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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2376

03/11/2019 Authored by Gomez The bill was read for the first time and referred to the Committee on Ways and Means

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; requiring law enforcement
1.5 policies, guidelines, training, and reporting on matters relating to procedural justice
1.6 and community interactions; appropriating money; amending Minnesota Statutes
1.7 2018, section 626.89, subdivisions 2, 17; proposing coding for new law in
1.8 Minnesota Statutes, chapter 626.

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

1.10 ARTICLE 1
1.11 LAW ENFORCEMENT CITIZEN OVERSIGHT COUNCILS

1.12 Section 1. Minnesota Statutes 2018, section 626.89, subdivision 2, is amended to read:

1.13 Subd. 2. Applicability. The procedures and provisions of this section apply to law
1.14 enforcement agencies and government units. The procedures and provisions of this section
1.15 do not apply to:

1.16 (1) investigations and proceedings of a citizen oversight council described in section
1.17 626.99; or

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

1.19 Sec. 2. Minnesota Statutes 2018, section 626.89, subdivision 17, is amended to read:

1.20 Subd. 17. Civilian review Citizen oversight. A civilian review board, commission, or
1.21 other oversight body shall not have the authority to make a finding of fact or determination
1.22 regarding a complaint against an officer or impose discipline on an officer. A civilian review
1.23 board, commission, or other oversight body may make a recommendation regarding the

2.1 ~~merits of a complaint, however, the recommendation shall be advisory only and shall not~~  
 2.2 ~~be binding on nor limit the authority of the chief law enforcement officer of any unit of~~  
 2.3 ~~government~~ The powers and duties of citizen oversight councils for law enforcement agencies  
 2.4 are established under section 626.99.

2.5 Sec. 3. [626.99] LOCAL CITIZEN OVERSIGHT COUNCILS FOR LAW  
 2.6 ENFORCEMENT AGENCIES.

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

2.10 Subd. 2. **Councils required.** The governing body of each local unit of government that  
 2.11 oversees a law enforcement agency shall establish a citizen oversight council in compliance  
 2.12 with this section.

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

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

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

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

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

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

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

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

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

3.6 (6) personnel decisions.

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

3.10 Subd. 5. **Investigations into police misconduct.** A citizen oversight council may conduct  
3.11 an investigation into allegations of peace officer misconduct and retain an investigator to  
3.12 facilitate an investigation. Subject to other applicable law, a council may subpoena or compel  
3.13 testimony and documents in an investigation. Upon completion of an investigation, a council  
3.14 may recommend appropriate discipline.

3.15 Subd. 6. **Duties of chief law enforcement officer.** The chief law enforcement officer  
3.16 of a law enforcement agency under the jurisdiction of a citizen oversight council shall  
3.17 cooperate with the council and facilitate the council's achievement of its goals. However,  
3.18 the officer is under no obligation to agree with individual recommendations of the council  
3.19 and may oppose a recommendation. If the officer fails to implement a recommendation that  
3.20 is within the officer's authority, the officer shall inform the council of the failure along with  
3.21 the officer's underlying reasons.

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

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

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

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

4.1 Sec. 4. **TIMING.**

4.2 Governing bodies of local units of government shall comply with Minnesota Statutes,  
4.3 section 626.99, by September 1, 2019. A citizen oversight council shall conduct its first  
4.4 meeting by October 1, 2019.

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

4.6 Sec. 5. **COMPLIANCE REVIEWS.**

4.7 The state auditor shall conduct reviews as appropriate and on a regular basis to ensure  
4.8 that local units of government are in compliance with this article.

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

4.10 **ARTICLE 2**

4.11 **POLICIES, TRAINING, REPORTING, APPROPRIATIONS**

4.12 Section 1. **[626.8272] PROCEDURAL JUSTICE; POLICIES REQUIRED.**

4.13 Subdivision 1. **Model policy required.** (a) By August 15, 2019, the board, in consultation  
4.14 with interested parties, shall develop and distribute to all chief law enforcement officers a  
4.15 procedural justice model policy to govern interactions between peace officers and community  
4.16 members. At a minimum, the policy must require that peace officers:

4.17 (1) obtain consent before conducting searches of individuals in the absence of a search  
4.18 warrant or probable cause;

4.19 (2) obtain written acknowledgment that consent has been sought from individuals that  
4.20 the officer has requested to search under clause (1);

4.21 (3) identify themselves by their full name, rank, badge number, and command, when  
4.22 applicable, to all individuals they have stopped;

4.23 (4) state the reason to the individual affected for any search requests, searches conducted,  
4.24 or stops; and

4.25 (5) report to the officer's chief law enforcement officer relevant information related to  
4.26 the encounter between the officer and the person affected.

4.27 (b) The model policy must specify the information required to be reported under  
4.28 paragraph (a), clause (5), which, at a minimum, must include the individual officer's reason  
4.29 for making the stop or conducting or requesting consent for the search and information  
4.30 about the person encountered, including the person's gender, race, ethnicity, and approximate

5.1 age. In addition, the policy must specify how the information is to be summarized and  
 5.2 reported by chief law enforcement officers under subdivision 2.

5.3 Subd. 2. **Local policies required.** (a) By November 1, 2019, the chief law enforcement  
 5.4 officer of every state and local law enforcement agency shall establish and enforce a written  
 5.5 procedural justice policy governing the conduct of peace officers engaged in interactions  
 5.6 with community members. The chief law enforcement officer shall ensure that each peace  
 5.7 officer receives a copy of the agency's policy. The chief law enforcement officer also shall  
 5.8 ensure that each peace officer is aware of the policy's purpose and the conduct addressed  
 5.9 by the policy.

5.10 (b) The policy must, at a minimum, comply with the requirements of the model policy  
 5.11 adopted by the board under subdivision 1.

5.12 (c) Every state and local law enforcement agency shall certify to the board that the  
 5.13 agency has adopted a written policy in compliance with the board's model policy and shall  
 5.14 submit an electronic copy of the policy to the board. The board shall review each policy to  
 5.15 ensure compliance and post each policy on the board's website.

5.16 (d) The board shall assist the chief law enforcement officer of each state and local law  
 5.17 enforcement agency in developing and implementing procedural justice policies under this  
 5.18 subdivision.

5.19 (e) The chief law enforcement officer shall report a summary of the information described  
 5.20 in subdivision 1, paragraph (a), clause (5), as directed in the board's model policy.

5.21 Sec. 2. **[626.8474] PROCEDURAL JUSTICE AND COMMUNITY INTERACTION**  
 5.22 **SKILLS; LEARNING OBJECTIVES.**

5.23 Subdivision 1. **Preservice training learning objectives; requirements.** (a) By August  
 5.24 15, 2019, the board shall prepare learning objectives as described in subdivision 3 for  
 5.25 preservice training to instruct peace officers in procedural justice and community-interaction  
 5.26 skills. The learning objectives must be included in the required curriculum of professional  
 5.27 peace officer education programs.

5.28 (b) An individual is not eligible to take the peace officer licensing examination or the  
 5.29 part-time peace officer licensing examination on or after July 1, 2020, unless the individual  
 5.30 has received the training described in paragraph (a).

5.31 Subd. 2. **In-service training learning objectives.** By August 15, 2019, the board shall  
 5.32 prepare learning objectives as described in subdivision 3 for in-service training to instruct

6.1 all peace officers in procedural justice and community interaction skills. The board shall  
 6.2 evaluate and monitor in-service training courses to ensure they satisfy the learning objectives.

6.3 Subd. 3. **Learning objectives described.** (a) The preservice and in-service learning  
 6.4 objectives required in subdivisions 1 and 2 must address the following:

6.5 (1) community policing and problem-solving skills;

6.6 (2) interpersonal and communication skills;

6.7 (3) bias awareness, including both implicit and explicit bias;

6.8 (4) scenario-based situational decision-making skills;

6.9 (5) crisis intervention and de-escalation skills;

6.10 (6) procedural justice and impartial policing techniques;

6.11 (7) trauma and victim-services skills;

6.12 (8) mental health issues;

6.13 (9) use of analytical research and technology; and

6.14 (10) language and cultural responsiveness skills.

6.15 (b) The board shall determine the parameters and total number of hours required for the  
 6.16 learning objectives required in this section.

6.17 Sec. 3. **GUIDELINES ON POSITIVE COMMUNITY INTERACTIONS.**

6.18 (a) The commissioner of public safety, in consultation with interested parties, shall  
 6.19 develop guidelines to encourage law enforcement agencies to implement changes in how  
 6.20 peace officers may interact more positively with community members. At a minimum, the  
 6.21 guidelines must address changes in the deployment of peace officers to allow officers to  
 6.22 rotate into and out of assignments so as to ensure that individual officers are not consistently  
 6.23 exposed to stressful situations.

6.24 (b) The commissioner shall report to the legislature on any recommended changes to  
 6.25 law or funding to better achieve the goals in paragraph (a).

6.26 Sec. 4. **APPROPRIATION.**

6.27 (a) \$..... in fiscal year 2020 and \$..... in fiscal year 2021 are appropriated from the  
 6.28 general fund to the commissioner of public safety for: (1) increased soft body armor  
 6.29 reimbursements under Minnesota Statutes, section 299A.38; (2) grants to law enforcement

7.1 agencies for counseling services for peace officers; and (3) grants to local units of government  
7.2 to establish and maintain citizen oversight councils under article 1. Notwithstanding the  
7.3 maximum amount specified in Minnesota Statutes, section 299A.38, the commissioner shall  
7.4 use the appropriation in clause (1) to increase the state share and lower the local share for  
7.5 soft body armor reimbursements.

7.6 (b) \$..... in fiscal year 2020 and \$..... in fiscal year 2021 are appropriated from the  
7.7 general fund to the Peace Officers Standards and Training Board for costs associated with  
7.8 this act.