

SENATE
STATE OF MINNESOTA
SECOND SPECIAL SESSION

S.F. No. 40

(SENATE AUTHORS: GAZELKA)

DATE
07/20/2020

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32 Introduction and first reading
32 By Motion, Laid on Table

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to public safety; modifying membership of the Peace Officer Standards
1.3 and Training Board; providing for crisis intervention, mental illness crisis, and
1.4 autism training; modifying a past appropriation to the Peace Officer Standards and
1.5 Training Board; limiting admissibility of statements made during public safety
1.6 peer support activity and critical incident stress management services; classifying
1.7 certain data; expanding access to information for law enforcement hiring; requiring
1.8 updated policies regarding the use of force by peace officers; reporting law
1.9 enforcement use of force; requiring reports; appropriating money; amending
1.10 Minnesota Statutes 2018, sections 13.43, subdivision 9; 181.973; 626.841;
1.11 626.8452, subdivisions 2, 4, by adding a subdivision; 626.8469; 626.87,
1.12 subdivisions 2, 3, 5; Laws 2019, First Special Session chapter 5, article 1, section
1.13 13, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters
1.14 181; 626.

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

1.16 Section 1. Minnesota Statutes 2018, section 13.43, subdivision 9, is amended to read:

1.17 Subd. 9. **Peer ~~counseling-debriefing~~ support and public safety stress management**
1.18 **data.** ~~(a) Government data acquired by a peer group member in a public safety peer~~
1.19 ~~counseling-debriefing support provider on an individual being supported by a public safety~~
1.20 ~~support activity under section 181.973 or by a critical incident stress management team or~~
1.21 ~~team member on an individual receiving critical incident stress management services under~~
1.22 ~~section 181.9731 is private data on the person being debriefed.~~

1.23 ~~(b) For purposes of this subdivision, "public safety peer counseling-debriefing" means~~
1.24 ~~a group process-oriented debriefing session held for peace officers, firefighters, medical~~
1.25 ~~emergency persons, dispatchers, or other persons involved with public safety emergency~~
1.26 ~~services, that is established by any government entity providing public safety emergency~~

2.1 ~~services and is designed to help a person who has suffered an occupation-related traumatic~~
 2.2 ~~event begin the process of healing and effectively dealing with posttraumatic stress.~~

2.3 EFFECTIVE DATE. This section is effective August 1, 2020.

2.4 Sec. 2. Minnesota Statutes 2018, section 181.973, is amended to read:

2.5 **181.973 PUBLIC SAFETY PEER COUNSELING AND DEBRIEFING SUPPORT**
 2.6 **ACTIVITY.**

2.7 (a) ~~A person engaged participating in a public safety peer counseling or a public safety~~
 2.8 ~~peer debriefing support activity shall not, without the permission of the person being~~
 2.9 ~~debriefed or counseled, be allowed to supported,~~ disclose any information or opinion ~~which~~
 2.10 ~~that the peer group member or peer counselor participant~~ has acquired during the peer
 2.11 support activity process. ~~However,~~ This paragraph does not prohibit a peer counselor support
 2.12 provider from disclosing information the peer counselor provider reasonably believes
 2.13 indicates that the person being supported may be a danger to self or others, if the information
 2.14 is used only for the purpose of eliminating the danger to the person or others. Any information
 2.15 or opinion disclosed in violation of this paragraph is not admissible as evidence in any
 2.16 criminal, civil, personnel, or occupational licensing matter involving the person being
 2.17 ~~debriefed or counseled.~~ supported. For purposes of this paragraph, a "peer support provider"
 2.18 means someone trained in peer-to-peer emotional and psychological support and coaching
 2.19 techniques who is designated by a formal program within a public safety agency to provide
 2.20 support services.

2.21 (b) A statement made by a person being supported during public safety peer support
 2.22 activity is not admissible in any criminal, civil, or administrative proceeding.

2.23 (c) For purposes of this section, "public safety peer counseling or debriefing support
 2.24 activity" means a group process oriented debriefing session, or one-to-one contact with a
 2.25 trained peer counselor, held for peace officers, correctional officers, firefighters, medical
 2.26 rescue squad members, emergency persons medical services providers, dispatchers, hospital
 2.27 or emergency medical clinic personnel, or other persons involved with public safety
 2.28 emergency services, that is established by any agency providing public safety emergency
 2.29 services and is designed to help a person who has suffered an occupation-related trauma,
 2.30 illness, or stress response begin the process of healing and effectively dealing with recovery
 2.31 from the person's problems reactions or the use of the peer counselor support program for
 2.32 direction with referrals to better service these occupation-related issues. A "peer counselor"
 2.33 means someone so designated by that agency.

3.1 **EFFECTIVE DATE.** This section is effective August 1, 2020.

3.2 Sec. 3. **[181.9731] CRITICAL INCIDENT STRESS MANAGEMENT.**

3.3 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
3.4 the meanings given.

3.5 (b) "Crisis intervention services" means consultation, one-on-one peer counseling,
3.6 coaching, debriefings, defusings, management, prevention, referral for suicide and
3.7 posttraumatic stress prevention, or resilience education and training provided by a critical
3.8 incident stress management team member or participant. Crisis intervention services may
3.9 include peer support activity under section 181.973.

3.10 (c) "Critical incident" means an event that results in acute or cumulative psychological
3.11 stress or trauma to an emergency service provider as a result of the provider's response to
3.12 the event.

3.13 (d) "Critical incident stress management" means a set of crisis intervention services for
3.14 emergency service providers to assist in coping with the stress and potential psychological
3.15 trauma resulting from a response to emotionally difficult events.

3.16 (e) "Critical incident stress management team" means a group organized to provide
3.17 career-related stress management to emergency service providers. A critical incident stress
3.18 management team may include peer members from any emergency service discipline, mental
3.19 health professionals, and designated emergency service chaplains.

3.20 (f) "Emergency service provider" includes a peace officer, correctional officer, firefighter,
3.21 rescue squad member, dispatcher, hospital or emergency medical clinic personnel, or other
3.22 person involved with public safety emergency services, either paid or volunteer.

3.23 Subd. 2. **Disclosure prohibited; exception.** (a) A critical incident stress management
3.24 team member, a mental health provider, a participant, or any other person involved in the
3.25 provision or receipt of crisis intervention services must not, without the consent of the
3.26 individual receiving services, disclose any information obtained solely through the provision
3.27 of or receipt of such services.

3.28 (b) A critical incident stress management team member or a mental health provider
3.29 involved in the provision or receipt of crisis intervention services may disclose information
3.30 if the member or provider reasonably believes the disclosure is necessary to prevent harm
3.31 to the person in receipt of services or to prevent harm to another person.

4.1 Subd. 3. **Inadmissibility.** Any statement made during the provision or receipt of critical
4.2 incident stress management is not admissible in an administrative, civil, or criminal
4.3 proceeding.

4.4 **EFFECTIVE DATE.** This section is effective August 1, 2020.

4.5 Sec. 4. **[626.5534] USE OF FORCE REPORTING.**

4.6 Subdivision 1. **Report required.** A chief law enforcement officer must provide the
4.7 information requested by the Federal Bureau of Investigation about each incident of law
4.8 enforcement use of force resulting in serious bodily harm or death, as those terms are defined
4.9 in the Federal Bureau of Investigation's reporting requirements, to the superintendent of the
4.10 Bureau of Criminal Apprehension. The superintendent shall adopt a reporting form for use
4.11 by law enforcement agencies in making the report required under this section. The report
4.12 must include for each incident all of the information requested by the Federal Bureau of
4.13 Investigation.

4.14 Subd. 2. **Use of information collected.** A chief law enforcement officer must file the
4.15 report under subdivision 1 once a month in the form required by the superintendent. The
4.16 superintendent must summarize and analyze the information received and submit an annual
4.17 written report to the chairs and ranking minority members of the house of representatives
4.18 and senate committees with jurisdiction over public safety. The superintendent shall submit
4.19 the information to the Federal Bureau of Investigation.

4.20 **EFFECTIVE DATE.** This section is effective August 1, 2020.

4.21 Sec. 5. Minnesota Statutes 2018, section 626.841, is amended to read:

4.22 **626.841 BOARD; MEMBERS.**

4.23 The Board of Peace Officer Standards and Training shall be composed of the following
4.24 ~~15~~ 17 members:

4.25 (1) two members to be appointed by the governor from among the county sheriffs in
4.26 Minnesota;

4.27 (2) four members to be appointed by the governor from among peace officers in
4.28 Minnesota municipalities, at least two of whom shall be chiefs of police;

4.29 (3) two members to be appointed by the governor from among peace officers, at least
4.30 one of whom shall be a member of the Minnesota State Patrol Association;

4.31 (4) the superintendent of the Minnesota Bureau of Criminal Apprehension or a designee;

5.1 (5) two members appointed by the governor from among peace officers, or former peace
 5.2 officers, who are currently employed on a full-time basis in a professional peace officer
 5.3 education program;

5.4 (6) two members to be appointed by the governor, one member to be appointed from
 5.5 among administrators of Minnesota colleges or universities that offer professional peace
 5.6 officer education, and one member to be appointed from among the elected city officials in
 5.7 statutory or home rule charter cities of under 5,000 population outside the metropolitan
 5.8 area, as defined in section 473.121, subdivision 2; and

5.9 (7) ~~two~~ four members appointed by the governor from among the general public.

5.10 A chair shall be appointed by the governor from among the members. In making
 5.11 appointments the governor shall strive to achieve representation from among the geographic
 5.12 areas of the state.

5.13 **EFFECTIVE DATE.** This section is effective August 1, 2020.

5.14 Sec. 6. Minnesota Statutes 2018, section 626.8452, is amended by adding a subdivision
 5.15 to read:

5.16 **Subd. 1a. Updated policies required.** (a) By September 1, 2020, the board, in
 5.17 consultation with interested parties, shall adopt an updated comprehensive written model
 5.18 policy on the use of force, including deadly force, by peace officers, and distribute this
 5.19 policy to the chief law enforcement officer of every law enforcement agency in the state.
 5.20 The model policy must recognize and respect the sanctity and value of all human life and
 5.21 the need to treat everyone with dignity and without prejudice. At a minimum, the policy
 5.22 must include:

5.23 (1) a duty for peace officers to intercede when present and observing another peace
 5.24 officer using force that is clearly beyond what is objectively reasonable under the law and
 5.25 the particular circumstances of the case, and in a position to do so; and

5.26 (2) a duty for peace officers to report any illegal use of force by another peace officer
 5.27 to the officer's chief law enforcement officer.

5.28 In addition, except in cases where the person upon whom the action is taken is committing
 5.29 a violent act that imminently threatens the peace officer or another with great bodily harm,
 5.30 as defined in section 609.02, subdivision 8, or death, the policy must prohibit peace officers
 5.31 from using (i) carotid control, or (ii) neck restraints or chokeholds that restrict airways.
 5.32 However, even in those circumstances, the policy must require that less lethal measures be
 5.33 considered first by the officer.

6.1 (b) By November 1, 2020, each chief law enforcement officer shall establish and enforce
6.2 an updated comprehensive written policy on the use of force, including deadly force, by
6.3 officers within the agency that is identical or substantively similar to the model policy
6.4 required in paragraph (a). Each chief law enforcement officer shall certify to the board that
6.5 the policy has been established in compliance with this paragraph. Chief law enforcement
6.6 officers shall ensure that each officer in the agency receives a copy of the policy and adheres
6.7 to it.

6.8 (c) The board has authority to inspect law enforcement agency policies to ensure
6.9 compliance with paragraph (b). The board may conduct this inspection based upon a
6.10 complaint it receives about a particular agency or through a random selection process.

6.11 **EFFECTIVE DATE.** This section is effective August 1, 2020.

6.12 Sec. 7. Minnesota Statutes 2018, section 626.8452, subdivision 2, is amended to read:

6.13 Subd. 2. **Deadly force and firearms use; initial instruction.** Beginning January 1,
6.14 1992, the head of every local and state law enforcement agency shall provide instruction
6.15 on the use of force, deadly force, and the use of firearms to every peace officer and part-time
6.16 peace officer newly appointed by or beginning employment with the agency. This instruction
6.17 must occur before the agency head issues a firearm to the officer or otherwise authorizes
6.18 the officer to carry a firearm in the course of employment. The instruction must be based
6.19 on the agency's written policy required in ~~subdivision~~ subdivisions 1 and 1a and on the
6.20 instructional materials required by the board for peace officer and part-time peace officer
6.21 licensure.

6.22 **EFFECTIVE DATE.** This section is effective August 1, 2020.

6.23 Sec. 8. Minnesota Statutes 2018, section 626.8452, subdivision 4, is amended to read:

6.24 Subd. 4. **Record keeping required.** The head of every local and state law enforcement
6.25 agency shall maintain written records of the agency's compliance with the requirements of
6.26 subdivisions 1a, 2, and 3.

6.27 **EFFECTIVE DATE.** This section is effective August 1, 2020.

7.1 Sec. 9. Minnesota Statutes 2018, section 626.8469, is amended to read:

7.2 **626.8469 TRAINING IN CRISIS RESPONSE, CONFLICT MANAGEMENT,**
7.3 **AND CULTURAL DIVERSITY.**

7.4 Subdivision 1. **In-service training required.** Beginning July 1, 2018, the chief law
7.5 enforcement officer of every state and local law enforcement agency shall provide in-service
7.6 training in crisis intervention and mental illness crises; conflict management and mediation;
7.7 and recognizing and valuing community diversity and cultural differences to include implicit
7.8 bias training to every peace officer and part-time peace officer employed by the agency.
7.9 The training shall comply with learning objectives developed and approved by the board
7.10 and shall meet board requirements for board-approved continuing education credit. Crisis
7.11 intervention and mental illness crisis training shall meet the standards in subdivision 1a.
7.12 The training shall consist of at least 16 continuing education credits within an officer's
7.13 three-year licensing cycle. Each peace officer with a license renewal date after June 30,
7.14 2018, is not required to complete this training until the officer's next full three-year licensing
7.15 cycle.

7.16 Subd. 1a. **Crisis intervention and mental illness crisis training.** (a) The board, in
7.17 consultation with the commissioner of human services and mental health stakeholders, shall
7.18 create a list of approved entities and training courses to instruct peace officers in techniques
7.19 for responding to a mental illness crisis. A course must include scenario-based instruction
7.20 and cover most of the following issues:

7.21 (1) techniques for relating to individuals with mental illnesses and the individuals'
7.22 families;

7.23 (2) techniques for crisis de-escalation;

7.24 (3) techniques for relating to diverse communities and education on mental illness
7.25 diversity;

7.26 (4) mental illnesses and the criminal justice system;

7.27 (5) community resources and supports for individuals experiencing a mental illness crisis
7.28 and for the individuals' families;

7.29 (6) psychotropic medications and the medications' side effects;

7.30 (7) co-occurring mental illnesses and substance use disorders;

7.31 (8) suicide prevention;

7.32 (9) mental illnesses and disorders and the symptoms; and

8.1 (10) autism spectrum disorder.

8.2 (b) A course must also include training on children and families of individuals with
 8.3 mental illnesses to enable officers to respond appropriately to others who are present during
 8.4 a mental illness crisis. The board shall update the list of approved entities and training
 8.5 courses periodically as it considers appropriate.

8.6 Subd. 2. **Record keeping required.** The head of every local and state law enforcement
 8.7 agency shall maintain written records of the agency's compliance with the requirements of
 8.8 ~~subdivision 1.~~ subdivisions 1 and 1a. The documentation is ~~subject to periodic review by~~
 8.9 ~~the board, and shall be made available~~ submitted to the board at its request. The board shall
 8.10 include in the compliance reviews required in section 626.8459 an evaluation of the
 8.11 effectiveness of in-service crisis intervention and mental illness crisis training in reducing
 8.12 officer use of force and diverting people experiencing a mental illness crisis from arrest.

8.13 Subd. 3. **Licensing sanctions; injunctive relief.** The board may impose licensing
 8.14 sanctions and seek injunctive relief under section 214.11 for failure to comply with the
 8.15 requirements of this section.

8.16 **EFFECTIVE DATE.** This section is effective August 1, 2020.

8.17 Sec. 10. **[626.8474] AUTISM TRAINING.**

8.18 Subdivision 1. **Learning objectives required.** (a) By January 1, 2021, the board shall
 8.19 prepare learning objectives for preservice and training on ensuring safer interactions between
 8.20 peace officers and persons with autism. At a minimum, the objectives must address the
 8.21 following:

- 8.22 (1) autism overview and behavioral understanding;
 8.23 (2) best practices for interventions and de-escalation strategies;
 8.24 (3) prevention and crisis reduction models; and
 8.25 (4) objective review of tools and technology available.

8.26 (b) In developing the learning objectives, the board shall consult with, at a minimum:

- 8.27 (1) individuals with autism;
 8.28 (2) family members of individuals with autism;
 8.29 (3) autism experts; and
 8.30 (4) peace officers.

9.1 Subd. 2. Preservice training required. (a) The learning objectives developed pursuant
9.2 to subdivision 1 must be included in the required curriculum of professional peace officer
9.3 educational programs.

9.4 (b) A person is not eligible to take the peace officer licensing examination after July 1,
9.5 2021, unless the individual has received the training described in paragraph (a).

9.6 Subd. 3. Training required. Beginning July 1, 2021, the chief law enforcement officer
9.7 of every state and local law enforcement agency shall provide autism training to every peace
9.8 officer and part-time peace officer employed by the agency. The training must comply with
9.9 the learning objectives developed and approved by the board and must meet board
9.10 requirements for board-approved continuing education credit. The training must consist of
9.11 at least four continuing education credits within an officer's three-year licensing cycle. Each
9.12 peace officer with a license renewal date after June 30, 2021, is not required to complete
9.13 this training until the officer's next full three-year licensing cycle.

9.14 Subd. 4. Record keeping required. The head of every local and state law enforcement
9.15 agency shall maintain written records of the agency's compliance with the requirements of
9.16 subdivision 3. The documentation is subject to periodic review by the board, and must be
9.17 made available to the board at its request.

9.18 Subd. 5. Licensing sanctions; injunctive relief. The board may impose licensing
9.19 sanctions and seek injunctive relief under section 214.11 for failure to comply with the
9.20 requirements of this section.

9.21 EFFECTIVE DATE. This section is effective August 1, 2020.

9.22 Sec. 11. Minnesota Statutes 2018, section 626.87, subdivision 2, is amended to read:

9.23 Subd. 2. Disclosure of employment information. Upon request of a law enforcement
9.24 agency, an employer shall disclose or otherwise make available for inspection employment
9.25 information of an employee or former employee who is the subject of an investigation under
9.26 subdivision 1 or who is a candidate for employment with a law enforcement agency in any
9.27 other capacity. The request for disclosure of employment information must be in writing,
9.28 must be accompanied by an original authorization and release signed by the employee or
9.29 former employee, and must be signed by a sworn peace officer or other an authorized
9.30 representative of the law enforcement agency conducting the background investigation.

9.31 EFFECTIVE DATE. This section is effective August 1, 2020.

10.1 Sec. 12. Minnesota Statutes 2018, section 626.87, subdivision 3, is amended to read:

10.2 Subd. 3. **Refusal to disclose a personnel record.** If an employer refuses to disclose
 10.3 employment information in accordance with this section, upon request the district court
 10.4 may issue an ex parte order directing the disclosure of the employment information. The
 10.5 request must be made by ~~a sworn peace officer~~ an authorized representative from the law
 10.6 enforcement agency conducting the background investigation and must include a copy of
 10.7 the ~~original~~ request for disclosure made upon the employer or former employer and the
 10.8 authorization and release signed by the employee or former employee. The request must be
 10.9 signed by the ~~peace officer~~ person requesting the order and an attorney representing the
 10.10 state or the political subdivision on whose behalf the background investigation is being
 10.11 conducted. It is not necessary for the request or the order to be filed with the court
 10.12 administrator. Failure to comply with the court order subjects the person or entity who fails
 10.13 to comply to civil or criminal contempt of court.

10.14 **EFFECTIVE DATE.** This section is effective August 1, 2020.

10.15 Sec. 13. Minnesota Statutes 2018, section 626.87, subdivision 5, is amended to read:

10.16 Subd. 5. **Notice of investigation.** Upon initiation of a background investigation ~~under~~
 10.17 ~~this section~~ for a person described in subdivision 1, the law enforcement agency shall give
 10.18 written notice to the Peace Officer Standards and Training Board of:

10.19 (1) the candidate's full name and date of birth; and

10.20 (2) the candidate's peace officer license number, if known.

10.21 The initiation of a background investigation does not include the submission of an
 10.22 application for employment. Initiation of a background investigation occurs when the law
 10.23 enforcement agency begins its determination of whether an applicant meets the agency's
 10.24 standards for employment as a law enforcement employee.

10.25 **EFFECTIVE DATE.** This section is effective August 1, 2020.

10.26 Sec. 14. Laws 2019, First Special Session chapter 5, article 1, section 13, subdivision 4,
 10.27 is amended to read:

10.28 Subd. 4. **Peace Officer Training Assistance**

10.29 ~~\$6,000,000 each year~~ in fiscal year 2020 and

10.30 \$5,400,000 in fiscal year 2021 is to support

10.31 and strengthen law enforcement training and

11.1 implement best practices. The base for this
11.2 activity is ~~\$0~~ \$5,600,000 in fiscal year 2022
11.3 and thereafter.

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

11.5 Sec. 15. **APPROPRIATIONS.**

11.6 \$600,000 is appropriated from the general fund to the Peace Officer Standards and
11.7 Training Board for the fiscal year ending June 30, 2021. Of this amount:

11.8 (1) \$200,000 is for autism training under Minnesota Statutes, section 626.8474;

11.9 (2) \$200,000 is to reimburse law enforcement agency crisis intervention and mental
11.10 illness crisis training expenses for training that is provided by approved entities according
11.11 to Minnesota Statutes, section 626.8469, subdivision 1a; and

11.12 (3) \$200,000 is to administer two pilot projects, one in the seven-county metropolitan
11.13 area and one outside the seven-county metropolitan area, to create collaborations between
11.14 county mobile crisis mental health services described in Minnesota Statutes, section 245.469,
11.15 and municipal law enforcement agencies.

11.16 The appropriation in clause (3) is a onetime appropriation and must be used to purchase
11.17 tablets and video conferencing telehealth services to allow peace officers to connect quickly
11.18 with members of the mobile crisis mental health team to assist individuals in crisis. No later
11.19 than September 1, 2021, law enforcement agencies awarded grants under clause (3) shall
11.20 provide a written report to the board describing the expenditure of funds and evaluating the
11.21 effectiveness of the project in diverting people experiencing a mental illness crisis from
11.22 arrest. The board shall submit a written report compiling the law enforcement agency reports
11.23 and evaluating the program to the chairs and ranking minority members of the house of
11.24 representatives and senate committees with jurisdiction over public safety by January 1,
11.25 2022.

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