

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 1488

(SENATE AUTHORS: MARTY and Pappas)

DATE
02/27/2017

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OFFICIAL STATUS
Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

- 1.1 A bill for an act
- 1.2 relating to public safety; prohibiting private precharge programs; correcting
- 1.3 references; amending Minnesota Statutes 2016, section 629.366, subdivisions 1,
- 1.4 2, by adding a subdivision.
- 1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.6 Section 1. Minnesota Statutes 2016, section 629.366, subdivision 1, is amended to read:
- 1.7 Subdivision 1. **Circumstances justifying detention.** (a) A merchant or merchant's
- 1.8 employee may detain a person if the merchant or employee has reasonable cause to believe:
- 1.9 (1) that the person has taken, or is taking, an article of value without paying for it, from
- 1.10 the possession of the merchant in the merchant's place of business or from a vehicle or
- 1.11 premises under the merchant's control;
- 1.12 (2) that the taking is done with the intent to wrongfully deprive the merchant of the
- 1.13 property or the use or benefit of it; or
- 1.14 (3) that the taking is done with the intent to appropriate the use of the property to the
- 1.15 taker or any other person.
- 1.16 (b) Subject to the limitations in paragraph (a), a merchant or merchant's employee may
- 1.17 detain a person for any of the following purposes:
- 1.18 (1) to require the person to provide identification or verify identification;
- 1.19 (2) to inquire as to whether the person possesses unpurchased merchandise taken from
- 1.20 the merchant and, if so, to receive the merchandise; or
- 1.21 (3) to inform a peace officer; ~~or~~ or

2.1 ~~(4) to institute criminal proceedings against the person.~~

2.2 (c) The person detained shall be informed promptly of the purpose of the detention and
2.3 may not be subjected to unnecessary or unreasonable force, nor to interrogation against the
2.4 person's will. A merchant or merchant's employee may not detain a person for more than
2.5 one hour unless:

2.6 (1) the merchant or employee is waiting to surrender the person to a peace officer, in
2.7 which case the person may be detained until a peace officer has accepted custody of or
2.8 released the person; or

2.9 (2) the person is a minor, or claims to be, and the merchant or employee is waiting to
2.10 surrender the minor to a peace officer or the minor's parent, guardian, or custodian, in which
2.11 case the minor may be detained until the peace officer, parent, guardian, or custodian has
2.12 accepted custody of the minor.

2.13 (d) If at any time the person detained requests that a peace officer be summoned, the
2.14 merchant or merchant's employee must notify a peace officer immediately.

2.15 Sec. 2. Minnesota Statutes 2016, section 629.366, is amended by adding a subdivision to
2.16 read:

2.17 Subd. 1a. **Precharge program prohibited.** (a) A merchant or merchant's employee
2.18 shall not refer the person detained to a precharge program on the condition that no police
2.19 report will be made or filed upon the person successfully completing the program.

2.20 (b) "Precharge program" means a behavioral modification or corrective education program
2.21 that operates without the involvement of the criminal justice system, regardless of the name
2.22 used to describe the program.

2.23 (c) An action, including an action in conciliation court, for the recovery of the cost of a
2.24 precharge program may be brought in the county where the plaintiff resides or where the
2.25 incident occurred, or in the county where the precharge program is located. In addition to
2.26 the actual damages and any other relief available under law, the court may award a civil
2.27 penalty of \$500 to a prevailing plaintiff.

2.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.29 Sec. 3. Minnesota Statutes 2016, section 629.366, subdivision 2, is amended to read:

2.30 Subd. 2. **Arrest.** Upon a ~~charge~~ an allegation being made by a merchant or merchant's
2.31 employee, a peace officer may arrest a person without a warrant, if the officer has reasonable

- 3.1 cause for believing that the person has committed or attempted to commit the offense
- 3.2 described in subdivision 1.