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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 640

02/01/2021 Authored by Gomez, Davnie, Reyer, Keeler, Becker-Finn and others
02/18/2021 The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy
Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act
1.2 relating to public safety; requiring local units of government to establish law
1.3 enforcement citizen oversight councils; specifying powers and duties of the councils
1.4 and the responsibilities of local authorities toward them; appropriating money;
1.5 amending Minnesota Statutes 2020, section 626.89, subdivisions 2, 17; proposing
1.6 coding for new law in Minnesota Statutes, chapter 626.

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

1.8 Section 1. Minnesota Statutes 2020, section 626.89, subdivision 2, is amended to read:

1.9 Subd. 2. Applicability. The procedures and provisions of this section apply to law
1.10 enforcement agencies and government units. The procedures and provisions of this section
1.11 do not apply to:

1.12 (1) investigations and proceedings of a citizen oversight council described in section
1.13 626.99; or

1.14 (2) investigations of criminal charges against an officer.

1.15 Sec. 2. Minnesota Statutes 2020, section 626.89, subdivision 17, is amended to read:

1.16 Subd. 17. Civilian review Citizen oversight. A civilian review board, commission, or
1.17 other oversight body shall not have the authority to make a finding of fact or determination
1.18 regarding a complaint against an officer or impose discipline on an officer. A civilian review
1.19 board, commission, or other oversight body may make a recommendation regarding the
1.20 merits of a complaint, however, the recommendation shall be advisory only and shall not
1.21 be binding on nor limit the authority of the chief law enforcement officer of any unit of
1.22 government. The powers and duties of citizen oversight councils for law enforcement agencies
1.23 are established under section 626.99.

2.1 Sec. 3. [626.99] LOCAL CITIZEN OVERSIGHT COUNCILS FOR LAW
2.2 ENFORCEMENT AGENCIES.

2.3 Subdivision 1. **Definition.** As used in this section, "law enforcement agency" has the
2.4 meaning given in section 626.84, subdivision 1, paragraph (f), but does not include state-level
2.5 law enforcement agencies.

2.6 Subd. 2. **Councils required.** The governing body of each local unit of government that
2.7 oversees a law enforcement agency that employs 50 or more officers shall establish a citizen
2.8 oversight council in compliance with this section.

2.9 Subd. 3. **Council membership.** The membership of a citizen oversight council must
2.10 reflect a broad cross section of the community it represents, including the community's
2.11 minority and youth populations. The membership must also include individuals who often
2.12 come into contact with, or who are affected by, the peace officers of the law enforcement
2.13 agency that the council oversees, other than suspects who are in criminal investigations.
2.14 The membership of the majority of a council must be weighted toward citizen members.
2.15 However, a council may also include members that reflect other specific viewpoints, such
2.16 as law enforcement, prosecutors, educators, mental health professionals, clergy, and business
2.17 and commercial leaders. A council shall elect a chair from among its members at its first
2.18 meeting. The board must develop and publish guidance on the best practices for selecting,
2.19 training, and educating oversight council members.

2.20 Subd. 4. **Operation of council; powers and duties.** (a) A citizen oversight council shall
2.21 meet on a regular basis. Meetings are open to the public and public testimony may be taken.

2.22 (b) A council's purpose is to encourage and provide community participation in the
2.23 operation of the law enforcement agency it oversees. A council shall work collaboratively
2.24 with the governing body of the local unit of government with authority over the agency and
2.25 the agency's chief law enforcement officer.

2.26 (c) A council may make recommendations and provide assessments relating to any facet
2.27 of the operation of the agency, including but not limited to:

2.28 (1) law enforcement tactics and strategies, such as community policing;

2.29 (2) the budget for the agency, including priorities on where money should be spent;

2.30 (3) training of the agency's peace officers;

2.31 (4) employment policies, such as residency requirements and minority hiring;

3.1 (5) the substantive operation of the agency relating to such matters as use of force,
3.2 profiling, diversion, data collection, equipment, militarization, general investigatory practices,
3.3 officer-initiated use of force investigations, and cooperation with other law enforcement
3.4 agencies; and

3.5 (6) personnel decisions.

3.6 In addition, a council may evaluate the performance of the agency and the agency's chief
3.7 law enforcement officer. A council may recommend whether to extend the chief's term and
3.8 on hiring a successor to the chief when a vacancy occurs.

3.9 Subd. 5. **Investigations into police misconduct.** (a) At the conclusion of any criminal
3.10 investigation or prosecution, if any, a citizen oversight council may conduct an investigation
3.11 into allegations of peace officer misconduct and retain an investigator to facilitate an
3.12 investigation. Subject to other applicable law, a council may subpoena or compel testimony
3.13 and documents in an investigation. Upon completion of an investigation, a council may
3.14 make a finding of misconduct and recommend appropriate discipline against peace officers
3.15 employed by the agency. If the governing body grants a council the authority, the council
3.16 may impose discipline on peace officers employed by the agency. A council shall submit
3.17 investigation reports that contain findings of peace officer misconduct to the chief law
3.18 enforcement officer and the Peace Officer Standards and Training Board's complaint
3.19 committee. A council may also make policy recommendations to the chief law enforcement
3.20 officer and the Peace Officer Standards and Training Board. For purposes of this section,
3.21 "misconduct" means a violation of law, standards promulgated by the Peace Officer Standards
3.22 and Training Board, or agency policy.

3.23 (b) Peace officer discipline decisions imposed pursuant to the authority granted under
3.24 this subdivision shall be subject to the applicable grievance procedure established or agreed
3.25 to under chapter 179A.

3.26 Subd. 6. **Duties of chief law enforcement officer.** The chief law enforcement officer
3.27 of a law enforcement agency under the jurisdiction of a citizen oversight council shall
3.28 cooperate with the council and facilitate the council's achievement of its goals. However,
3.29 the officer is under no obligation to agree with individual recommendations of the council
3.30 and may oppose a recommendation. If the officer fails to implement a recommendation that
3.31 is within the officer's authority, the officer shall inform the council of the failure along with
3.32 the officer's underlying reasons.

4.1 Subd. 7. **Duties of governing body.** A governing body shall ensure that a council is
4.2 given the opportunity to comment in a meaningful way on any matter within its jurisdiction.
4.3 This opportunity must occur with sufficient time before action on the matter is required.

4.4 Subd. 8. **Other applicable law.** Chapters 13 and 13D apply to oversight councils under
4.5 this section.

4.6 Subd. 9. **Annual report.** A citizen oversight council shall release an annual report that
4.7 addresses its activities. At a minimum, the report must summarize the council's activities
4.8 for the past year; recommendations made by the council, including what actions, if any,
4.9 were taken by other entities in response to the recommendations; and the amount of money
4.10 spent for the council's operation and the money's source.

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

4.12 Sec. 4. **TIMING.**

4.13 Governing bodies of local units of government shall comply with Minnesota Statutes,
4.14 section 626.99, by September 1, 2021. A citizen oversight council shall conduct its first
4.15 meeting by October 1, 2021.

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

4.17 Sec. 5. **COMPLIANCE REVIEWS.**

4.18 Local units of government required to create a citizen oversight council under Minnesota
4.19 Statutes, section 626.99, shall demonstrate compliance with the statute to the state auditor
4.20 in a form determined by the state auditor. Citizen oversight councils shall provide a copy
4.21 of the annual reports required under Minnesota Statutes, section 626.99, subdivision 9, to
4.22 the state auditor upon issuance. By March 15 of each year, the state auditor shall report on
4.23 compliance of citizen oversight councils to the chairs and ranking minority members of the
4.24 legislative committees with jurisdiction over public safety finance and policy.

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

4.26 Sec. 6. **APPROPRIATION; CITIZEN OVERSIGHT COUNCILS.**

4.27 \$...... in fiscal year 2022 is appropriated from the general fund to the commissioner of
4.28 public safety for grants to local units of government to establish and maintain citizen
4.29 oversight councils. Up to 2.5 percent of the appropriation may be used by the commissioner
4.30 to administer the program.