriminatory practices.
363.04	Department of human rights.
363.05	Duties of commissioner.
363.06	Grievances.
363.071	Hearings.
363.072	District court, review orders of panel or examiner.
363.073	Certificates of compliance for public contracts.
363.091	Enforcement.
363.10	Appeal to supreme court.

Sec.	
363.101	Unfair discriminatory practice a misdemeanor.
363.11	Construction.
363.115	Referral to local commission.
363.116	Transfer to commissioner.
363.12	Declaration of policy.
363.121	Department attorney.
363.122	Transcript of hearing, availability.
363.123	Violation of act.
363.13	Citation.
363.14	Court actions, suits by private parties, intervention, district court jurisdiction, attorney's fees, and costs.

**363.01 DEFINITIONS.** Subdivision 1. **Terms.** For the purposes of this chapter, the words defined in this section have the meanings ascribed to them.

Subd. 2. [ Repealed, 1965 c 586 s 6 ]

Subd. 3. **Board.** "Board" means the state board of human rights.

Subd. 4. **Employment agency.** "Employment agency" means a person or persons who, or an agency which regularly undertakes, with or without compensation, to procure employees or opportunities for employment.

Subd. 5. **Labor organization.** "Labor organization" means any organization that exists wholly or partly for one or more of the following purposes:

- (1) Collective bargaining;
- (2) Dealing with employers concerning grievances, terms or conditions of employment; or
- (3) Mutual aid or protection of employees.

Subd. 6. **National origin.** "National origin" means the place of birth of an individual or of any of his lineal ancestors.

Subd. 7. **Person.** "Person" includes partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, receiver, and the state and its departments, agencies, and political subdivisions.

Subd. 8. **Respondent.** "Respondent" means a person against whom a complaint has been filed or issued.

Subd. 9. **Unfair discriminatory practices.** "Unfair discriminatory practice" means any act described in section 363.03.

Subd. 10. **Discriminate.** The term "discriminate" includes segregate or separate.

Subd. 11. [ Repealed, 1967 c 897 s 29 ]

Subd. 12. **Real property.** "Real property" includes real estate, lands, tenements, and hereditaments, corporeal and incorporeal.

Subd. 13. **Real estate broker or salesman.** "Real estate broker or salesman" means, respectively, a real estate broker as defined by section 82.17, subdivision 4, and a real estate salesman as defined by section 82.17, subdivision 5.

Subd. 14. **Commissioner.** "Commissioner" means the commissioner of human rights.

Subd. 15. **Employer.** "Employer" means a person who has one or more employees.

Subd. 16. **Party in interest.** "Party in interest" means the complainant, respondent, commissioner or board member.

Subd. 17. **Hearing examiners.** "Hearing examiners" are persons admitted to practice law who are selected by the commissioner to conduct hearings.

Subd. 18. **Public accommodations.** "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privi-

leges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

Subd. 19. **Public services.** "Public service" means any public facility, department, agency, board or commission, owned, operated or managed by or on behalf of the state of Minnesota, or any subdivision thereof, including any county, city, town, township, or independent district in the state.

Subd. 20. **Educational institutions.** "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system and a business, nursing, professional, secretarial, technical, vocational school; and includes an agent of an educational institution.

Subd. 21. **Religious or denominational educational institutions.** "Religious or denominational educational institution" means an educational institution which is operated, supervised, controlled or sustained primarily by a religious or denominational organization, or is one which is stated by the parent church body to be and is, in fact, officially related to that church by being represented on the board of the institution, and by providing substantial financial assistance and which has certified, in writing, to the board that it is a religious or denominational educational institution.

Subd. 22. **Charging party.** "Charging party" means a person filing a charge with the commissioner or his designated agent pursuant to section 363.06, subdivision 1.

Subd. 23. **Complainant.** "Complainant" means the commissioner of human rights after he has issued a complaint pursuant to section 363.06.

Subd. 24. **Local commission.** "Local commission" means an agency of a city created pursuant to law, city charter, or municipal ordinance for the purpose of dealing with discrimination on the basis of race, color, creed, religion, national origin, sex, age, disability, marital status or status with regard to public assistance.

Subd. 25. **Disability.** "Disability" means a mental or physical condition which constitutes a handicap.

Subd. 26. **Department.** "Department" means the department of human rights.

Subd. 27. **Status with regard to public assistance.** "Status with regard to public assistance" means the condition of being a recipient of federal, state or local assistance, including medical assistance, or of being a tenant receiving federal, state or local subsidies, including rental assistance or rent supplements.

[ 1955 c 516 s 3; 1961 c 428 s 1-3; 1967 c 897 s 1-9; 1969 c 975 s 1,2; 1973 c 123 art 5 s 7; 1973 c 729 s 1; 1976 c 2 s 130 ]

**363.02 EXEMPTIONS.** Subdivision 1. **Employment.** The provisions of section 363.03, subdivision 1, shall not apply to:

- (1) The employment of any individual
  - (a) by his parent, grandparent, spouse, child, or grandchild, or
  - (b) in the domestic service of any person.

(2) A religious or fraternal corporation, association, or society, with respect to qualifications based on religion, when religion shall be a bona fide occupational qualification for employment.

(3) The employment of one person in place of another, standing by itself, shall not be evidence of an unfair discriminatory practice.

It is not an unfair employment practice for an employer, employment agency or labor organization:

(i) to require a person to undergo physical examination for purpose of determining the person's capability to perform available employment; or

(ii) to conduct an investigation as to the person's medical history for the purpose of determining the person's capability to perform available employment.

Subd. 2. **Housing.** The provisions of section 363.03, subdivision 2, shall not apply to

(a) rooms in a temporary or permanent residence home run by a nonprofit organization, if the discrimination is by sex or (b) the rental by an owner or occupier of a one-family accommodation in which he resides of a room or rooms in such accommo-

# MINNESOTA STATUTES 1976

4999

DEPARTMENT OF HUMAN RIGHTS 363.03

dation to another person or persons if the discrimination is by sex, marital status, status with regard to public assistance or disability. Nothing in this chapter shall be construed to require any person or group of persons selling, renting or leasing property to modify the property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this chapter be construed to relieve any person or persons of any obligations generally imposed on all persons regardless of any disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations of such lease, agreement or contract.

**Subd. 3. Education.** It is not an unfair discriminatory practice for a religious or denominational institution to limit admission or give preference to applicants of the same religion. The provisions of section 363.03, subdivision 5, relating to sex, shall not apply to a private educational institution, or branch or level of a private educational institution, in which students of only one sex are permitted to enroll. Nothing in this chapter shall be construed to require any educational institution to provide any special service to any person because of the disability of such person or to modify in any manner its buildings, grounds, facilities, or admission procedures because of the disability of any such person. Nothing in this chapter shall prohibit an educational institution from discriminating on the basis of academic qualifications or achievements or requiring from applicant's information which relates to academic qualifications or achievements.

**Subd. 4. Public accommodations.** The provisions of section 363.03, subdivision 3, relating to sex, shall not apply to such facilities as restrooms, lockerrooms, and other similar places.

**Subd. 5. Disability.** Nothing in this chapter shall be construed to prohibit any program, service, facility or privilege afforded to a person with a disability which is intended to habilitate, rehabilitate or accommodate that person. It is a defense to a complaint or action brought under this chapter that the person bringing the complaint or action suffers from a disability which in the circumstances poses a serious threat to the health or safety of the disabled person or others. The burden of proving this defense is upon the respondent.

[ 1955 c 516 s 4; 1961 c 428 s 4; 1965 c 584 s 1; 1967 c 897 s 10,11; 1973 c 729 s 2; 1975 c 206 s 1 ]

**363.03 UNFAIR DISCRIMINATORY PRACTICES.** Subdivision 1. **Employment.** Except when based on a bona fide occupational qualification, it is an unfair employment practice:

(1) For a labor organization, because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability,

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

(b) to expel a member from membership;

(c) to discriminate against a person seeking membership or a member with respect to his hire, apprenticeship, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment; or

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

(2) For an employer, because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability,

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

(b) to discharge an employee; or

(c) to discriminate against a person with respect to his hire, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment;

(3) For an employment agency, because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability,

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

(b) to comply with a request from an employer for referral of applicants for employment if the request indicates directly or indirectly that the employer fails to comply with the provisions of this chapter;

(4) For an employer, employment agency, or labor organization, before a person is employed by an employer or admitted to membership in a labor organization, to

(a) require the person to furnish information that pertains to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability, unless, for the purpose of national security, information pertaining to national origin is required by the United States, this state or a political subdivision or agency of the United States or this state, or for the purpose of compliance with the public contracts act or any rule, regulation or laws of the United States or of this state requiring information pertaining to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability is required by the United States or a political subdivision or agency of the United States; or

(b) cause to be printed or published a notice or advertisement that relates to employment or membership and discloses a preference, limitation, specification, or discrimination based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability.

**Subd. 2. Real property.** It is an unfair discriminatory practice:

(1) For an owner, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease any real property, or any agent of any of these

(a) to refuse to sell, rent, or lease or otherwise deny to or withhold from any person or group of persons any real property because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability;

(b) to discriminate against any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability in the terms, conditions or privileges of the sale, rental or lease of any real property or in the furnishing of facilities or services in connection therewith; or

(c) in any transaction involving real property, to print, circulate or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for the purchase, rental or lease of real property, or make any record or inquiry in connection with the prospective purchase, rental, or lease of real property which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability, or any intent to make any such limitation, specification, or discrimination.

(2) For a real estate broker, real estate salesman, or employee, or agent thereof

(a) to refuse to sell, rent, or lease or to offer for sale, rental, or lease any real property to any person or group of persons or to negotiate for the sale, rental, or lease of any real property to any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability, or represent that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or otherwise deny or withhold any real property or any facilities of real property to or from any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability;

(b) to discriminate against any person because of his race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability in the terms, conditions or privileges of the sale, rental or lease of real property or in the furnishing of facilities or services in connection therewith; or

(c) to print, circulate, or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for the purchase, rental, or lease of any real property or make any record or inquiry in connection with the prospective purchase, rental or lease of any real property, which expresses directly or indirectly, any limitation, specification or discrimination as to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability or any intent to make any such limitation, specification or discrimination;

# MINNESOTA STATUTES 1976

5001

DEPARTMENT OF HUMAN RIGHTS 363.03

(3) For a person, bank, banking organization, mortgage company, insurance company, or other financial institution or lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair or maintenance of any real property or any agent or employee thereof

(a) to discriminate against any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability of such person or group of persons or of the prospective occupants or tenants of such real property in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions, or privileges of any such financial assistance or in the extension of services in connection therewith;

(b) to use any form of application for such financial assistance or make any record or inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability or any intent to make any such limitation, specification, or discrimination.

(c) to discriminate against any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair or maintain real property in a specific urban or rural area or any part thereof solely because of the social, economic or environmental conditions of the area in the granting, withholding, extending, modifying, or renewing, or in the rates, terms, conditions, or privileges of any such financial assistance or in the extension of services in connection therewith.

(4) For any real estate broker or real estate salesman, for the purpose of inducing a real property transaction from which such person, his firm, or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, sex, marital status, status with regard to public assistance or disability of the owners or occupants in the block, neighborhood, or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood, or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other public facilities.

**Subd. 3. Public accommodations.** It is an unfair discriminatory practice:

To deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation because of race, color, creed, religion, disability, national origin or sex. It is an unfair discriminatory practice for a taxicab company to discriminate in the access to, full utilization of or benefit from service because of a person's disability.

**Subd. 4. Public services.** It is an unfair discriminatory practice:

To discriminate against any person in the access to, admission to, full utilization of or benefit from any public service because of race, color, creed, religion, national origin, disability, sex or status with regard to public assistance.

**Subd. 4a. Standard of care for disabled.** Nothing in subdivisions 3 and 4 shall be construed to require any person to modify property in any way, or exercise a higher degree of care for a person having a disability.

**Subd. 5. Educational institution.** It is an unfair discriminatory practice:

(1) To discriminate in any manner in the full utilization of or benefit from any educational institution, or the services rendered thereby to any person because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability.

(2) To exclude, expel, or otherwise discriminate against a person seeking admission as a student, or a person enrolled as a student because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability.

(3) To make or use a written or oral inquiry, or form of application for admission that elicits or attempts to elicit information, or to make or keep a record, concerning the race, color, creed, religion, national origin, sex, marital status or disability of a person seeking admission, except as permitted by regulations of the department.

Subd. 6. **Aiding and abetting and obstruction.** It is an unfair discriminatory practice for any person:

(1) Intentionally to aid, abet, incite, compel, or coerce a person to engage in any of the practices forbidden by this chapter;

(2) Intentionally to attempt to aid, abet, incite, compel, or coerce a person to engage in any of the practices forbidden by this chapter;

(3) To intentionally obstruct or prevent any person from complying with the provisions of this chapter, or any order issued thereunder, or to resist, prevent, impede, or interfere with the commissioner or any of his employees or representatives in the performance of duty under this chapter.

Subd. 7. **Reprisals.** It is an unfair discriminatory practice for any employer, labor organization, employment agency, lessor, public accommodation, public service or educational institution to intentionally engage in any reprisal against any person because that person:

(1) Opposed a practice forbidden under this chapter or has filed a charge, testified, assisted, or participated in any matter in an investigation, proceeding or hearing under this chapter; or

(2) Associated with a person or group of persons of a different race, color, creed, religion or national origin.

Subd. 8. **Credit; sex discrimination.** It is an unfair discriminatory practice to discriminate in the extension of credit to a person because of sex or marital status.

[ 1955 c 516 s 5; 1961 c 428 s 5; 1965 c 585 s 2; 1965 c 586 s 1; 1967 c 897 s 12-16; 1969 c 9 s 80; 1969 c 975 s 3-5; 1973 c 296 s 1; 1973 c 729 s 3; 1974 c 354 s 1; 1975 c 206 s 2-5 ]

**363.04 DEPARTMENT OF HUMAN RIGHTS.** Subdivision 1. **Creation; commissioner.** There is hereby established at the seat of government an executive department to be known as the department of human rights. There shall be at the head of the department a commissioner of human rights, who shall be appointed by the governor, by and with the advice and consent of the senate for a four year term which shall coincide with the term of the governor and until his successor is duly appointed and has qualified. The governor may remove the commissioner at any time for cause after notice and hearing. In case of a vacancy, the governor may appoint a commissioner, who shall immediately take office and shall carry on all of the duties of the office until the next session of the legislature, when his appointment shall be submitted to the senate for approval. On January 4, 1971, the term of the incumbent commissioner shall expire. The department shall be administered under the supervision and direction of the commissioner, who shall be in unclassified service, and shall receive compensation at the rate prescribed by law.

Subd. 2. **Deputy commissioner, duties.** There shall be in the department a deputy commissioner, who shall be appointed by the commissioner and shall serve at the pleasure of the commissioner. The deputy commissioner shall act for, and exercise the powers of the commissioner during the absence or disability of the commissioner or in the event of a vacancy in the office of commissioner. The deputy commissioner shall perform such functions, powers and duties as the commissioner shall prescribe from time to time.

Subd. 3. **Oath, bond.** Before entering upon the duties of office, the commissioner and the deputy commissioner shall each take and subscribe an oath, give bond to the state of Minnesota to be approved by the governor and filed with the secretary of state in the sum of \$10,000, conditioned upon the faithful performance of his duties.

Subd. 4. **Board, membership, appeals.** There is hereby established within the department a state board of human rights. The board shall serve in an advisory capacity to the commissioner. The board shall consist of 24 members to be appointed by the governor, by and with the advice and consent of the senate. Members of the board shall be appointed with due regard to their fitness for the efficient dispatch of the functions, powers and duties vested in and imposed upon the board. At least three members of the board shall be lawyers admitted to practice law within this state. The governor shall designate from time to time one of the members of the board as chairman. The board shall hear appeals as provided in section 363.06.

# MINNESOTA STATUTES 1976

5003

DEPARTMENT OF HUMAN RIGHTS 363.05

Subd. 4a. **Terms; compensation; removal; vacancies.** The membership terms, compensation, removal of members, and filling of vacancies on the board shall be as provided in section 15.0575.

Subd. 5. **Programs and policies.** The board shall from time to time recommend programs and policies to the commissioner so as to enable him to better carry out the terms and provisions of this chapter.

Subd. 6. [ Repealed, 1976 c 134 s 79 ]

Subd. 7. [ Repealed, 1976 c 337 s 3 ]

Subd. 8. [ Repealed, 1976 c 337 s 3 ]

Subd. 9. **Departmental organization.** Subject to other provisions of this chapter, the commissioner shall have the powers granted by section 15.06 to organize the department.

Subd. 10. **Continuity in operations.** In exercising the functions, powers and duties conferred on and transferred to the commissioner by Laws 1967, Chapter 897, the commissioner shall give full consideration to the need for operational continuity of the functions transferred.

[ 1955 c 516 s 6; 1961 c 428 s 6; 1965 c 586 s 2; 1967 c 897 s 17; 1969 c 975 s 6,7; 1969 c 1129 art 8 s 14; 1973 c 729 s 4; 1976 c 134 s 68,69 ]

**363.05 DUTIES OF COMMISSIONER.** Subdivision 1. **Formulation of policies.** The commissioner shall formulate policies to effectuate the purposes of this chapter and shall:

(1) Exercise leadership under the direction of the governor in the development of human rights policies and programs, and make recommendations to the governor and the legislature for their consideration and implementation;

(2) cooperate and consult with the commissioners of education, labor and industry, public welfare, economic development, and natural resources, and with the secretary of the state board of health in developing plans and programs to most effectively serve the needs of Indians and to assist women in the areas designated in section 363.04, subdivision 7;

(3) establish and maintain a principal office in St. Paul, and any other necessary branch offices at any location within the state;

(4) meet and function at any place within the state;

(5) employ such hearing examiners, attorneys, clerks and other employees and agents as he may deem necessary and prescribe their duties;

(6) to the extent permitted by federal law and regulation, utilize the records of the department of employment services of the state when necessary to effectuate the purposes of this chapter;

(7) obtain upon request and utilize the services of all state governmental departments and agencies;

(8) adopt suitable rules and regulations for effectuating the purposes of this chapter;

(9) issue complaints, receive and investigate charges alleging unfair discriminatory practices, and determine whether or not probable cause exists for hearing;

(10) subpoena witnesses, administer oaths, take testimony, and require the production for examination of any books or papers relative to any matter under investigation or in question; authorize hearing examiners to exercise the authority conferred by this clause;

(11) attempt, by means of education, conference, conciliation, and persuasion to eliminate unfair discriminatory practices as being contrary to the public policy of the state;

(12) conduct research and study discriminatory practices;

(13) publish and distribute the results of research and study when in the judgment of the commissioner the purposes of this chapter, will be served thereby;

(14) develop and conduct programs of formal and informal education designed to eliminate discrimination and intergroup conflict by use of educational techniques and programs he deems necessary;

# MINNESOTA STATUTES 1976

(15) make a written report of the activities of the commissioner to the governor each year and to the legislature by November 15 of each even-numbered year;

(16) accept gifts, bequests, grants or other payments public and private to help finance the activities of the department;

(17) create such local and statewide advisory committees as will in his judgment aid in effectuating the purposes of the department of human rights;

(18) appoint a hearing examiner to preside at a public hearing on any complaint;

(19) develop such programs as will aid in determining the compliance throughout the state with the provisions of this chapter, and in the furtherance of such duties, conduct research and study discriminatory practices based upon race, color, creed, religion, national origin, sex, disability, marital status or status with regard to public assistance, or other factors and develop accurate data on the nature and extent of discrimination and other matters as they may affect housing, employment, public accommodations, schools, and other areas of public life;

(20) develop and disseminate technical assistance to persons subject to the provisions of this chapter, and to agencies and officers of governmental and private agencies;

(21) provide staff services to such advisory committees as may be created in aid of the functions of the department of human rights;

(22) make grants in aid to the extent that appropriations are made available for such purpose in aid of carrying out his duties and responsibilities, but no grant in aid shall be made without first obtaining the advice and consent of the board;

(23) develop educational programs, community organization programs, leadership development programs, motivational programs, and business development programs for the benefit of those persons theretofore and hereafter subject to prejudice and discrimination; and

(24) provide information for and direction to a program designed to assist Indian citizens to assume all the rights, privileges, and duties of citizenship; and to coordinate and cooperate with local, state and national and private agencies providing services to the Indian people.

**Subd. 2. Enforcement of subpoena.** Disobedience of a subpoena issued by the commissioner pursuant to subdivision 1 shall be punishable in like manner as a contempt of the district court in proceedings instituted upon application of the commissioner made to the district court of the county where the alleged unfair discriminatory practice in connection with a charge made by a charging party or a complaint filed by the commissioner has occurred or where the respondent resides or has his principal place of business.

[ 1955 c 516 s 7; 1961 c 428 s 7; 1967 c 299 s 9; 1967 c 897 s 18; 1969 c 567 s 3; 1969 c 975 s 8; 1969 c 1129 art 10 s 2; 1971 c 24 s 45; 1973 c 254 s 3; 1973 c 729 s 5; 1974 c 406 s 70 ]

**363.06 GRIEVANCES.** Subdivision 1. **Charge filing.** Any person aggrieved by a violation of this chapter may file a verified charge with the commissioner or his designated agent, stating the name and address of the person alleged to have committed an unfair discriminatory practice, setting out the details of the practice complained of and any other information required by the commissioner. The commissioner within five days of such filing shall serve a copy of the charge upon the respondent personally or by registered or certified mail. Periodically after the filing of a charge but at intervals of no more than 60 days, until the charge is no longer in the jurisdiction of the department the commissioner shall in writing inform the charging party of the status of his charge. A copy of the periodic notice shall be mailed to the respondent.

**Subd. 2. Charge, issuance by commissioner.** Whenever the commissioner has reason to believe that a person is engaging in an unfair discriminatory practice, the commissioner may issue a charge stating in statutory language an alleged violation of a particular section of section 363.03.

**Subd. 3. Time for filing charge.** A charge of an unfair discriminatory practice must be filed within six months after the occurrence of the practice.

**Subd. 4. Inquiry into charge.** When a charge has been filed, the commissioner shall promptly inquire into the truth of the allegations of the charge. The commissioner shall make an immediate inquiry when necessary to prevent a charging party



# MINNESOTA STATUTES 1976

5005

DEPARTMENT OF HUMAN RIGHTS 363.06

from suffering irreparable loss in the absence of immediate action. On each charge the commissioner shall make a determination as to whether or not there is probable cause to credit the allegation of unfair discriminatory practices, and

(1) If the commissioner shall determine after investigation that no probable cause exists to credit the allegations of the unfair discriminatory practice, the commissioner shall, within ten days of such determination, serve upon the charging party and respondent written notice of such determination. Within ten days after receipt of this notice, the charging party may request in writing on forms prepared by the department that the commissioner reconsider his determination. The request shall contain a brief statement of the reasons for and any new evidence in support of the request for reconsideration. At the time of submission of the request to the commissioner, the charging party shall deliver or mail to the respondent a copy of the request for reconsideration. The commissioner shall either reaffirm or reverse his determination of no probable cause within 20 days after receipt of the request for reconsideration, and he shall within ten days thereafter notify in writing the charging party and respondent of his decision to reaffirm or reverse. A decision by the commissioner that no probable cause exists to credit the allegations of an unfair discriminatory practice shall not be appealed to district court pursuant to section 363.072 or section 15.0424.

(2) If the commissioner shall determine after investigation that probable cause exists to credit the allegations of unfair discriminatory practices, the commissioner shall issue a complaint and serve on the respondent, by registered or certified mail, a written notice of hearing together with a copy of the complaint, requiring the respondent to answer the allegations of the complaint at a hearing before a hearing examiner at a time and place specified in the notice, not less than ten days after service of said complaint. A copy of the notice shall be furnished to the charging party, the attorney general, and the chairman of the board.

(3) At any time after the commissioner has determined that there is probable cause to believe that a respondent has engaged in an unfair discriminatory practice the commissioner may file a petition in the district court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this chapter, including an order or decree restraining him from doing or procuring any act tending to render ineffectual any order the commissioner may enter with respect to the complaint. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, but no such relief or order extending beyond ten days shall be granted except by consent of the respondent or after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice. The Minnesota rules of civil procedure shall apply to such application, and the district court shall have authority to grant or deny such relief sought on such conditions as it deems just and equitable. All hearings under this section shall be given precedence as nearly as practicable over all other pending civil actions.

(4) If any lessor, after he has engaged in a discriminatory practice defined in section 363.03, subdivision 2, clause (1), (a), shall lease or rent such dwelling unit to a person who has no knowledge of such practice or of the existence of any charge with respect thereto, such lessor shall be liable for actual damages sustained by such person by reason of any final order hereunder requiring such person to be evicted from such dwelling unit.

**Subd. 5. Attempts to eliminate unfair practices.** The commissioner, in complying with subdivision 4, shall endeavor to eliminate the unfair discriminatory practice through education, conference, conciliation and persuasion at the place where the practice occurred, or the respondent resides or has his principal place of business.

**Subd. 6. Publication of accounts of cases.** The commissioner may publish an account of a case in which the complaint has been dismissed or the terms of settlement of a case that has been voluntarily adjusted. Except as provided in other sections of this chapter, the commissioner shall not disclose any information concerning his efforts in a particular case to eliminate an unfair discriminatory practice through education, conference, conciliation and persuasion.

# MINNESOTA STATUTES 1976

## 363.071 DEPARTMENT OF HUMAN RIGHTS

5006

Subd. 7. [ Repealed, 1976 c 301 s 5 ]

[ 1955 c 516 s 8; 1961 c 428 s 8; 1965 c 586 s 3; 1967 c 897 s 19; 1969 c 975 s 9,10; 1973 c 729 s 6-8; 1976 c 301 s 1,2 ]

**363.07** [ Repealed, 1967 c 897 s 29 ]

**363.071 HEARINGS.** Subdivision 1. **Conduct of hearings.** A complaint issued by the commissioner shall be heard as a contested case, except that the report of the hearing examiner shall be binding on all parties to the proceeding and if appropriate shall be implemented by an order as provided for in subdivision 2. The hearing shall be conducted at a place designated by the commissioner, within the county where the unfair discriminatory practice occurred or where the respondent resides or has his principal place of business. The hearing shall be conducted in accordance with Minnesota Statutes 1965, Sections 15.0418, 15.0419, 15.0421, 15.0422, and is subject to appeal in accordance with section 15.0424.

Subd. 2. **Determination of discriminatory practice.** The hearing examiner shall make findings of fact and conclusions of law, and if the hearing examiner finds that the respondent has engaged in an unfair discriminatory practice, the hearing examiner shall issue an order directing the respondent to cease and desist from the unfair discriminatory practice found to exist and to take such affirmative action as in the judgment of the examiner will effectuate the purposes of this chapter. Such order shall be a final decision of the department. In all cases the examiner may order the respondent to pay an aggrieved party, who has suffered discrimination, compensatory damages, except damages for mental anguish or suffering, and, in all cases, may also order the respondent to pay an aggrieved party, who has suffered discrimination, punitive damages in an amount not less than \$25 nor more than \$500. In addition to the aforesaid remedies, in a case involving discrimination in

(a) employment, the examiner may order the hiring, reinstatement or upgrading of an aggrieved party, who has suffered discrimination, with or without back pay, admission or restoration to membership in a labor organization, or his admission to or participation in an apprenticeship training program, on-the-job-training program, or other retraining program, or any other relief the examiner deems just and equitable.

(b) housing, the examiner may order the sale, lease, or rental of the housing accommodation or other real property to an aggrieved party, who has suffered discrimination, or the sale, lease or rental of a like accommodation or other real property owned by or under the control of the person against whom the complaint was filed, according to terms as listed with a real estate broker, or if no such listing has been made, as otherwise advertised or offered by the vendor or lessor, or any other relief the examiner deems just and equitable.

The examiner shall cause the findings of fact, conclusions of law, and order to be served on the respondent personally, the charging party by registered or certified mail, and shall furnish copies to the attorney general and the commissioner.

Subd. 3. **Dismissal of hearing.** If the examiner makes findings of fact, conclusions of law, and an order in favor of the respondent, such order shall be a final decision of the department.

Subd. 4. **Respondents subject to state licensing or regulatory power.** In the case of a respondent which is subject to the licensing or regulatory power of the state or any political subdivision or agency thereof, if the hearing examiner determines that the respondent has engaged in a discriminatory practice, and if the respondent does not cease to engage in such discriminatory practice, the commissioner may so certify to the licensing or regulatory agency. Unless such determination of discriminatory practice is reversed in the course of judicial review, a final determination is binding on the licensing or regulatory agency. Such agency may take appropriate administrative action, including suspension or revocation of the respondent's license or certificate of public convenience and necessity, if such agency is otherwise authorized to take such action.

Subd. 5. **Public contracts.** In the case of a respondent which is a party to a public contract, if the hearing examiner determines that the respondent has engaged in a discriminatory practice, the commissioner may so certify to the contract letting agency. Unless such finding of a discriminatory practice is reversed in the course of judicial review, a final determination is binding on the contract letting agency and such agency may take appropriate administrative action, including the imposition of financial penalties or termination of the contract, in whole or in part, if such agency is otherwise authorized to take such action.

# MINNESOTA STATUTES 1976

5007

DEPARTMENT OF HUMAN RIGHTS 363.10

Subd. 6. **Subpoenas.** After the issuance of a complaint pursuant to section 363.06, subdivision 4, a charging party or a respondent may request that the hearing examiner issue subpoenas requiring the presence of witnesses or the production for examination of books or papers not privileged and relevant to any matter in question at the hearing.

[ 1967 c 897 s 20; 1969 c 975 s 11-13; 1973 c 729 s 9; 1976 c 301 s 3 ]

## **363.072 DISTRICT COURT, REVIEW ORDERS OF PANEL OR EXAMINER.**

Subdivision 1. Any person aggrieved by a final decision of the department reached after a hearing held pursuant to section 363.071 may seek judicial review pursuant to section 15.0424.

Subd. 2. The district court review proceedings shall conform to section 15.0424, judicial review of agency decisions, and section 15.0425, scope of judicial review.

[ 1967 c 897 s 21; 1973 c 729 s 10 ]

## **363.073 CERTIFICATES OF COMPLIANCE FOR PUBLIC CONTRACTS.**

Subdivision 1. The commissioner may promulgate rules and regulations, in accordance with chapter 15, for the issuance of certificates of compliance to bidders on public contracts, and shall issue such certificates in accordance with such rules and regulations. No department or agency of the state shall accept any bid or award any contract to any firm or person unless such firm or person has received a certificate of compliance or has pending an application therefor.

Subd. 2. Certificates of compliance may be suspended or revoked, or a pending application for a certificate may be denied, by a panel or examiner, in an order based on a finding that the holder or applicant has committed an unfair discriminatory practice in respect of a public contract; provided, however, that:

(1) any contractor certified to be in compliance with regulations of the federal government in respect of discriminatory practices shall also be certified by the state; and

(2) a contract awarded by a department or agency of the state shall not be terminated or abridged because of suspension, revocation or denial of a certificate based upon an unfair discriminatory practice for which the commissioner's complaint was issued after the date of the contract award; and

(3) in the case of a respondent whose certificate of compliance has been suspended, revoked, or denied, the commissioner shall issue a certificate of compliance in accordance with subdivision 1 within 90 days after he finds that the respondent has ceased engaging in any unfair discriminatory practice.

[ 1969 c 975 s 19; 1974 c 527 s 1 ]

**363.08** [ Repealed, 1967 c 897 s 29 ]

**363.09** [ Repealed, 1967 c 897 s 29 ]

**363.091 ENFORCEMENT.** When a respondent fails or refuses to comply with a final decision of the department, the commissioner may file with the clerk of district court in the judicial district in which the hearing was held a petition requesting the court to order the respondent to comply with the order of the department. Thereupon the court shall issue an order to show cause directed to the respondent why an order directing compliance should not be issued. Notwithstanding the provisions of any law or rule of civil procedure to the contrary, the court shall examine at the hearing on the order to show cause all the evidence in the record and may amend the order of the department in any way the court deems just and equitable. If the panel or examiner has ordered an award of damages pursuant to section 363.071 and if the court sustains or modifies the award, it shall enter judgment on the order or modified order in the same manner as in the case of an order of the district court, as provided in section 546.27.

[ 1967 c 897 s 22; 1969 c 975 s 14; 1973 c 729 s 11 ]

**363.10 APPEAL TO SUPREME COURT.** The commissioner, or the respondent, may appeal to the supreme court as provided by rule 103.03, clauses (b) and (g) of the rules of civil appellate procedure from an order of the district court issued pursuant to section 363.072, subdivision 1.

[ 1955 c 516 s 12; 1965 c 51 s 71; 1967 c 897 s 23; 1976 c 239 s 41 ]

**363.101 UNFAIR DISCRIMINATORY PRACTICE A MISDEMEANOR.** In addition to all other remedies provided under this chapter, every person who commits an unfair discriminatory act as set forth in section 363.03, subdivision 3, or aids, abets, incites, compels, or coerces another to do so, shall be guilty of a misdemeanor.

[ 1969 c 975 s 18 ]

**363.11 CONSTRUCTION.** The provisions of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this chapter shall be deemed to repeal any of the provisions of the civil rights law or of any other law of this state relating to discrimination because of race, creed, color, religion, sex, disability, marital status, status with regard to public assistance or national origin; but, as to acts declared unfair by sections 363.03 and 363.123, the procedure herein provided shall, while pending, be exclusive.

[ 1955 c 516 s 13; 1973 c 729 s 12 ]

**363.115 REFERRAL TO LOCAL COMMISSION.** The commissioner whether or not a charge has been filed under this chapter may refer a matter involving discrimination because of race, color, religion, sex, creed, disability, marital status, status with regard to public assistance or national origin to a local commission for study and report.

Upon referral by the commissioner, the local commission shall make a report and make recommendations to the commissioner and take other appropriate action within the scope of its powers.

[ 1967 c 897 s 24; 1973 c 729 s 13 ]

**363.116 TRANSFER TO COMMISSIONER.** A local commission may refer a matter under its jurisdiction to the commissioner.

The charging party has the option of filing a charge either with a local commission or the department. The exercise of such choice in filing a charge with one agency shall preclude the option of filing the same charge with the other agency. At the time a charge comes to the attention of a local agency, the agency or its representative shall inform the charging party of this option, and of his rights under Laws 1967, Chapter 897.

The term "local commission" as used in this section has the same meaning given the term in section 363.115.

[ 1967 c 897 s 25 ]

**363.12 DECLARATION OF POLICY.** Subdivision 1. It is the public policy of this state to secure for persons in this state, freedom from discrimination;

(1) In employment because of race, color, creed, religion, national origin, sex, marital status, disability and status in regard to public assistance;

(2) In housing and real property because of race, color, creed, religion, national origin, sex, marital status, disability and status in regard to public assistance;

(3) In public accommodations because of race, color, creed, religion, national origin, sex and disability;

(4) In public services because of race, color, creed, religion, national origin, sex, marital status, disability and status in regard to public assistance; and

(5) In education because of race, color, creed, religion, national origin, sex, marital status, disability and status in regard to public assistance. Such discrimination threatens the rights and privileges of the inhabitants of this state and menaces the institutions and foundations of democracy. It is also the public policy of this state to protect all persons from wholly unfounded charges of discrimination. Nothing in this chapter shall be interpreted as restricting the implementation of positive action programs to combat discrimination.

Subd. 2. The opportunity to obtain employment, housing, and other real estate, and full and equal utilization of public accommodations, public services, and educational institutions without such discrimination as is prohibited by this chapter is hereby recognized as and declared to be a civil right.

Subd. 3. The department of human rights under the control of the commissioner of human rights is the successor of the state commission against discrimination as it existed immediately prior to July 1, 1967.

# MINNESOTA STATUTES 1976

5009

DEPARTMENT OF HUMAN RIGHTS 363.14

Subd. 4. If any provision of Laws 1967, Chapter 897 or the application thereof to any person or circumstances is held invalid, the invalidity does not affect the other provisions or applications of Laws 1967, Chapter 897 which can be given effect without the invalid provision or application, and to this end the provisions of Laws 1967, Chapter 897 are severable.

[ 1955 c 516 s 1; 1961 c 428 s 16; 1967 c 897 s 26; 1969 c 975 s 15,16; 1973 c 729 s 14,15 ]

**363.121 DEPARTMENT ATTORNEY.** The attorney general shall be the attorney for the department.

[ 1967 c 897 s 27 ]

**363.122 TRANSCRIPT OF HEARING, AVAILABILITY.** The commissioner shall provide upon request and without cost to the respondent a transcript of any hearing in which the respondent is a party in interest.

[ 1967 c 897 s 28 ]

**363.123 VIOLATION OF ACT.** It shall be a violation of Laws 1973, Chapter 729 for any person furnishing credit service to discriminate against any person who is the recipient of federal, state or local public assistance, including medical assistance, or who is a tenant receiving federal, state or local housing subsidies, including rental assistance or rent supplements, solely because the individual is such a recipient.

[ 1973 c 729 s 16 ]

**363.13 CITATION.** This chapter shall be known as the Minnesota human rights act.

[ 1955 c 516 s 2; 1961 c 428 s 17; 1973 c 729 s 17 ]

**363.14 COURT ACTIONS, SUITS BY PRIVATE PARTIES, INTERVENTION, DISTRICT COURT JURISDICTION, ATTORNEY'S FEES, AND COSTS.** Subdivision 1. **Court actions, suits by private parties, intervention.** A person may bring a civil action seeking redress for an unfair discriminatory practice, upon withdrawal of the complaint from the department of human rights, at the following times:

(a) Within 90 days after the commissioner has determined that there is no probable cause to credit the allegations contained in a charge filed with the commissioner, or, if the charging party requested a reconsideration, within 90 days after the commissioner has reaffirmed his determination of no probable cause; or

(b) After 90 days but within one year after the filing of a charge if at or prior to the time of bringing the civil action a hearing has not been held pursuant to section 363.071.

A charging party bringing a civil action shall mail by registered or certified mail a copy of the summons and complaint to the commissioner, and upon his receipt thereof the commissioner shall cause all proceedings in the department relating to the charge to terminate. No charge shall be filed or reinstated with the commissioner after a civil action relating to the same unfair discriminatory practice has been brought unless the civil action has been dismissed without prejudice.

Upon application by the complaining party to the district court at a special term thereof and in such circumstances as the court may deem just, the court may appoint an attorney for such person and may authorize the commencement of the action without payment of fees, costs, or security.

Upon timely application, the court may, in its discretion, permit the department to intervene in a civil action brought pursuant to this section upon certification that the case is of general public importance.

Upon request, the court may, in its discretion, stay further proceedings for not more than 60 days pending further efforts of the department to obtain voluntary compliance.

Subd. 2. **District court jurisdiction.** Any action brought pursuant to this section shall be filed in the district court of the county wherein the unlawful discriminatory practice is alleged to have been committed or where the respondent resides or has his principal place of business.

# MINNESOTA STATUTES 1976

## 363.14 DEPARTMENT OF HUMAN RIGHTS

5010

Any action brought pursuant to this chapter shall be heard and determined by a judge sitting without a jury.

If the court finds that the respondent has engaged in an unfair discriminatory practice, it shall issue an order directing such relief as it deems appropriate and which effectuates the purpose of this chapter. Such relief shall be limited to that permitted by section 363.071, subdivision 2.

**Subd. 3. Attorney's fees and costs.** In any action or proceeding brought pursuant to this section the court, in its discretion, may allow the prevailing party, other than the department, a reasonable attorney's fee as part of the costs.

[ 1973 c 729 s 18; 1976 c 301 s 4 ]