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State of Minnesota

HOUSE OF REPRESENTATIVES

SPECIAL SESSION

H. F. No. 91

06/15/2020 Authored by Mariani, Noor, Becker-Finn and Xiong, J., The bill was read for the first time and referred to the Public Safety and Criminal Justice Reform Finance and Policy Division

1.1 A bill for an act
1.2 relating to public safety; creating a process to collect and analyze data on complaints
1.3 filed against peace officers; providing for a peace officer discipline report;
1.4 expanding the membership of the Board of Peace Officer Standards and Training;
1.5 establishing a Police-Community Relations Council to report to and advise the
1.6 Peace Officer Standards and Training Board; appropriating money; amending
1.7 Minnesota Statutes 2018, sections 626.841; 626.8457, subdivision 1; proposing
1.8 coding for new law in Minnesota Statutes, chapter 626.

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

1.10 Section 1. Minnesota Statutes 2018, section 626.841, is amended to read:

1.11 626.841 BOARD; MEMBERS.

1.12 The Board of Peace Officer Standards and Training shall be composed of the following
1.13 15 19 members:

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

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

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

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

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

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

2.6 (7) ~~two~~ four members appointed by the governor from among the general public, of  
 2.7 which at least one member must be a representative of a statewide crime victim coalition,  
 2.8 at least one member must be a person of color, and at least one member must be a resident  
 2.9 of a county other than a metropolitan county as defined in section 473.121, subdivision 4;  
 2.10 and

2.11 (8) two members appointed by the commissioner of human rights from the general  
 2.12 public, of which one member must be a community organizer nominated by an organization  
 2.13 that organizes direct action campaigns and one member must have experience serving on  
 2.14 a law enforcement agency's civilian review board.

2.15 A chair shall be appointed by the governor from among the members. In making  
 2.16 appointments the governor shall strive to achieve representation from among the geographic  
 2.17 areas of the state.

2.18 Sec. 2. **[626.8434] POLICE-COMMUNITY RELATIONS COUNCIL.**

2.19 Subdivision 1. Establishment and membership. The Police-Community Relations  
 2.20 Council is established under the Peace Officer Standards and Training Board. The council  
 2.21 consists of the following 15 members:

2.22 (1) the superintendent of the Bureau of Criminal Apprehension, or a designee;

2.23 (2) the executive director of the Peace Officer Standards and Training Board, or a  
 2.24 designee;

2.25 (3) the executive director of the Minnesota Police and Peace Officers Association, or a  
 2.26 designee;

2.27 (4) the executive director of the Minnesota Sheriff's Association, or a designee;

2.28 (5) the executive director of the Minnesota Chiefs of Police Association, or a designee;  
 2.29 and

2.30 (6) ten community members, of which:

2.31 (i) four members shall represent the community-specific boards established under section  
 2.32 257.0768, reflecting one appointment made by each board;

3.1 (ii) two members shall be mental health advocates, of which one member shall be  
 3.2 appointed by the Minnesota chapter of the National Alliance on Mental Illness and the other  
 3.3 appointed by the governor's Council on Mental Health;

3.4 (iii) two members shall be advocates for victims, of which one member shall be appointed  
 3.5 by the Violence Free Minnesota and the other appointed by the Minnesota Coalition Against  
 3.6 Sexual Assault;

3.7 (iv) one member shall represent a community organization that organizes direct action  
 3.8 campaigns and shall be appointed by the commissioner of human rights; and

3.9 (v) one member shall have experience serving on a law enforcement agency's civilian  
 3.10 review board and shall be appointed by the commissioner of human rights.

3.11 Subd. 2. **Duties.** (a) The council shall:

3.12 (1) make recommendations on police-community relations to the board;

3.13 (2) review and make disciplinary and policy recommendations to the board on civilian  
 3.14 initiated police misconduct complaints filed with the board; and

3.15 (3) monitor and make recommendations on peace officer community policing excellence  
 3.16 data collected under section 626.8435.

3.17 (b) The council's recommendations to the board under paragraph (a), clause (2), must  
 3.18 be implemented by the board unless two-thirds of the members vote to reject a  
 3.19 recommendation within three months of receiving the recommendation from the council.

3.20 Subd. 3. **Organization.** The council shall be organized and administered under section  
 3.21 15.059, except that subdivision 2 shall not apply. Council members serve at the pleasure of  
 3.22 the appointing authority. The council shall select a chairperson from among the members  
 3.23 by majority vote at its first meeting. The chair may serve in that role for a period of two  
 3.24 years. The executive director of the board shall serve as the council's executive secretary  
 3.25 and is an ex officio, nonvoting member. The council does not expire.

3.26 Subd. 4. **Meetings.** The council must meet at least quarterly. Meetings of the council  
 3.27 are governed by chapter 13D.

3.28 Subd. 5. **Office support.** The executive director of the board shall provide the council  
 3.29 with the necessary office space, supplies, equipment, and clerical support to effectively  
 3.30 perform the duties imposed.

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

4.1 Sec. 3. [626.8435] PEACE OFFICER COMMUNITY POLICING EXCELLENCE

4.2 DATA.

4.3 Subdivision 1. Purpose. The purpose of this section is:

4.4 (1) to create data profiles for stakeholders to conduct needs assessments and make  
 4.5 appropriate recommendations to drive improvements in police effectiveness, efficiency,  
 4.6 training, supervision, procedural justice, accountability, and community relations;

4.7 (2) for police departments to more effectively manage their risks and improve  
 4.8 transparency; and

4.9 (3) for community members and advocates, as well as policy makers, decision makers,  
 4.10 and funders to have access to accurate relevant information to help improve policing practices  
 4.11 in Minnesota.

4.12 Subd. 2. Data submission. (a) Beginning January 15, 2021, a chief law enforcement  
 4.13 officer of a law enforcement agency shall submit the following data regarding peace officers  
 4.14 employed by the law enforcement agency to a designated community-based research  
 4.15 organization:

4.16 (1) the existence and status of a complaint made against an employed peace officer  
 4.17 including:

4.18 (i) the peace officer's unique identifier;

4.19 (ii) the nature of the complaint;

4.20 (iii) whether the complaint was filed by a member of the public, a law enforcement  
 4.21 agency, or another source;

4.22 (iv) whether the complaint resulted in disciplinary action;

4.23 (v) the final disposition of a complaint when disciplinary action was taken including:

4.24 (A) the specific reason for the action taken; and

4.25 (B) data documenting the basis of the action taken, except that data that would identify  
 4.26 confidential sources who are employees of the public body shall not be disclosed; and

4.27 (vi) the final disposition of any complaint:

4.28 (A) determined to be unfounded or otherwise not sustained;

4.29 (B) for which a peace officer was later exonerated; or

5.1 (C) which resulted in a nondisciplinary resolution including, but not limited to, employee  
5.2 counseling;

5.3 (2) the unique identifier of any peace officer pending criminal prosecution, excluding  
5.4 traffic violations;

5.5 (3) the unique identifier of any peace officer who was terminated due to substantiated  
5.6 findings of officer misconduct and a summary of the basis for that termination;

5.7 (4) the unique identifier of any peace officer whose employment was terminated by  
5.8 resignation in lieu of termination as a result of officer misconduct, and a summary of the  
5.9 basis for the action; and

5.10 (5) the unique identifier of any peace officer involved in a use of force incident.

5.11 (b) For purposes of this section "complaint" means all formally filed allegations involving:

5.12 (1) public reported misconduct;

5.13 (2) excessive force;

5.14 (3) the integrity or truthfulness of an officer;

5.15 (4) violations of the law; or

5.16 (5) sexual misconduct or harassment.

5.17 (c) The board shall establish and publish guidelines, in consultation with the designated  
5.18 community-based research organization, that are consistent with paragraph (b) on what  
5.19 constitutes a valid complaint that must be reported under this section.

5.20 (d) The reporting requirements in paragraph (a) are in addition to any other officer  
5.21 discipline reporting requirements established in law. Failure of a chief law enforcement  
5.22 officer to comply with the reporting requirements established under this section is a violation  
5.23 of the peace officer professional code of conduct established pursuant to section 626.8457.

5.24 Subd. 3. **Data storage and access.** (a) The designated community-based research  
5.25 organization shall store the data collected under this section on a secure server.

5.26 (b) The Peace Officers Standards and Training Board and the Police-Community  
5.27 Relations Council must have direct access to both summary and individual data collected  
5.28 under this section.

5.29 Subd. 4. **Updated data.** Within 30 days of final disposition of a complaint, as defined  
5.30 in section 13.43, subdivision 2, paragraph (b), the chief law enforcement officer of the law

6.1 enforcement agency that employs the officer shall submit a supplemental report containing  
 6.2 the information identified in subdivision 2, clauses (1) to (5).

6.3 Subd. 5. **Monitoring data; pattern of misconduct.** The designated community-based  
 6.4 research organization must monitor the data on an ongoing basis to collect data on officers  
 6.5 subject to multiple complaints and excessive use of force incidents and, in consultation with  
 6.6 the Police-Community Relations Council, establish criteria for notifying an officer's employer  
 6.7 when the officer has been determined to have an excessive number of complaints. If the  
 6.8 criteria for notifying an officer's employer are met, the designated community-based research  
 6.9 organization, after consulting with the Police-Community Relations Council, shall notify  
 6.10 the officer's employer and suggest the need for an intervention. A notice sent under this  
 6.11 subdivision is not available to the public.

6.12 Subd. 6. **Confidentiality agreement prohibited.** Law enforcement agencies and political  
 6.13 subdivisions are prohibited from entering into a confidentiality agreement that would prevent  
 6.14 disclosure of the data identified in subdivision 2 to the board. Any such confidentiality  
 6.15 agreement is void as to the requirements of this section.

6.16 Subd. 7. **Data classification.** Data received by the designated community-based research  
 6.17 organization pursuant to subdivisions 2 and 3 is private data on individuals as defined in  
 6.18 section 13.02, subdivision 12, and the data must be maintained according to the statutory  
 6.19 provisions applicable to the data. This classification does not restrict the organization's  
 6.20 authority to publish summary data as defined in section 13.02, subdivision 19.

6.21 Subd. 8. **Public report.** At least annually, the designated community-based research  
 6.22 organization shall publish a summary of data submitted pursuant to subdivisions 1 and 2.  
 6.23 The board shall make the summary available on the board's website. The summary shall  
 6.24 exclude peace officers' names and license numbers and any other not public data as defined  
 6.25 by section 13.02, subdivision 8a.

6.26 Sec. 4. Minnesota Statutes 2018, section 626.8457, subdivision 1, is amended to read:

6.27 Subdivision 1. **Model policy to be developed.** By March 1, 1996, the Peace Officer  
 6.28 Standards and Training Board shall develop and distribute to all chief law enforcement  
 6.29 officers a model policy regarding the professional conduct of peace officers. The policy  
 6.30 must address issues regarding professional conduct not addressed by the standards of conduct  
 6.31 under Minnesota Rules, part 6700.1600. The policy must define unprofessional conduct to  
 6.32 include, but not be limited to, conduct prohibited by section 609.43, including timely  
 6.33 submission of peace officer misconduct data under section 626.8435, whether or not there  
 6.34 has been a conviction for a violation of that section. The policy must also describe the

7.1 procedures that a local law enforcement agency may follow in investigating and disciplining  
7.2 peace officers alleged to have behaved unprofessionally.

7.3 **Sec. 5. INITIAL APPOINTMENTS; PROPOSED MEETING.**

7.4 Initial appointments to the Police-Community Relations Council established in section  
7.5 1 must be made no later than August 1, 2020. The executive director of the Peace Officer  
7.6 Standards and Training Board must convene the council's first meeting no later than  
7.7 September 1, 2020.

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

7.9 **Sec. 6. APPROPRIATION; PEACE OFFICER COMMUNITY POLICING**  
7.10 **EXCELLENCE REPORT DATABASE.**

7.11 (a) \$..... in fiscal year 2021 is appropriated from the general fund to the Office of Justice  
7.12 Programs for a grant to a qualified community-based research organization to develop a  
7.13 system to classify and report peace officer discipline by category, severity, type, and  
7.14 demographic data of those involved in the incident. The executive director of the Office of  
7.15 Justice Programs must consult with the Police-Community Relations Council before selecting  
7.16 a community-based research organization to receive the grant. As part of the system, the  
7.17 grant recipient must develop and incorporate:

7.18 (1) a protocol to assign a unique identifier for each peace officer; and

7.19 (2) safeguards to protect personal identifying information of peace officers.

7.20 (b) The grant recipient, in consultation with the stakeholder group identified in paragraph  
7.21 (c), may recommend changes on how to adapt the system under paragraph (a) to collect  
7.22 additional policing data that corresponds with peace officer interactions with the public  
7.23 generally and suspects, arrests, and victims specifically.

7.24 (c) In developing the system described in paragraph (a), the grant recipient shall consult  
7.25 with the Police-Community Relations Council established under section 626.8434.