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State of Minnesota

HOUSE OF REPRESENTATIVES

SPECIAL SESSION

H. F. No. **78**

06/12/2020 Authored by Mariani and Becker-Finn
The bill was read for the first time and referred to the Judiciary Finance and Civil Law Division
06/16/2020 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to public safety; providing for officer-involved death review board;
1.3 reporting law enforcement use of force; establishing an Office of Community-Led
1.4 Public Safety Coordination; establishing grants to promote co-responder teams;
1.5 establishing grants to promote community healing; establishing standards for crisis
1.6 intervention and mental illness crisis training for peace officers; requiring the
1.7 development and implementation of autism training for peace officers; requiring
1.8 reports; appropriating money; amending Minnesota Statutes 2018, section 626.8469;
1.9 proposing coding for new law in Minnesota Statutes, chapters 299A; 626.

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

1.11 Section 1. **[299A.018] OFFICER-INVOLVED DEATH REVIEW BOARD.**

1.12 Subdivision 1. Definitions. (a) The following terms have the meanings provided.

1.13 (b) "Board" means the Officer-Involved Death Review Board.

1.14 (c) "Commissioner" means the commissioner of public safety.

1.15 (d) "Law enforcement agency" has the meaning given in section 626.84, subdivision 1,
1.16 paragraph (f).

1.17 (e) "Officer-involved death" means the death of a person that results from a peace officer's
1.18 use of force while the officer is on duty or off duty but performing activities that are within
1.19 the scope of the officer's law enforcement duties.

1.20 (f) "Peace officer" has the meaning given in section 626.84, subdivision 1, paragraph
1.21 (c).

1.22 Subd. 2. Establishment; membership; office support. (a) The Officer-Involved Death
1.23 Review Board is established in the Department of Public Safety. The board consists of the
1.24 following members:

- 2.1 (1) the superintendent of the Bureau of Criminal Apprehension;
- 2.2 (2) a member of the Peace Officer Standards and Training Board selected by the executive
- 2.3 director of the Peace Officer Standards and Training Board;
- 2.4 (3) a representative of the Office of Violence Prevention in the Department of Health;
- 2.5 (4) the commissioner of the Department of Human Rights, or a designee;
- 2.6 (5) the commissioner of corrections, or a designee; and
- 2.7 (6) six persons selected by the commissioner that must include:
- 2.8 (i) a medical examiner or coroner;
- 2.9 (ii) a use of force expert;
- 2.10 (iii) a civil rights expert;
- 2.11 (iv) a prosecutor with expertise in officer-involved death reviews;
- 2.12 (v) a member of the public from the seven-county metropolitan area; and
- 2.13 (vi) a member of the public from outside of the seven-county metropolitan area.
- 2.14 (b) Members will be appointed to two-year terms. Membership is renewable one time.
- 2.15 (c) The commissioner must convene the board no later than November 1, 2020, and
- 2.16 provide meeting space and administrative assistance necessary for the board to conduct its
- 2.17 work, including documentation of meetings and review findings.
- 2.18 Subd. 3. **Review teams.** (a) The board shall appoint a review team from among the board
- 2.19 members to collect, review, and analyze data related to each officer-involved death that
- 2.20 occurs in the state. The board may also invite other relevant persons to participate as full
- 2.21 members of a review team as needed. Review team membership should represent the cultural
- 2.22 and racial diversity of the community where the death occurred, to the extent possible. A
- 2.23 member may not participate in a review if the member is a current or former employee of
- 2.24 the agency that is the subject of the team's review.
- 2.25 (b) In determining the cause of death, the review team shall consider death certificates
- 2.26 and other data relevant to determining cause of death, including investigative reports and
- 2.27 medical records. The review team may also analyze additional available information
- 2.28 concerning the decedent.
- 2.29 (c) As part of the review team's investigation of a peace officer involved in an
- 2.30 officer-involved death, the team shall review:

- 3.1 (1) the peace officer's complete employment and training records;
- 3.2 (2) the policies and standard operating procedures of the agency that employs the peace
- 3.3 officer;
- 3.4 (3) applicable collective bargaining agreements; and
- 3.5 (4) other pertinent information concerning the peace officer and the agency that employs
- 3.6 the peace officer.

3.7 Subd. 4. **Access to data.** (a) The review team has access to the following not public

3.8 data, as defined in section 13.02, subdivision 8a, relating to an officer-involved death:

- 3.9 (1) inactive law enforcement investigative data under section 13.82;
- 3.10 (2) autopsy records and coroner or medical examiner investigative data under section
- 3.11 13.83;
- 3.12 (3) hospital, public health, or other medical records of the decedent under section 13.384;
- 3.13 and
- 3.14 (4) records under section 13.46, created by social services agencies that provided services
- 3.15 to the decedent.

3.16 (b) Access to medical records under this paragraph also includes records governed by

3.17 sections 144.291 to 144.298.

3.18 (c) The board has access to corrections and detention data as provided in section 13.85.

3.19 Subd. 5. **Agency notice; cooperation.** (a) The chief law enforcement officer of a law

3.20 enforcement agency that has an officer-involved death must notify the commissioner within

3.21 30 days of the death. The commissioner shall forward a copy of the filing to the board. The

3.22 notification shall contain information concerning the reason for and circumstances

3.23 surrounding the death.

3.24 (b) The law enforcement agency that employs a peace officer who was involved in an

3.25 officer-involved death must cooperate fully with the board and a review team appointed by

3.26 the board. The chief law enforcement officer of the agency that employs an officer under

3.27 investigation by a review team must provide written answers to questions posed by the

3.28 review team or the board.

3.29 Subd. 6. **Compel production of records; subpoena.** As part of any review, the board

3.30 may compel the production of other records by applying to the district court for a subpoena,

3.31 which will be effective throughout the state according to the Rules of Civil Procedure.

4.1 Subd. 7. **Officer-involved death reviews and recommendations.** (a) The board must
4.2 conduct an initial review of each officer-involved death within 90 days of the final
4.3 adjudication of the event to determine any immediate action, appropriate local representation,
4.4 and timeline. The board must submit a publicly available summary of the incident and the
4.5 board's response plan.

4.6 (b) The board must identify and analyze the root causes of the incident.

4.7 (c) The full review must be completed within six months of the final adjudication of the
4.8 event and the report must be filed with the commissioner and agency that employed the
4.9 peace officer involved in the event within 60 days of completion of the review.

4.10 (d) The board shall make recommendations to the commissioner for changes in statewide
4.11 training of peace officers. Following the analysis, the board must prepare a report that
4.12 recommends policy and system changes to reduce and prevent future incidents across
4.13 jurisdictions, agencies, and systems.

4.14 (e) The commissioner must post the report on the Department of Public Safety's public
4.15 website. The posted report must comply with chapter 13 and any data that is not public data
4.16 must be redacted.

4.17 Subd. 8. **Confidentiality; data privacy.** (a) A person attending a board meeting may
4.18 not disclose what transpired at the meeting, except to carry out the purposes of the review
4.19 or as otherwise provided in this subdivision.

4.20 (b) The board may disclose the names of the decedents in the cases it reviews.

4.21 (c) Proceedings and records of the board are confidential data as defined in section 13.02,
4.22 subdivision 3, or protected nonpublic data as defined in section 13.02, subdivision 13,
4.23 regardless of their classification in the hands of the person who provided the data, and are
4.24 not subject to discovery or introduction into evidence in a civil or criminal action against a
4.25 professional, the state, or a county agency, arising out of the matters the team is reviewing.
4.26 Information, documents, and records otherwise available from other sources are not immune
4.27 from discovery or use in a civil or criminal action solely because they were presented during
4.28 proceedings of the board.

4.29 (d) This subdivision does not limit a person who presented information before the board
4.30 or who is a member of the panel from testifying about matters within the person's knowledge.
4.31 However, in a civil or criminal proceeding, a person may not be questioned about the person's
4.32 good faith presentation of information to the board or opinions formed by the person as a
4.33 result of the board meetings.

5.1 Subd. 9. **External advice.** The board shall identify an external impartial entity to facilitate
5.2 reviews and establish the review process.

5.3 Subd. 10. **Reports to the legislature.** By June 15 of each year, the board must report
5.4 to the chairs and ranking minority members of the house of representatives and senate
5.5 committees and divisions with jurisdiction over public safety on:

5.6 (1) the number of reviews performed under this section in the last year;

5.7 (2) aggregate data on reviews performed;

5.8 (3) the number of reviews that included a recommendation that the law enforcement
5.9 agency under review implement a corrective action plan;

5.10 (4) a description of any recommendations made to the commissioner for statewide
5.11 training of peace officers; and

5.12 (5) recommendations for legislative action.

5.13 **Sec. 2. [299A.625] OFFICE OF COMMUNITY-LED PUBLIC SAFETY**
5.14 **COORDINATION.**

5.15 Subdivision 1. **Office of Community-Led Public Safety Coordination established.** The
5.16 Office of Community-Led Public Safety Coordination is established in the Office of Justice
5.17 Programs. The commissioner of public safety shall appoint a coordinator who shall serve
5.18 in the unclassified service. The commissioner of public safety shall appoint or hire other
5.19 staff as necessary.

5.20 Subd. 2. **Duties.** The office shall:

5.21 (1) promote and monitor alternatives to traditional policing models;

5.22 (2) identify effective forms of community-led intervention to promote public safety;

5.23 (3) strengthen connections between community members and local law enforcement
5.24 agencies;

5.25 (4) encourage the use of restorative justice programs including but not limited to
5.26 sentencing circles; and

5.27 (5) administer grants to promote co-responder models of crisis intervention and promote
5.28 community healing.

5.29 **EFFECTIVE DATE.** This section is effective July 1, 2020.

6.1 Sec. 3. **[626.5534] USE OF FORCE REPORTING.**

6.2 Subdivision 1. Report required. A chief law enforcement officer must provide the
6.3 information requested by the Federal Bureau of Investigation about each incident of law
6.4 enforcement use of force resulting in serious bodily injury or death, as those terms are
6.5 defined in the Federal Bureau of Investigation's reporting requirements, to the superintendent
6.6 of the Bureau of Criminal Apprehension. The superintendent shall adopt a reporting form
6.7 for use by law enforcement agencies in making the report required under this section. The
6.8 report must include for each incident all of the information requested by the Federal Bureau
6.9 of Investigation.

6.10 Subd. 2. Use of information collected. A chief law enforcement officer must file the
6.11 report under subdivision 1 once a month in the form required by the superintendent. The
6.12 superintendent must summarize and analyze the information received and submit an annual
6.13 written report to the chairs and ranking minority members of the house of representatives
6.14 and senate committees with jurisdiction over public safety. The superintendent shall submit
6.15 the information to the Federal Bureau of Investigation.

6.16 Sec. 4. Minnesota Statutes 2018, section 626.8469, is amended to read:

6.17 **626.8469 TRAINING IN CRISIS RESPONSE, CONFLICT MANAGEMENT,**
6.18 **AND CULTURAL DIVERSITY.**

6.19 Subdivision 1. **In-service training required.** Beginning July 1, 2018, the chief law
6.20 enforcement officer of every state and local law enforcement agency shall provide in-service
6.21 training in crisis intervention and mental illness crises; conflict management and mediation;
6.22 and recognizing and valuing community diversity and cultural differences to include implicit
6.23 bias training to every peace officer and part-time peace officer employed by the agency.
6.24 The training shall comply with learning objectives developed and approved by the board
6.25 and shall meet board requirements for board-approved continuing education credit. Crisis
6.26 intervention and mental illness crisis training shall meet the standards in subdivision 1a.
6.27 The training shall consist of at least 16 continuing education credits with a minimum of
6.28 four hours for crisis intervention and mental illness crisis training within an officer's
6.29 three-year licensing cycle. Each peace officer with a license renewal date after June 30,
6.30 2018, is not required to complete this training until the officer's next full three-year licensing
6.31 cycle.

6.32 Subd. 1a. Crisis intervention and mental illness crisis training. (a) The board, in
6.33 consultation with the commissioner of human services and mental health stakeholders, shall
6.34 create a list of approved entities and training courses to instruct peace officers in techniques

7.1 for responding to a mental illness crisis. A course must include scenario-based instruction
 7.2 and cover most of the following issues:

7.3 (1) techniques for relating to individuals with mental illnesses and the individuals'
 7.4 families;

7.5 (2) techniques for crisis de-escalation;

7.6 (3) techniques for relating to diverse communities and education on mental illness
 7.7 diversity;

7.8 (4) mental illnesses and the criminal justice system;

7.9 (5) community resources and supports for individuals experiencing a mental illness crisis
 7.10 and for the individuals' families;

7.11 (6) psychotropic medications and the medications' side effects;

7.12 (7) co-occurring mental illnesses and substance use disorders;

7.13 (8) suicide prevention;

7.14 (9) mental illnesses and disorders and the symptoms; and

7.15 (10) autism spectrum disorder.

7.16 (b) A course must also include training on children and families of individuals with
 7.17 mental illnesses to enable officers to respond appropriately to others who are present during
 7.18 a mental illness crisis. The board shall update the list of approved entities and training
 7.19 courses periodically as it considers appropriate.

7.20 Subd. 2. **Record keeping required.** The head of every local and state law enforcement
 7.21 agency shall maintain written records of the agency's compliance with the requirements of
 7.22 ~~subdivision 1.~~ subdivisions 1 and 1a including, at a minimum:

7.23 (1) documentation of the training provider;

7.24 (2) documentation of the content of the training provided;

7.25 (3) documentation that crisis intervention and mental illness crisis training included
 7.26 scenario-based instruction in compliance with the standards described in subdivision 1a;

7.27 (4) compiled evaluations; and

7.28 (5) explanation of expenditure of funds.

7.29 ~~The documentation is subject to periodic review by the board, and shall be made available~~
 7.30 submitted to the board at its request. The board shall include in the compliance reviews

8.1 required in section 626.8459 an evaluation of the effectiveness of in-service crisis intervention
8.2 and mental illness crisis training in reducing officer use of force and diverting people
8.3 experiencing a mental illness crisis from arrest.

8.4 Subd. 3. **Licensing sanctions; injunctive relief.** The board may impose licensing
8.5 sanctions and seek injunctive relief under section 214.11 for failure to comply with the
8.6 requirements of this section.

8.7 Sec. 5. **[626.8474] AUTISM TRAINING.**

8.8 Subdivision 1. Learning objectives required. (a) By January 1, 2021, the board shall
8.9 prepare learning objectives for preservice and in-service training on ensuring safer
8.10 interactions between peace officers and persons with autism. At a minimum, the objectives
8.11 must address the following:

- 8.12 (1) autism overview and behavioral understanding;
8.13 (2) best practices for interventions and de-escalation strategies;
8.14 (3) prevention and crisis reduction models; and
8.15 (4) objective review of tools and technology available.

8.16 (b) In developing the learning objectives, the board shall consult with, at a minimum:

- 8.17 (1) individuals with autism;
8.18 (2) family members of individuals with autism;
8.19 (3) autism experts; and
8.20 (4) peace officers.

8.21 Subd. 2. **Preservice training required.** (a) The learning objectives developed pursuant
8.22 to subdivision 1 must be included in the required curriculum of professional peace officer
8.23 educational programs.

8.24 (b) A person is not eligible to take the peace officer licensing examination after July 1,
8.25 2021, unless the individual has received the training described in paragraph (a).

8.26 Subd. 3. **In-service training required.** Beginning July 1, 2021, the chief law enforcement
8.27 officer of every state and local law enforcement agency shall provide in-service autism
8.28 training to every peace officer and part-time peace officer employed by the agency. The
8.29 training must comply with the learning objectives developed and approved by the board
8.30 and must meet board requirements for board-approved continuing education credit. The
8.31 training must consist of at least four continuing education credits within an officer's three-year

9.1 licensing cycle. Each peace officer with a license renewal date after June 30, 2021, is not
9.2 required to complete this training until the officer's next full three-year licensing cycle.

9.3 Subd. 4. **Record keeping required.** The head of every local and state law enforcement
9.4 agency shall maintain written records of the agency's compliance with the requirements of
9.5 subdivision 3. The documentation is subject to periodic review by the board, and must be
9.6 made available to the board at its request.

9.7 Subd. 5. **Licensing sanctions; injunctive relief.** The board may impose licensing
9.8 sanctions and seek injunctive relief under section 214.11 for failure to comply with the
9.9 requirements of this section.

9.10 Sec. 6. **APPROPRIATION; PEACE OFFICER CRISIS INTERVENTION AND**
9.11 **MENTAL ILLNESS CRISIS TRAINING.**

9.12 \$..... in fiscal year 2021 is appropriated from the general fund to the Peace Officer
9.13 Standards and Training (POST) Board to reimburse law enforcement agency crisis
9.14 intervention and mental illness crisis training expenses for training that is provided by
9.15 approved entities according to Minnesota Statutes, section 626.8469, subdivision 1a.

9.16 Sec. 7. **APPROPRIATION; POLICE AND MENTAL HEALTH CRISIS TEAM**
9.17 **COLLABORATION.**

9.18 \$..... in fiscal year 2021 is appropriated from the general fund to the Peace Officer
9.19 Standards and Training (POST) Board to administer a pilot project to create collaborations
9.20 between county mobile crisis mental health services described in Minnesota Statutes, section
9.21 245.469, and municipal law enforcement agencies. The appropriation shall be used to
9.22 purchase tablets and video conferencing telehealth services to allow peace officers to connect
9.23 quickly with members of the mobile crisis mental health team to assist individuals in crisis.
9.24 No later than September 1, 2021, law enforcement agencies awarded grants shall provide
9.25 a written report to the board describing the expenditure of funds and evaluating the
9.26 effectiveness of the project in diverting people experiencing a mental illness crisis from
9.27 arrest. The board shall submit a written report compiling the law enforcement agency reports
9.28 and evaluating the program to the chairs and ranking minority members of the house of
9.29 representatives and senate committees with jurisdiction over public safety by January 1,
9.30 2022.

10.1 Sec. 8. **APPROPRIATION.**

10.2 \$..... is appropriated from the general fund to the Peace Officer Standards and Training
10.3 (POST) Board for the fiscal year ending June 30, 2021, to implement section 5.

10.4 Sec. 9. **COMMUNITY-LED PUBLIC SAFETY GRANTS.**

10.5 Subdivision 1. **Appropriation.** \$15,000,000 in fiscal year 2020 is appropriated from
10.6 the general fund to the commissioner of public safety to promote community-led public
10.7 safety.

10.8 Subd. 2. **Community-led public safety coordinator.** Of the amount appropriated in
10.9 subdivision 1, \$100,000 is for one community-led public safety coordinator position at the
10.10 Department of Public Safety.

10.11 Subd. 3. **Grants to promote co-responder teams.** (a) Of the amount appropriated in
10.12 subdivision 1, \$7,450,000 is for grants to promote co-responder teams as provided in this
10.13 subdivision.

10.14 (b) The Office of Community-Led Public Safety Coordination shall award grants to
10.15 local units of government or tribal governments that form a partnership with
10.16 community-based organizations to develop and establish independent crisis-response teams
10.17 to de-escalate volatile situations; respond to situations involving a mental health crisis;
10.18 promote community-based efforts designed to enhance community safety and wellness;
10.19 and support community-based strategies to interrupt, intervene in, or respond to violence.

10.20 Subd. 4. **Grants to promote community healing.** (a) Of the amount appropriated in
10.21 subdivision 1, \$7,450,000 is for grants to promote healing support in black, indigenous, and
10.22 people of color communities in Minnesota.

10.23 (b) The Office of Community-Led Public Safety Coordination shall award grants to
10.24 community-based organizations that provide programs and direct intervention to promote
10.25 wellness and healing justice. In awarding grants, the coordinator may collaborate with
10.26 organizations that provide supportive professional community and mutual aid networks for
10.27 wellness and healing justice practitioners. Grants are available for:

10.28 (1) programmatic and community care support for wellness and healing justice
10.29 practitioners;

10.30 (2) the establishment and expansion of community organizations that provide wellness
10.31 and healing justice services;

11.1 (3) placing wellness and healing justice practitioners in organizations that provide direct
11.2 service to black, indigenous, and people of color communities in Minnesota;

11.3 (4) providing healing circles;

11.4 (5) establishing and expanding Community Coach Certification programs to train
11.5 community healers and establish a long-term strategy to build the infrastructure for
11.6 community healers to be available during times of tragedy; and

11.7 (6) restorative justice programs including but not limited to sentencing circles.

11.8 Subd. 5. **Report.** (a) On or before January 15 of each year, the community-led public
11.9 safety coordinator shall submit a report to the chairs and ranking minority members of the
11.10 legislative committees and divisions with jurisdiction over public safety that includes:

11.11 (1) the number of grants issued under subdivision 3;

11.12 (2) the number of grants issued under subdivision 4;

11.13 (3) the amount of funding awarded for each project;

11.14 (4) a description of the programs and services funded;

11.15 (5) plans for the long-term sustainability of the projects; and

11.16 (6) data on outcomes for the programs and services funded.

11.17 (b) Grantees must provide information and data requested by the coordinator to support
11.18 the development of this report.

11.19 **EFFECTIVE DATE.** This section is effective July 1, 2020.