

## CHAPTER 626

TRAINING; INVESTIGATION, APPREHENSION;  
REPORTS

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**626.05 DEFINITIONS.**

*[For text of subd 1, see M.S.1996]*

Subd. 2. **Peace officer.** The term "peace officer," as used in sections 626.04 to 626.17, means a person who is licensed as a peace officer in accordance with section 626.84, subdivision 1, and who serves as a sheriff, deputy sheriff, police officer, constable, conservation officer, agent of the bureau of criminal apprehension, agent of the division of alcohol and gambling enforcement, University of Minnesota peace officer, or state patrol trooper as authorized by section 299D.03.

*[For text of subd 3, see M.S.1996]*

**History:** 1997 c 129 art 2 s 15

**626.13 SERVICE; PERSONS MAKING.**

A search warrant may in all cases be served anywhere within the issuing judge's county by any of the officers mentioned in its directions, but by no other person, except in aid of the officer on the officer's requiring it, the officer being present and acting in its execution. If the warrant is to be served by an agent of the bureau of criminal apprehension, an agent of the division of alcohol and gambling enforcement, a state patrol trooper, or a conservation officer, the agent, state patrol trooper, or conservation officer shall notify the chief of police of an organized full-time police department of the municipality or, if there is no such local chief of police, the sheriff or a deputy sheriff of the county in which service is to be made prior to execution.

**History:** 1997 c 129 art 2 s 15

**626.556 REPORTING OF MALTREATMENT OF MINORS.**

*[For text of subd 1, see M.S.1996]*

Subd. 2. **Definitions.** As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342, 609.343, 609.344, or 609.345. Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian,

or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so, failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so, or failure to take steps to ensure that a child is educated in accordance with state law. Nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care. Neglect includes prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance. Neglect also means "medical neglect" as defined in section 260.015, subdivision 2a, clause (5).

(d) "Physical abuse" means any physical or mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825.

(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and visitation expeditor services.

(k) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(l) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

*[For text of subds 3 to 10a, see M.S.1996]*

**Subd. 10b. Duties of commissioner; neglect or abuse in a facility.** (a) The commissioner shall immediately investigate if the report alleges that:

(1) a child who is in the care of a facility as defined in subdivision 2 is neglected, physically abused, or sexually abused by an individual in that facility, or has been so neglected or abused by an individual in that facility within the three years preceding the report; or

(2) a child was neglected, physically abused, or sexually abused by an individual in a facility defined in subdivision 2, while in the care of that facility within the three years preceding the report.

The commissioner shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. In conducting an investigation under this section, the commissioner has the powers and duties specified for local welfare agencies under this section. The commissioner or local welfare agency may interview any children who are or have been in the care of a facility under investigation and their parents, guardians, or legal custodians.

(b) Prior to any interview, the commissioner or local welfare agency shall notify the parent, guardian, or legal custodian of a child who will be interviewed in the manner provided for in subdivision 10d, paragraph (a). If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview. When the investigation is completed, any parent, guardian, or legal custodian notified under this subdivision shall receive the written memorandum provided for in subdivision 10d, paragraph (c).

(c) In conducting investigations under this subdivision the commissioner or local welfare agency shall obtain access to information consistent with subdivision 10, paragraphs (h), (i), and (j).

(d) Except for foster care and family child care, the commissioner has the primary responsibility for the investigations and notifications required under subdivisions 10d and 10f for reports that allege maltreatment related to the care provided by or in facilities licensed by the commissioner. The commissioner may request assistance from the local social service agency.

*[For text of subd 10c, see M.S.1996]*

**Subd. 10d. Notification of neglect or abuse in a facility.** (a) When a report is received that alleges neglect, physical abuse, or sexual abuse of a child while in the care of a facility required to be licensed pursuant to chapter 245A, the commissioner or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, or sexually abused: the name of the facility; the fact that a report alleging neglect, physical abuse, or sexual abuse of a child in the facility has been received; the nature of the alleged neglect, physical abuse, or sexual abuse; that the agency is conducting an investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

(b) The commissioner or local welfare agency may also provide the information in paragraph (a) to the parent, guardian, or legal custodian of any other child in the facility if the investigative agency knows or has reason to believe the alleged neglect, physical abuse, or sexual abuse has occurred. In determining whether to exercise this authority, the commissioner or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, or sexual abuse; the number of children allegedly neglected, physically abused, or sexually abused; the number of alleged perpetrators; and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

(c) When the commissioner or local welfare agency has completed its investigation, every parent, guardian, or legal custodian notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged neglect, physical abuse, or sexual abuse; the investigator's name; a summary of the investigation findings; a statement whether maltreatment was found; and the protective or corrective measures that are being or will be taken. The memorandum shall be written in a manner that protects the identity of the reporter and the child and shall not contain the name, or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation. The

commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility if maltreatment is determined to exist.

**Subd. 10e. Determinations.** Upon the conclusion of every assessment or investigation it conducts, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed. When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible for the maltreatment using the mitigating factors in paragraph (d). Determinations under this subdivision must be made based on a preponderance of the evidence.

(a) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions committed by a person responsible for the child's care:

- (1) physical abuse as defined in subdivision 2, paragraph (d);
- (2) neglect as defined in subdivision 2, paragraph (c);
- (3) sexual abuse as defined in subdivision 2, paragraph (a); or
- (4) mental injury as defined in subdivision 2, paragraph (k).

(b) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(c) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

(d) When determining whether the facility or individual is the responsible party for determined maltreatment in a facility, the investigating agency shall consider at least the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive; however, this is not a mitigating factor when the facility or caregiver was responsible for the issuance of the erroneous order, prescription, individual care plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

**Subd. 10f. Notice of determinations.** Within ten working days of the conclusion of an assessment, the local welfare agency shall notify the parent or guardian of the child, the person determined to be maltreating the child, and if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. When there is no determination of either maltreatment or a need for services, the notice shall also include the alleged perpetrator's right to have the records destroyed. The

investigating agency shall notify the designee of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal rights under this section.

*[For text of subs 10g and 10h, see M.S.1996]*

**Subd. 10i. Administrative reconsideration of the final determination of maltreatment.** (a) An individual or facility that the commissioner or a local social service agency determines has maltreated a child, or the child's designee, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment.

(b) If the investigating agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services a written request for a hearing under that section.

(c) If, as a result of the reconsideration, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

**Subd. 11. Records.** (a) Except as provided in paragraph (b) and subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Reports maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners. Section 13.82, subdivisions 5, 5a, and 5b, apply to law enforcement data other than the reports. The local social services agency shall make available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners or their professional delegates, any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by the court that the report was false and that there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the rules of criminal procedure.

(b) Upon request of the legislative auditor, data on individuals maintained under this section must be released to the legislative auditor in order for the auditor to fulfill the auditor's duties under section 3.971. The auditor shall maintain the data in accordance with chapter 13.

*[For text of subs 11a and 11b, see M.S.1996]*

**Subd. 11c. Welfare, court services agency, and school records maintained.** Notwithstanding sections 138.163 and 138.17, records maintained or records derived from reports of abuse by local welfare agencies, court services agencies, or schools under this section shall be destroyed as provided in paragraphs (a) to (d) by the responsible authority.

(a) If upon assessment or investigation there is no determination of maltreatment or the need for child protective services, the records may be maintained for a period of four years. After the individual alleged to have maltreated a child is notified under subdivision 10f of the determinations at the conclusion of the assessment or investigation, upon that individual's request, records shall be destroyed within 30 days or after the appeal rights under subdivision 10i have been concluded, whichever is later.

(b) All records relating to reports which, upon assessment or investigation, indicate either maltreatment or a need for child protective services shall be maintained for at least ten years after the date of the final entry in the case record.

(c) All records regarding a report of maltreatment, including any notification of intent to interview which was received by a school under subdivision 10, paragraph (d), shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed under this subdivision.

(d) Private or confidential data released to a court services agency under subdivision 10h must be destroyed by the court services agency when ordered to do so by the local welfare agency that released the data. The local welfare agency shall order destruction of the data when other records relating to the assessment or investigation are destroyed under this subdivision.

*[For text of subs 12 and 14, see M.S.1996]*

**History:** 1997 c 203 art 5 s 25-30; 1997 c 245 art 2 s 8; 1Sp1997 c 3 s 44

#### **626.5565 RELATIVE CARE AGREEMENT.**

**Subdivision 1. Definitions.** (a) For purposes of this section, "relative" means an adult who is a stepparent, grandparent, brother, sister, uncle, aunt, or other extended family member of the minor by blood, marriage, or adoption.

For an Indian child, "relative" includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of law or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903.

(b) For purposes of this section, "relative care" means one or more of the following: respite care, a monitoring agreement, a designated caregiver agreement under chapter 257A, access to information about a child, the right to make decisions about a child's residence, education, religious training, or health care, a custody consent decree under section 257.0215, or joint or sole legal or physical custody of a child.

(c) For purposes of this section, "relative care agreement" means an agreement regarding the care of a child that has been reached by the parents and interested relatives of the child after the parents and interested relatives have participated in a facilitated relative care conference under this section.

**Subd. 2. Relative care conference.** If, upon assessment of a report of neglect or physical or sexual abuse under section 626.556, a local social service agency determines that child protective services are needed, the local social service agency may proceed under this section if it appears from the circumstances of the individual case that a relative care agreement may be in the best interests of the child. The local social service agency may select a facilitator to convene a relative care conference. A facilitator must be certified under chapter 494.

Written notice of the conference must be provided to the parents and to all relatives who have expressed an interest in participating or have been identified by other relatives. The notice must state that the purpose of the conference is to provide an opportunity for the parents and relatives to reach an agreement regarding the care of the child and explain the forms of relative care listed in subdivision 1. The notice must also inform the parents and relatives of the potential consequences and range of options if they do not enter into a relative care agreement that is in the best interests of the child and that the local service agency may intervene with protective services or determine that the child should be placed out of the home.

The local social service agency shall participate in a relative care conference for the purposes of protecting the child's best interests but may not be a party to a relative care agree-

ment reached by the parents and any participating relatives. A relative care agreement remains in effect unless it expires by its own terms or a parent or a relative who is a party to the agreement seeks to modify or end the agreement. If a relative care agreement results in a transfer of physical custody under section 257.0215 or chapter 518, a parent who seeks to have the child returned to the home of the parent without the consent of the relative with whom the child is staying shall file a motion with the court that approved the custody consent decree or ordered the transfer of custody under chapter 518. The parent has the burden of establishing that:

- (1) the conditions that led to the transfer of physical custody have been corrected; and
- (2) the parent has demonstrated the ability to care for and provide a stable home for the child.

**History:** 1997 c 65 s 5; 1997 c 112 s 8

### **626.558 MULTIDISCIPLINARY CHILD PROTECTION TEAM.**

**Subdivision 1. Establishment of the team.** A county shall establish a multidisciplinary child protection team that may include, but not be limited to, the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees, representatives of health and education, representatives of mental health or other appropriate human service or community-based agencies, and parent groups. As used in this section, a "community-based agency" may include, but is not limited to, schools, social service agencies, family service and mental health collaboratives, early childhood and family education programs, Head Start, or other agencies serving children and families.

**Subd. 2. Duties of team.** A multidisciplinary child protection team may provide public and professional education, develop resources for prevention, intervention, and treatment, and provide case consultation to the local welfare agency or other interested community-based agencies. The community-based agencies may request case consultation from the multidisciplinary child protection team regarding a child or family for whom the community-based agency is providing services. As used in this section, "case consultation" means a case review process in which recommendations are made concerning services to be provided to the identified children and family. Case consultation may be performed by a committee or subcommittee of members representing human services, including mental health and chemical dependency; law enforcement, including probation and parole; the county attorney; health care; education; community-based agencies and other necessary agencies; and persons directly involved in an individual case as designated by other members performing case consultation.

*[For text of subs 2a and 3, see M.S.1996]*

**History:** 1997 c 203 art 5 s 31,32

### **626.559 SPECIALIZED TRAINING AND EDUCATION REQUIRED.**

*[For text of subs 1 to 3, see M.S.1996]*

**Subd. 5. Revenue.** The commissioner of human services shall add the following funds to the funds appropriated under section 626.5591, subdivision 2, to develop and support training:

(a) The commissioner of human services shall submit claims for federal reimbursement earned through the activities and services supported through department of human services child protection or child welfare training funds. Federal revenue earned must be used to improve and expand training services by the department. The department expenditures eligible for federal reimbursement under this section must not be made from federal funds or funds used to match other federal funds.

(b) Each year, the commissioner of human services shall withhold from funds distributed to each county under Minnesota Rules, parts 9550.0300 to 9550.0370, an amount equivalent to 1.5 percent of each county's annual title XX allocation under section 256E.07. The commissioner must use these funds to ensure decentralization of training.

(c) The federal revenue under this subdivision is available for these purposes until the funds are expended.

**History:** 1997 c 203 art 5 s 33

#### 626.84 DEFINITIONS AND SCOPE.

Subdivision 1. **Definitions.** For purposes of sections 626.84 to 626.863, the following terms have the meanings given them:

(a) "Board" means the board of peace officer standards and training.

(b) "Director" means the executive director of the board.

(c) "Peace officer" means an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota state patrol, agents of the division of alcohol and gambling enforcement, state conservation officers, and metropolitan transit police officers.

(d) "Constable" has the meaning assigned to it in section 367.40.

(e) "Deputy constable" has the meaning assigned to it in section 367.40.

(f) "Part-time peace officer" means an individual licensed by the board whose services are utilized by law enforcement agencies no more than an average of 20 hours per week, not including time spent on call when no call to active duty is received, calculated on an annual basis, who has either full powers of arrest or authorization to carry a firearm while on active duty. The term shall apply even though the individual receives no compensation for time spent on active duty, and shall apply irrespective of the title conferred upon the individual by any law enforcement agency. The limitation on the average number of hours in which the services of a part-time peace officer may be utilized shall not apply to a part-time peace officer who has formally notified the board pursuant to rules adopted by the board of the part-time peace officer's intention to pursue the specialized training for part-time peace officers who desire to become peace officers pursuant to sections 626.843, subdivision 1, clause (g), and 626.845, subdivision 1, clause (g).

(g) "Reserve officer" means an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control, and administrative or clerical assistance. A reserve officer's duties do not include enforcement of the general criminal laws of the state, and the officer does not have full powers of arrest or authorization to carry a firearm on duty.

(h) "Law enforcement agency" means a unit of state or local government that is authorized by law to grant full powers of arrest and to charge a person with the duties of preventing and detecting crime and enforcing the general criminal laws of the state.

(i) "Professional peace officer education" means a post-secondary degree program, or a nondegree program for persons who already have a college degree, that is offered by a college or university in Minnesota, designed for persons seeking licensure as a peace officer, and approved by the board.

*[For text of subd 2, see M.S.1996]*

**History:** 1997 c 129 art 2 s 15; 1997 c 149 s 4

#### 626.843 RULES, STANDARDS; EXECUTIVE DIRECTOR.

Subdivision 1. **Rules required.** The board shall adopt rules with respect to:

(a) The certification of peace officer training schools, programs, or courses including training schools for the Minnesota state patrol. Such schools, programs and courses shall include those administered by the state, county, school district, municipality, or joint or contractual combinations thereof, and shall include preparatory instruction in law enforcement and minimum basic training courses;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required at each certified peace officers training school located within the state;



(c) Minimum qualifications for instructors at certified peace officer training schools located within this state;

(d) Minimum standards of physical, mental, and educational fitness which shall govern the recruitment and licensing of peace officers within the state, by any state, county, municipality, or joint or contractual combination thereof, including members of the Minnesota state patrol;

(e) Minimum standards of conduct which would affect the individual's performance of duties as a peace officer;

These standards shall be established and published. The board shall review the minimum standards of conduct described in this paragraph for possible modification in 1998 and every three years after that time.

(f) Minimum basic training which peace officers appointed to temporary or probationary terms shall complete before being eligible for permanent appointment, and the time within which such basic training must be completed following any such appointment to a temporary or probationary term;

(g) Minimum specialized training which part-time peace officers shall complete in order to be eligible for continued employment as a part-time peace officer or permanent employment as a peace officer, and the time within which the specialized training must be completed;

(h) Content of minimum basic training courses required of graduates of certified law enforcement training schools or programs. Such courses shall not duplicate the content of certified academic or general background courses completed by a student but shall concentrate on practical skills deemed essential for a peace officer. Successful completion of such a course shall be deemed satisfaction of the minimum basic training requirement;

(i) Grading, reporting, attendance and other records, and certificates of attendance or accomplishment;

(j) The procedures to be followed by a part-time peace officer for notifying the board of intent to pursue the specialized training for part-time peace officers who desire to become peace officers pursuant to clause (g), and section 626.845, subdivision 1, clause (g);

(k) The establishment and use by any political subdivision or state law enforcement agency which employs persons licensed by the board of procedures for investigation and resolution of allegations of misconduct by persons licensed by the board. The procedures shall be in writing and shall be established on or before October 1, 1984;

(l) The issues that must be considered by each political subdivision and state law enforcement agency that employs persons licensed by the board in establishing procedures under section 626.5532 to govern the conduct of peace officers who are in pursuit of a vehicle being operated in violation of section 609.487, and requirements for the training of peace officers in conducting pursuits. The adoption of specific procedures and requirements is within the authority of the political subdivision or agency;

(m) Supervision of part-time peace officers and requirements for documentation of hours worked by a part-time peace officer who is on active duty. These rules shall be adopted by December 31, 1993;

(n) Citizenship requirements for full-time and part-time peace officers;

(o) Driver's license requirements for full-time and part-time peace officers; and

(p) Such other matters as may be necessary consistent with sections 626.84 to 626.863. Rules promulgated by the attorney general with respect to these matters may be continued in force by resolution of the board if the board finds the rules to be consistent with sections 626.84 to 626.863.

*[For text of subd 2, see M.S.1996]*

**Subd. 3. Board authority.** The board may, in addition:

(a) Recommend studies, surveys, and reports to be made by the executive director regarding the carrying out of the objectives and purposes of sections 626.841 to 626.863;

(b) Visit and inspect any peace officer training school approved by the executive director or for which application for such approval has been made;

(c) Make recommendations, from time to time, to the executive director, attorney general, and the governor regarding the carrying out of the objectives and purposes of sections 626.841 to 626.863;

(d) Perform such other acts as may be necessary or appropriate to carry out the powers and duties of the board as set forth in sections 626.841 to 626.863;

(e) Cooperate with and receive financial assistance from and join in projects or enter into contracts with the federal government or its agencies for the furtherance of the purposes of Laws 1977, chapter 433.

*[For text of subd 4, see M.S.1996]*

**History:** 1997 c 7 art 1 s 169; art 2 s 65; 1997 c 239 art 8 s 31

## 626.845 POWERS AND DUTIES.

Subdivision 1. **Powers and duties.** The board shall have the following powers and duties:

(a) To certify peace officers' training schools or programs administered by state, county and municipalities located within this state in whole or in part no later than 90 days after receipt of an application for certification. The reasons for noncertification of any school or program or part thereof shall be transmitted to the school within 90 days and shall contain a detailed explanation of the reasons for which the school or program was disapproved and an explanation of what supporting material or other requirements are necessary for the board to reconsider. Disapproval of a school or program shall not preclude the reapplication for certification of the school or program;

(b) To issue certificates to schools, and to revoke such certification when necessary to maintain the objectives and purposes of sections 626.841 to 626.863;

(c) To certify, as qualified, instructors at peace officer training schools, and to issue appropriate certificates to such instructors;

(d) To license peace officers who have satisfactorily completed certified basic training programs, and passed examinations as required by the board;

(e) To cause studies and surveys to be made relating to the establishment, operation, and approval of state, county, and municipal peace officer training schools;

(f) To consult and cooperate with state, county, and municipal peace officer training schools for the development of in-service training programs for peace officers;

(g) To consult and cooperate with universities, colleges, and technical colleges for the development of specialized courses of instruction and study in the state for peace officers and part-time peace officers in police science and police administration;

(h) To consult and cooperate with other departments and agencies of the state and federal government concerned with peace officer standards and training;

(i) To perform such other acts as may be necessary and appropriate to carry out the powers and duties as set forth in the provisions of sections 626.841 to 626.863;

(j) To coordinate the provision, on a regional basis, of skills oriented basic training courses to graduates of certified law enforcement training schools or programs;

(k) To obtain criminal conviction data for persons seeking a license to be issued or possessing a license issued by the board. The board shall have authority to obtain criminal conviction data to the full extent that any other law enforcement agency, as that term is defined by state or federal law, has to obtain the data;

(l) To prepare and transmit annually to the governor a report of its activities with respect to allocation of moneys appropriated to it for peace officers training, including the name and address of each recipient of money for that purpose, the amount awarded, and the purpose of the award;

(m) To assist and cooperate with any political subdivision or state law enforcement agency which employs persons licensed by the board to establish written procedures for the investigation and resolution of allegations of misconduct of persons licensed by the board, and to enforce licensing sanctions for failure to implement such procedures; and

(n) To assist and cooperate with political subdivisions and state law enforcement agencies that employ persons licensed by the board in establishing written procedures to govern the conduct of peace officers who are in pursuit of a vehicle in violation of section 609.487, and requirements for the training of peace officers in conducting pursuits. The board may impose licensing sanctions for failure to establish pursuit procedures and training requirements by October 1, 1989.

In addition, the board may maintain data received from law enforcement agencies under section 626.87, subdivision 5, provide the data to requesting law enforcement agencies who are conducting background investigations, and maintain data on applicants and licensees as part of peace officer license data. The data that may be maintained include the name of the law enforcement agency conducting the investigation and data on the candidate provided under section 626.87, subdivision 5, clauses (1) and (2).

**History:** 1997 c 7 art 1 s 169; art 2 s 66; 1997 c 214 s 4

**NOTE:** The amendment to subdivision 1, by Laws 1997, chapter 214, section 4, is effective July 1, 1998. Laws 1997, chapter 214, section 6.

### **626.8456 TRAINING IN FIRE SCENE RESPONSE AND ARSON AWARENESS.**

**Subdivision 1. Training course.** The board, in consultation with the division of fire marshal, shall prepare objectives for a training course to instruct peace officers in fire scene response and arson awareness.

**Subd. 2. Preservice training requirement.** An individual is not eligible to take the peace officer licensing examination after August 1, 1998, unless the individual has received the training described in subdivision 1.

**History:** 1997 c 239 art 8 s 32

### **626.8457 PROFESSIONAL CONDUCT OF PEACE OFFICERS.**

**Subdivision 1. Model policy to be developed.** By March 1, 1996, the peace officer standards and training board shall develop and distribute to all chief law enforcement officers a model policy regarding the professional conduct of peace officers. The policy must address issues regarding professional conduct not addressed by the standards of conduct under Minnesota Rules, part 6700.1600. The policy must define unprofessional conduct to include, but not be limited to, conduct prohibited by section 609.43, whether or not there has been a conviction for a violation of that section. The policy must also describe the procedures that a local law enforcement agency may follow in investigating and disciplining peace officers alleged to have behaved unprofessionally.

**Subd. 2. Chief law enforcement officers; written policy required.** By July 1, 1996, all chief law enforcement officers shall establish and implement a written policy defining unprofessional conduct and governing the investigation and disposition of cases involving alleged unprofessional conduct by peace officers. A chief law enforcement officer shall adopt a policy identical or substantially similar to the model policy developed by the board under subdivision 1.

**Subd. 3. Report on alleged misconduct.** A chief law enforcement officer shall report annually to the board summary data regarding the investigation and disposition of cases involving alleged misconduct, indicating the total number of investigations, the total number by each subject matter, the number dismissed as unfounded, and the number dismissed on grounds that the allegation was unsubstantiated.

**History:** 1995 c 226 art 4 s 30

### **626.846 ATTENDANCE, FORFEITURE OF POSITION.**

**Subdivision 1.** Notwithstanding any general or local law or charter to the contrary, any peace officer or part-time peace officer employed or elected on or after July 1, 1979, by any state, county, municipality or joint or contractual combination thereof of the state of Minnesota shall not be eligible for permanent appointment without being licensed by the board pursuant to sections 626.84 to 626.863.

**Subd. 2.** Every peace officer or part-time peace officer who shall be appointed by any state, county, municipality or joint or contractual combination thereof of the state of Minne-

sota on a temporary basis or for a probationary term, shall forfeit the officer's position unless the officer has been licensed by the board pursuant to sections 626.841 to 626.863. Any other peace officer or part-time peace officer employed or elected by any state, county, municipality or joint or contractual combination thereof, may attend peace officer training courses and be licensed by the board pursuant to sections 626.84 to 626.863.

*[For text of subd 3, see M.S.1996]*

Subd. 6. A person seeking election to the office of sheriff must be licensed as a peace officer. A person seeking appointment to the office of sheriff, or seeking appointment to the position of chief law enforcement officer, as defined by the rules of the board, after June 30, 1987, must be licensed or eligible to be licensed as a peace officer. The person shall submit proof of peace officer licensure or eligibility as part of the application for office. A person elected or appointed to the office of sheriff or the position of chief law enforcement officer shall be licensed as a peace officer during the person's term of office or employment.

**History:** 1997 c 7 art 1 s 169; 1997 c 147 s 78

### **626.847 COMPULSORY PROGRAM; EXEMPTIONS.**

Nothing contained in sections 626.841 to 626.863, shall be construed to exempt any peace officer from the provisions of sections 626.841 to 626.863, or to exempt a peace officer having received the peace officer's last permanent appointment as a peace officer prior to July 1, 1967.

**History:** 1997 c 7 art 1 s 169

### **626.851 ELIGIBILITY OF OFFICERS.**

*[For text of subd 1, see M.S.1996]*

Subd. 2. Any student successfully completing a program of law enforcement instruction in a post secondary educational institution, which program has been certified by the board, and which institution has been approved by the Minnesota state department of children, families, and learning or an accredited institution of higher learning shall be eligible to attend a skills oriented basic training course as established under section 626.843. Nothing contained in sections 626.84 to 626.863 shall be construed to preclude the provision of skills oriented basic training courses by certified law enforcement schools providing such course has been certified by the board.

**History:** 1997 c 7 art 1 s 169

## **LAW ENFORCEMENT BACKGROUND INVESTIGATIONS**

### **626.87 LAW ENFORCEMENT BACKGROUND INVESTIGATIONS.**

Subdivision 1. **Background investigation required.** (a) A law enforcement agency shall conduct a thorough background investigation on an applicant for employment as a licensed peace officer or an applicant for a position leading to employment as a licensed peace officer before the applicant may be employed. The background investigation must determine at a minimum whether the candidate meets the following standards:

- (1) standards established by the Minnesota board of peace officer standards and training; and
- (2) established security standards for access to state and national computerized record and communication systems.

(b) This requirement does not prevent a law enforcement agency from establishing higher standards for law enforcement employees if those standards are not contrary to applicable law.

Subd. 2. **Disclosure of employment information.** Upon request of a law enforcement agency, an employer shall disclose or otherwise make available for inspection employment information of an employee or former employee who is the subject of an investigation under

subdivision 1. The request for disclosure of employment information must be in writing, must be accompanied by an original authorization and release signed by the employee or former employee, and must be signed by a sworn peace officer or other authorized representative of the law enforcement agency conducting the background investigation.

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

**Subd. 4. Immunity from liability.** In the absence of fraud or malice, an employer is immune from civil liability for employment information released to a law enforcement agency under this section, or for any subsequent publication made by the employee or former employee of employment information released to a law enforcement agency under this section.

**Subd. 5. Notice of investigation.** Upon initiation of a background investigation under this section, the law enforcement agency shall give written notice to the peace officer standards and training board of:

- (1) the candidate's full name and date of birth; and
- (2) the candidate's peace officer license number, if known.

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

**Subd. 6. Confidentiality agreements.** If employment information is subject to a confidentiality agreement between the employee or former employee and the employer, the employer shall disclose the fact that such an agreement exists. If the employee or former employee has authorized the release of employment information without regard to any previous agreement to the contrary, the employer shall also disclose the employment information in accordance with subdivision 2. If employment information is sealed or otherwise subject to a nondisclosure order by a court of competent jurisdiction, the employer shall disclose the fact that such an order exists, along with information identifying the court and court's file number.

**Subd. 7. Employment information.** For purposes of this section, "employment information" means written information in connection with job applications, performance evaluations, attendance records, disciplinary actions, and eligibility for rehire.

**Subd. 8. Application.** For purposes of this section, "employer" does not include an entity that is subject to chapter 13.

**History:** 1997 c 214 s 5

## **626.88 UNIFORMS; PEACE OFFICERS, SECURITY GUARDS; COLOR.**

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

(b) "Peace officer" means an employee of a political subdivision or state law enforcement agency who is licensed pursuant to sections 626.84 to 626.863 charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has full power of arrest, and shall also include Minnesota state troopers, state conservation officers, park police, constables, and University of Minnesota police officers.

(c) "Security guard" means any person who is paid a fee, wage or salary to perform one or more of the following functions:

- (1) Prevention or detection of intrusion, unauthorized entry or activity, vandalism or trespass on private property;
- (2) Prevention or detection of theft, loss, embezzlement, misappropriation, or concealment of merchandise, money, bonds, stocks, notes, or other valuable documents or papers;
- (3) Control, regulation, or direction of the flow or movements of the public, whether by vehicle or otherwise, to assure protection of private property;
- (4) Protection of individuals from bodily harm; or
- (5) Enforcement of policies and rules of the security guard's employer related to crime reduction insofar as such enforcement falls within the scope of security guard's duties.

The term "security guard" does not include: (i) auditors, accountants, and accounting personnel performing audits or accounting functions; (ii) employees of a firm licensed pursuant to section 326.3381 whose duties are primarily administrative or clerical in nature; (iii) unarmed security personnel; (iv) personnel temporarily employed pursuant to statute or ordinance by political subdivisions to provide protective services at social functions; (v) employees of air or rail carriers.

*[For text of subs 2 and 3, see M.S.1996]*

**History:** 1997 c 7 art 1 s 169

## **626.91 LAW ENFORCEMENT AUTHORITY; LOWER SIOUX INDIAN COMMUNITY PEACE OFFICERS.**

**Subdivision 1. Definition.** As used in this section, "community" means the Lower Sioux Indian Community.

**Subd. 2. Law enforcement agency.** (a) The community has the powers of a law enforcement agency, as defined in section 626.84, subdivision 1, paragraph (h), if all of the requirements of clauses (1) to (4) are met:

- (1) the community agrees to be subject to liability for its torts and those of its officers, employees, and agents acting within the scope of their employment or duties arising out of the law enforcement agency powers conferred by this section to the same extent as a municipality under chapter 466, and the community further agrees, notwithstanding section 16B.06, subdivision 6, to waive its sovereign immunity with respect to claims arising from this liability;
- (2) the community files with the board of peace officer standards and training a bond or certificate of insurance for liability coverage for the maximum amounts set forth in section 466.04;
- (3) the community files with the board of peace officer standards and training a certificate of insurance for liability of its law enforcement officers, employees, and agents for lawsuits under the United States Constitution; and
- (4) the community agrees to be subject to section 13.82 and any other laws of the state relating to data practices of law enforcement agencies.

(b) The community shall enter into an agreement under section 471.59 with the Redwood county sheriff to define and regulate the provision of law enforcement services under this section and to provide for mutual aid and cooperation. The agreement must identify and describe the trust property involved in the agreement. For purposes of entering into this agreement, the community shall be considered a "governmental unit" as that term is defined in section 471.59, subdivision 1.

**Subd. 3. Concurrent jurisdiction.** The jurisdiction of the community pursuant to this section shall be concurrent with that of the Redwood county sheriff, provided that it shall be limited to persons in the geographical boundaries of property held by the United States in trust for the community.

**Subd. 4. Peace officers.** If the community complies with the requirements set forth in subdivision 2, the community is authorized to appoint peace officers, as defined in section 626.84, subdivision 1, paragraph (c), who have the same powers as peace officers employed by the Redwood county sheriff over the persons and the geographic areas described in subdivision 3.

**Subd. 5. County jail.** The Redwood county sheriff is responsible for receiving persons arrested by peace officers appointed by the community under subdivision 4 and acting under the authority conferred by this section.

**Subd. 6. Prosecuting authority.** The Redwood county attorney is responsible for prosecuting or initiating petitions for any person arrested, investigated, or detained by peace officers appointed by the community under subdivision 4 and acting under the authority conferred by this section.

**Subd. 7. Effect on federal law.** Nothing in this section shall be construed to restrict the community's authority under federal law.

**Subd. 8. Construction.** This section is limited to law enforcement authority only, and nothing in this section shall affect any other jurisdictional relationships or disputes involving the community.

**History:** 1997 c 185 s 1