

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; and
- 19 d. Prescribe minimum standards of sidearm training and certification for peace
20 officers before they may carry a sidearm.

21 2. The board shall keep records and minutes necessary to carry out its functions. The
22 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 training to all licensed peace officers.
- 14 a. The course of instruction must:
- 15 (1) Include material to help peace officers distinguish a bias crime from any
16 other crime;
- 17 (2) Help peace officers understand and assist a victim of a bias crime;
- 18 (3) Provide instruction on the laws dealing with bias crimes and the legal rights
19 of, and the remedies available to, a victim of a bias crime;
- 20 (4) Illustrate proper techniques and methods to handle a bias crime incident in
21 a noncombative manner;
- 22 (5) Provide training on how to respond to a report of a bias crime, including a
23 report of a bias crime committed under the color of authority; and
- 24 (6) Ensure a bias crime is accurately reported as required under section 5 of
25 this Act.
- 26 b. The board shall update the course periodically as necessary.
- 27 c. As used in this subsection, "bias crime" has the same meaning as in section 5 of
28 this Act.
- 29 4. The board shall adopt rules relating to the professional conduct of licensed peace
30 officers involved in confidential informant agreements under chapter 29-29.5, and shall
31 receive complaints and make determinations if an officer's conduct violated the

1 protections provided in chapter 29-29.5. Annually, the board shall conduct an audit
2 evaluating the effectiveness of confidential informant training requirements.

3 4.5. The board shall establish penalties and enforce violations of protections provided in
4 chapter 29-29.5. The penalties established must be formulated based on the nature,
5 severity, gravity, and recurrence of violations. The board may deny, suspend, or
6 revoke a license or may impose probationary conditions, including remedial training.

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

9 **12.1-17-02. Aggravated assault.**

- 10 1. Except as provided in subsection 2, a person is guilty of a class C felony if that person:
- 11 a. Willfully causes serious bodily injury to another human being;
- 12 b. Knowingly causes bodily injury or substantial bodily injury to another human
13 being with a dangerous weapon or other weapon, the possession of which under
14 the circumstances indicates an intent or readiness to inflict serious bodily injury;
- 15 c. Causes bodily injury or substantial bodily injury to another human being while
16 attempting to inflict serious bodily injury on any human being; ~~or~~
- 17 d. Fires a firearm or hurls a destructive device at another human being; or
- 18 e. Causes bodily injury to another human in whole or in part because of the victim's
19 actual or perceived race, color, religion, gender, disability, sexual orientation,
20 gender identity, national origin, or ancestry.
- 21 2. The person is guilty of a class B felony if the person violates subsection 1 and the
22 victim:
- 23 a. Is under twelve years of age;
- 24 b. Is a peace officer or correctional institution employee acting in an official capacity,
25 which the actor knows to be a fact; or
- 26 c. Suffers permanent loss or impairment of the function of a bodily member or
27 organ.

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

30 **12.1-17-07. Harassment.**

- 31 1. A person is guilty of an offense if, with intent to frighten or harass another, the person:

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

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

1 **12.1-21-05. Criminal mischief.**

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

3 a. Willfully tampers with tangible property of another so as to endanger person or
4 property; or

5 b. Willfully damages tangible property of another.

6 2. The offense is:

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

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

10 (1) The owner's actual or perceived race, color, religion, gender, disability,
11 sexual orientation, gender identity, national origin, or ancestry; or

12 (2) The property's believed association or affiliation with or representation of
13 race, color, religion, gender, disability, sexual orientation, gender identity,
14 national origin, or ancestry.

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

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

21 Otherwise the offense is a class B misdemeanor.

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

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

25 1. As used in this section:

26 a. "Bias crime" means:

27 (1) A criminal act committed against a person or a person's property in whole or
28 in part because of actual or perceived race, color, religion, gender, disability,
29 sexual orientation, gender identity, national origin, or ancestry or which is
30 committed for the purpose of restraining that person from exercising the
31 person's rights under the Constitution or laws of this state or of the United

- 1 States in whole or in part because of actual or perceived race, color,
2 religion, gender, disability, sexual orientation, gender identity, national origin,
3 or ancestry;
- 4 (2) An illegal act directed against any person or any person's property in whole
5 or in part because of the person's actual or perceived race, color, religion,
6 gender, disability, sexual orientation, gender identity, national origin, or
7 ancestry; and
- 8 (3) All other incidents, as determined by a law enforcement agency, intended to
9 intimidate or harass an individual or group in whole or in part because of
10 actual or perceived race, color, religion, gender, disability, sexual orientation,
11 gender identity, national origin, or ancestry.
- 12 b. "Law enforcement agency" means a nonfederal public agency authorized by law
13 or by a government agency or branch to enforce the law and to conduct or
14 engage in investigations or prosecutions for violations of law. The term includes a
15 multijurisdictional task force.
- 16 2. Each law enforcement agency shall collect information on reported bias crimes,
17 bias-motivations, and on groups and individuals committing bias crimes.
- 18 3. Biannually, each law enforcement agency shall submit information collected under
19 subsection 2 to the attorney general in a form, time, and manner prescribed by the
20 attorney general.
- 21 4. The data and reports compiled under this section are public information and not
22 exempt from disclosure but may not contain the name of an individual who:
- 23 a. Committed or allegedly committed a bias crime; or
24 b. Was the victim or the alleged victim of a bias crime.
- 25 5. By July first of each year, the attorney general shall submit to the legislative
26 management and the governor a written report summarizing the data from the
27 preceding calendar year including:
- 28 a. The type of bias crimes occurring in the state;
29 b. The number of bias crimes alleged, prosecuted, and for which a conviction was
30 obtained; and
31 c. Bias crime victim demographics.

- 1 6. The attorney general may require the reporting of additional information not specified
2 in this section. The attorney general shall develop standard forms, processes, and
3 deadlines for the biannual submission of bias crime data by law enforcement
4 agencies.
- 5 7. If a law enforcement agency fails to file a report within thirty days after the report is
6 due, the attorney general may compel compliance by any means until the report is
7 filed.
- 8 8. Annually the attorney general shall submit to the federal bureau of investigation the
9 statistical data collected under this section regarding the occurrence of bias crimes
10 within the state.