

HOUSE BILL NO. 1443

Introduced by

Representatives Buffalo, Boschee, Fegley, Hanson, M. Johnson, Schneider
Senators Hogan, O. Larsen, Marcellais

1 A BILL for an Act to create and enact a new section to chapter 54-12 of the North Dakota
2 Century Code, relating to the data collection and reporting of bias crimes; to amend and reenact
3 sections 12-63-04, 12.1-17-02, 12.1-17-07, and 12.1-21-05 of the North Dakota Century Code,
4 relating to the duty of the peace officer standards and training board to provide training on bias
5 crimes, aggravated assault, harassment, and criminal mischief; to provide for a report to the
6 legislative management; and to provide a penalty.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 12-63-04 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **12-63-04. Board - Powers - Duties - Authority.**

11 The board shall administer, coordinate, and enforce the provisions of this chapter, evaluate
12 the qualifications of applicants, and approve the examinations for licensing under this chapter.

13 1. The board shall:

- 14 a. Prescribe the criteria for certification of basic, advanced, and specialized peace
15 officer training curriculum, instructors, and schools;
16 b. Certify curriculum, instructors, schools, and officers that have met the training
17 certification criteria;
18 c. Establish the curriculum for basic and advanced peace officer training, including
19 a course of instruction, and ongoing training in identifying and responding to bias
20 crimes; and
21 d. Prescribe minimum standards of sidearm training and certification for peace
22 officers before they may carry a sidearm.

23 2. The board shall keep records and minutes necessary to carry out its functions. The
24 board may:

- 1 a. Issue subpoenas, examine witnesses, administer oaths, and investigate
- 2 allegations of practices violating the provisions of this chapter or rules adopted by
- 3 the board.
- 4 b. Examine, under oath, any applicant for licensing.
- 5 c. Examine, under oath, any licensed peace officer during a hearing to suspend,
- 6 revoke, or to not renew a license of a peace officer.
- 7 d. Adopt rules relating to the professional conduct of peace officers and to
- 8 implement the requirements of this chapter, including rules relating to
- 9 professional licensure, continuing education, and ethical standards of practice,
- 10 for persons holding a license to practice peace officer duties.
- 11 3. ~~The board shall develop guidelines, a course of instruction, and ongoing training to~~
- 12 ~~assist peace officers in identifying and responding to bias crimes.~~ The board shall
- 13 provide ~~annual refresher~~ training to all licensed peace officers ~~every two years in~~
- 14 ~~identifying and responding to bias crimes.~~
- 15 a. The course of instruction and ongoing training in identifying and responding to
- 16 bias crimes established under subdivision c of subsection 1 must:
- 17 (1) Include material to help peace officers distinguish a bias crime from any
- 18 other crime;
- 19 (2) Help peace officers understand and assist a victim of a bias crime; and
- 20 (3) ~~Provide instruction on the laws dealing with bias crimes and the legal rights~~
- 21 ~~of, and the remedies available to, a victim of a bias crime;~~
- 22 ~~(4) Illustrate proper techniques and methods to handle a bias crime incident in~~
- 23 ~~a noncombative manner;~~
- 24 ~~(5) Provide training on how to respond to a report of a bias crime, including a~~
- 25 ~~report of a bias crime committed under the color of authority; and~~
- 26 ~~(6) Ensure a bias crime is accurately reported as required under section 5 of~~
- 27 this Act.
- 28 b. The board shall update the course periodically as necessary.
- 29 c. As used in this subsection, "bias crime" has the same meaning as in section 5 of
- 30 this Act.

1 4. The board shall adopt rules relating to the professional conduct of licensed peace
2 officers involved in confidential informant agreements under chapter 29-29.5, and shall
3 receive complaints and make determinations if an officer's conduct violated the
4 protections provided in chapter 29-29.5. Annually, the board shall conduct an audit
5 evaluating the effectiveness of confidential informant training requirements.

6 4.5. The board shall establish penalties and enforce violations of protections provided in
7 chapter 29-29.5. The penalties established must be formulated based on the nature,
8 severity, gravity, and recurrence of violations. The board may deny, suspend, or
9 revoke a license or may impose probationary conditions, including remedial training.

10 **SECTION 2. AMENDMENT.** Section 12.1-17-02 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **12.1-17-02. Aggravated assault.**

13 1. Except as provided in subsection 2, a person is guilty of a class C felony if that person:

- 14 a. Willfully causes serious bodily injury to another human being;
- 15 b. Knowingly causes bodily injury or substantial bodily injury to another human
16 being with a dangerous weapon or other weapon, the possession of which under
17 the circumstances indicates an intent or readiness to inflict serious bodily injury;
- 18 c. Causes bodily injury or substantial bodily injury to another human being while
19 attempting to inflict serious bodily injury on any human being; ~~or~~
- 20 d. Fires a firearm or hurls a destructive device at another human being; or
- 21 e. Causes bodily injury to another human ~~in whole or in part~~ because of the victim's
22 actual or perceived race, color, religion, gender, disability, sexual orientation,
23 gender identity, national origin, or ancestry.

24 2. The person is guilty of a class B felony if the person violates subsection 1 and the
25 victim:

- 26 a. Is under twelve years of age;
- 27 b. Is a peace officer or correctional institution employee acting in an official capacity,
28 which the actor knows to be a fact; or
- 29 c. Suffers permanent loss or impairment of the function of a bodily member or
30 organ.

1 **SECTION 3. AMENDMENT.** Section 12.1-17-07 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **12.1-17-07. Harassment.**

- 4 1. A person is guilty of an offense if, with intent to frighten or harass another, the person:
- 5 a. Communicates in writing or by electronic communication a threat to inflict injury
- 6 on any person, to any person's reputation, or to any property;
- 7 b. Makes a telephone call anonymously or in offensively coarse language;
- 8 c. Makes repeated telephone calls or other electronic communication, whether or
- 9 not a conversation ensues, with no purpose of legitimate communication; or
- 10 d. Communicates a falsehood in writing or by electronic communication and causes
- 11 mental anguish; or
- 12 e. Commits an offense in violation of subdivisions a, b, c, or d in whole or in part on
- 13 the basis of actual or perceived race, color, religion, gender, disability, sexual
- 14 orientation, gender identity, national origin, or ancestry.
- 15 2. The offense is a class A misdemeanor if it is under subdivision a ~~or e~~ of subsection 1
- 16 or subsection 4. Otherwise it is a class B misdemeanor.
- 17 3. Any offense defined herein and committed by use of electronic communication may be
- 18 deemed to have been committed at either the place at which the electronic
- 19 communication was made or at the place where the electronic communication was
- 20 received.
- 21 4. A person is guilty of an offense if the person initiates communication with a
- 22 911 emergency line, public safety answering point, or an emergency responder
- 23 communication system with the intent to annoy or harass another person or a public
- 24 safety agency or who makes a false report to a public safety agency.
- 25 a. Intent to annoy or harass is established by proof of one or more calls with no
- 26 legitimate emergency purpose.
- 27 b. Upon conviction of a violation of this subsection, a person is also liable for all
- 28 costs incurred by any unnecessary emergency response.
- 29 5. Any offense defined herein is deemed communicated in writing if it is transmitted
- 30 electronically, by electronic mail, facsimile, or other similar means. Electronic
- 31 communication means transfer of signs, signals, writing, images, sounds, data, or

intelligence of any nature transmitted in whole or in part by a wire, radio,
electromagnetic, photo-electronic, or photo-optical system.

SECTION 4. AMENDMENT. Section 12.1-21-05 of the North Dakota Century Code is
amended and reenacted as follows:

12.1-21-05. Criminal mischief.

1. A person is guilty of an offense if that person:

- a. Willfully tampers with tangible property of another so as to endanger person or property; or
- b. Willfully damages tangible property of another.

2. The offense is:

a. A class B felony if the actor intentionally causes pecuniary loss in excess of ten thousand dollars.

b. ~~A class B felony if the actor damages the property in whole or in part because of:~~

~~(1) The owner's actual or perceived race, color, religion, gender, disability,~~

~~sexual orientation, gender identity, national origin, or ancestry; or~~

~~(2) The property's believed association or affiliation with or representation of~~

~~race, color, religion, gender, disability, sexual orientation, gender identity,~~

~~national origin, or ancestry.~~

~~c.~~ A class C felony if the actor intentionally causes pecuniary loss in excess of two thousand dollars but not in excess of ten thousand dollars or damages tangible property of another by means of an explosive or a destructive device.

~~c.d.~~ A class A misdemeanor if the actor recklessly causes pecuniary loss in excess of two thousand dollars or if the actor intentionally causes pecuniary loss of from one hundred dollars through two thousand dollars.

d. A class A misdemeanor if the actor damages the property in whole or in part because of:

(1) The owner's actual or perceived race, color, religion, gender, disability,

sexual orientation, gender identity, national origin, or ancestry; or

(2) The property's believed association or affiliation with or representation of

race, color, religion, gender, disability, sexual orientation, gender identity,

national origin, or ancestry.

1 Otherwise the offense is a class B misdemeanor.

2 **SECTION 5.** A new section to chapter 54-12 of the North Dakota Century Code is created
3 and enacted as follows:

4 **Collection of bias crime information - Report.**

5 1. As used in this section:

6 a. "Bias crime" means:

7 (1) A criminal act committed against a person or a person's property in whole or
8 in part because of actual or perceived race, color, religion, gender, disability,
9 sexual orientation, gender identity, national origin, or ancestry or which is
10 committed for the purpose of restraining that person from exercising the
11 person's rights under the Constitution or laws of this state or of the United
12 States in whole or in part because of actual or perceived race, color,
13 religion, gender, disability, sexual orientation, gender identity, national origin,
14 or ancestry;

15 (2) An illegal act directed against any person or any person's property in whole
16 or in part because of the person's actual or perceived race, color, religion,
17 gender, disability, sexual orientation, gender identity, national origin, or
18 ancestry; and

19 (3) All other incidents, as determined by a law enforcement agency, intended to
20 intimidate or harass an individual or group in whole or in part because of
21 actual or perceived race, color, religion, gender, disability, sexual orientation,
22 gender identity, national origin, or ancestry.

23 b. "Law enforcement agency" means a nonfederal public agency authorized by law
24 or by a government agency or branch to enforce the law and to conduct or
25 engage in investigations or prosecutions for violations of law. The term includes a
26 multijurisdictional task force.

27 2. Each law enforcement agency shall collect information on reported bias crimes,
28 bias-motivations, and on groups and individuals committing bias crimes.

29 3. ~~Biannually~~Annually, each law enforcement agency shall submit information collected
30 under subsection 2 to the attorney general in a form, time, and manner prescribed by
31 the attorney general.

- 1 4. The data and reports compiled under this section are public information and not
2 exempt from disclosure but may not contain the name of an individual who:
 - 3 a. Committed or allegedly committed a bias crime; or
4 b. Was the victim or the alleged victim of a bias crime.
- 5 5. By July first of each year, the attorney general shall submit to the legislative
6 management and the governor a written report summarizing the data from the
7 preceding calendar year including:
 - 8 a. The type of bias crimes occurring in the state;
9 b. The number of bias crimes alleged, prosecuted, and for which a conviction was
10 obtained; and
11 c. Bias crime victim demographics.
- 12 6. The attorney general may require the reporting of additional information not specified
13 in this section. The attorney general shall develop standard forms, processes, and
14 deadlines for the biannual submission of bias crime data by law enforcement
15 agencies.
- 16 7. If a law enforcement agency fails to file a report within thirty days after the report is
17 due, the attorney general may compel compliance by any means until the report is
18 filed.
- 19 8. Annually the attorney general shall submit to the federal bureau of investigation the
20 statistical data collected under this section regarding the occurrence of bias crimes
21 within the state.