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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3118

02/03/2022

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The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; repealing the authority of private citizens to make arrests;
1.3 amending Minnesota Statutes 2020, sections 84.0835, subdivision 2; 144.7401,
1.4 subdivision 4; 609.06, subdivision 1; 629.14; 629.30, subdivision 2; 629.36; 629.40,
1.5 subdivision 4; repealing Minnesota Statutes 2020, sections 629.37; 629.38; 629.39.

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

1.7 Section 1. Minnesota Statutes 2020, section 84.0835, subdivision 2, is amended to read:

1.8 Subd. 2. Designated employee authorities; generally. An employee designated under
1.9 subdivision 1:

1.10 (1) has citizen arrest powers according to sections 629.37 to 629.39;

1.11 (2) (1) may issue citations, on a form prescribed by the commissioner, in lieu of arrest
1.12 for petty misdemeanor violations and misdemeanor violations, unless the violation occurs
1.13 in the presence of a conservation officer or other peace officer, as defined under section
1.14 626.84, subdivision 1, paragraph (c); and

1.15 (3) (2) may issue a report of violation to be turned over to a conservation officer or other
1.16 peace officer for possible charges at the peace officer's discretion.

1.17 Sec. 2. Minnesota Statutes 2020, section 144.7401, subdivision 4, is amended to read:

1.18 Subd. 4. Emergency medical services person. "Emergency medical services person"
1.19 means:

1.20 (1) an individual employed or receiving compensation to provide out-of-hospital
1.21 emergency medical services such as a firefighter, paramedic, emergency medical technician,
1.22 licensed nurse, rescue squad person, or other individual who serves as an employee or

2.1 volunteer of an ambulance service as defined under chapter 144E or a member of an
 2.2 organized first responder squad that is formally recognized by a political subdivision in the
 2.3 state, who provides out-of-hospital emergency medical services during the performance of
 2.4 the individual's duties;

2.5 (2) an individual employed as a licensed peace officer under section 626.84, subdivision
 2.6 1;

2.7 (3) an individual employed as a crime laboratory worker while working outside the
 2.8 laboratory and involved in a criminal investigation; and

2.9 (4) any individual who renders emergency care or assistance at the scene of an emergency
 2.10 or while an injured person is being transported to receive medical care and who is acting
 2.11 as a Good Samaritan under section 604A.01; and

2.12 ~~(5) any individual who, in the process of executing a citizen's arrest under section 629.30,~~
 2.13 ~~may have experienced a significant exposure to a source individual.~~

2.14 Sec. 3. Minnesota Statutes 2020, section 609.06, subdivision 1, is amended to read:

2.15 Subdivision 1. **When authorized.** Except as otherwise provided in subdivisions 2 and
 2.16 3, reasonable force may be used upon or toward the person of another without the other's
 2.17 consent when the following circumstances exist or the actor reasonably believes them to
 2.18 exist:

2.19 (1) when used by a public officer or one assisting a public officer under the public
 2.20 officer's direction:

2.21 (i) in effecting a lawful arrest; or

2.22 (ii) in the execution of legal process; or

2.23 (iii) in enforcing an order of the court; or

2.24 (iv) in executing any other duty imposed upon the public officer by law; or

2.25 ~~(2) when used by a person not a public officer in arresting another in the cases and in~~
 2.26 ~~the manner provided by law and delivering the other to an officer competent to receive the~~
 2.27 ~~other into custody; or~~

2.28 ~~(3)~~ (2) when used by any person in resisting or aiding another to resist an offense against
 2.29 the person; or

3.1 ~~(4)~~(3) when used by any person in lawful possession of real or personal property, or by
 3.2 another assisting the person in lawful possession, in resisting a trespass upon or other
 3.3 unlawful interference with such property; or

3.4 ~~(5)~~(4) when used by any person to prevent the escape, or to retake following the escape,
 3.5 of a person lawfully held on a charge or conviction of a crime; or

3.6 ~~(6)~~(5) when used by a parent, guardian, teacher, or other lawful custodian of a child or
 3.7 pupil, in the exercise of lawful authority, to restrain or correct such child or pupil; or

3.8 ~~(7)~~(6) when used by a school employee or school bus driver, in the exercise of lawful
 3.9 authority, to restrain a child or pupil, or to prevent bodily harm or death to another; or

3.10 ~~(8)~~(7) when used by a common carrier in expelling a passenger who refuses to obey a
 3.11 lawful requirement for the conduct of passengers and reasonable care is exercised with
 3.12 regard to the passenger's personal safety; or

3.13 ~~(9)~~(8) when used to restrain a person with a mental illness or a person with a
 3.14 developmental disability from self-injury or injury to another or when used by one with
 3.15 authority to do so to compel compliance with reasonable requirements for the person's
 3.16 control, conduct, or treatment; or

3.17 ~~(10)~~(9) when used by a public or private institution providing custody or treatment
 3.18 against one lawfully committed to it to compel compliance with reasonable requirements
 3.19 for the control, conduct, or treatment of the committed person.

3.20 Sec. 4. Minnesota Statutes 2020, section 629.14, is amended to read:

3.21 **629.14 ARREST WITHOUT WARRANT.**

3.22 The arrest of a person may be lawfully made also by any peace officer ~~or a private person,~~
 3.23 without a warrant upon reasonable information that the accused stands charged in the courts
 3.24 of a state with a crime punishable by death or imprisonment for a term exceeding one year.
 3.25 When arrested the accused must be taken before a judge with all practicable speed and
 3.26 complaint must be made against the accused under oath setting forth the ground for the
 3.27 arrest as in section 629.13. Thereafter the answer shall be heard as if the accused had been
 3.28 arrested on a warrant.

3.29 Sec. 5. Minnesota Statutes 2020, section 629.30, subdivision 2, is amended to read:

3.30 Subd. 2. **Who may arrest.** An arrest may be made:

3.31 (1) by a peace officer under a warrant;

4.1 (2) by a peace officer without a warrant;

4.2 (3) by an officer in the United States Customs and Border Protection or the United States
4.3 Citizenship and Immigration Services without a warrant;

4.4 ~~(4) by a private person.~~

4.5 A private person shall aid a peace officer in executing a warrant when requested to do
4.6 so by the officer.

4.7 Sec. 6. Minnesota Statutes 2020, section 629.36, is amended to read:

4.8 ~~**629.36 PERMITTING BYSTANDER TO DELIVER ARRESTED PERSON TO**~~
4.9 ~~**PEACE OFFICER AUTHORITY OF JUDGE TO ORDER ARREST.**~~

4.10 ~~When a bystander arrests a person for breach of the peace, the bystander may deliver~~
4.11 ~~that person to a peace officer. The peace officer shall take the arrested person to a judge for~~
4.12 ~~criminal processing.~~ When a public offense is committed in the presence of a judge, the
4.13 judge may, by written or verbal order, command any person to arrest the offender, and then
4.14 proceed as if the offender had been brought before the court on a warrant of arrest.

4.15 Sec. 7. Minnesota Statutes 2020, section 629.40, subdivision 4, is amended to read:

4.16 Subd. 4. **Off-duty arrests outside jurisdiction.** A peace officer, as defined in section
4.17 626.84, subdivision 1, paragraph (c), who is off duty and outside of the jurisdiction of the
4.18 appointing authority but within this state may act pursuant to section 629.34 when and only
4.19 when confronted with circumstances that would permit the use of deadly force under section
4.20 609.066. ~~Nothing in this subdivision limits an officer's authority to arrest as a private person.~~
4.21 Nothing in this subdivision shall be construed to restrict the authority of a political
4.22 subdivision to limit the exercise of the power and authority conferred on its peace officers
4.23 by this subdivision.

4.24 Sec. 8. **REPEALER.**

4.25 Minnesota Statutes 2020, sections 629.37; 629.38; and 629.39, are repealed.

629.37 WHEN PRIVATE PERSON MAY MAKE ARREST.

A private person may arrest another:

- (1) for a public offense committed or attempted in the arresting person's presence;
- (2) when the person arrested has committed a felony, although not in the arresting person's presence; or
- (3) when a felony has in fact been committed, and the arresting person has reasonable cause for believing the person arrested to have committed it.

629.38 PRIVATE PERSON TO DISCLOSE CAUSE OF ARREST.

Before making an arrest a private person shall inform the person to be arrested of the cause of the arrest and require the person to submit. The warning required by this section need not be given if the person is arrested while committing the offense or when the person is arrested on pursuit immediately after committing the offense. If a person has committed a felony, a private person may break open an outer or inner door or window of a dwelling house to make the arrest if, before entering, the private person informs the person to be arrested of the intent to make the arrest and the private person is then refused admittance.

629.39 PRIVATE PERSON MAKING ARREST TO DELIVER ARRESTEE TO JUDGE OR PEACE OFFICER.

A private person who arrests another for a public offense shall take the arrested person before a judge or to a peace officer without unnecessary delay. If a person arrested escapes, the person from whose custody the person has escaped may immediately pursue and retake the escapee, at any time and in any place in the state. For that purpose, the pursuer may break open any door or window of a dwelling house if the pursuer informs the escapee of the intent to arrest the escapee and the pursuer is refused admittance.