

**SENATE
STATE OF MINNESOTA
SPECIAL SESSION**

S.F. No. 138

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DATE
06/19/2020

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Introduction and first reading
Referred to Rules and Administration

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to public safety; imposing duties on peace officers regarding reporting
1.3 malfeasance, intervening to prevent the excessive use of force, and using force;
1.4 requiring law enforcement agencies to adopt updated policies regarding the use
1.5 of force by peace officers; authorizing rulemaking; imposing criminal penalties;
1.6 amending Minnesota Statutes 2018, section 626.8452, subdivision 2, by adding a
1.7 subdivision; proposing coding for new law in Minnesota Statutes, chapter 626.

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

1.9 Section 1. Minnesota Statutes 2018, section 626.8452, is amended by adding a subdivision
1.10 to read:

1.11 Subd. 1a. Updated policies required. (a) By November 1, 2020, the head of every local
1.12 and state law enforcement agency shall establish and enforce an updated written policy
1.13 regarding the use of force described in subdivision 1 and a peace officer's duties regarding
1.14 it. At a minimum, this updated policy must be consistent with section 626.895, subdivision
1.15 2.

1.16 (b) When adopting the policy described in paragraph (a), the head of the agency shall
1.17 reach out to and collaborate with community and faith-based leaders and ensure broad
1.18 community-based involvement in the development of the policy. Upon the adoption of the
1.19 policy, the head of the agency shall broadly disseminate the policy throughout the community
1.20 that the agency serves.

1.21 (c) By November 15, 2020, the head of the agency shall forward the policy required by
1.22 this subdivision to the board.

2.1 Sec. 2. Minnesota Statutes 2018, section 626.8452, subdivision 2, is amended to read:

2.2 Subd. 2. **Deadly force and firearms use; initial instruction.** Beginning January 1,
2.3 1992, the head of every local and state law enforcement agency shall provide instruction
2.4 on the use of force, deadly force, and the use of firearms to every peace officer and part-time
2.5 peace officer newly appointed by or beginning employment with the agency. This instruction
2.6 must occur before the agency head issues a firearm to the officer or otherwise authorizes
2.7 the officer to carry a firearm in the course of employment. The instruction must be based
2.8 on the agency's written policy required in ~~subdivision~~ subdivisions 1 and 1a and on the
2.9 instructional materials required by the board for peace officer and part-time peace officer
2.10 licensure.

2.11 Sec. 3. **[626.895] DUTIES OF PEACE OFFICERS; CRIME.**

2.12 Subdivision 1. **Definitions.** As used in this section, "board" and "peace officer" have
2.13 the meanings given in section 626.84.

2.14 Subd. 2. **Duties imposed.** (a) In addition to other duties imposed on peace officers by
2.15 law or policy, every peace officer, whether on or off duty, has the obligation to:

2.16 (1) report all suspected incidents of illegal, unethical, dishonest, or unauthorized conduct,
2.17 or any other malfeasance, including but not limited to the use of excessive force, involving
2.18 the actions of another peace officer to the chief law enforcement officer of the officer's
2.19 agency and, if the incident occurs in another jurisdiction, to the chief law enforcement
2.20 officer of that jurisdiction; and

2.21 (2) immediately investigate any incident involving the use of force by another peace
2.22 officer that takes place in the officer's presence and determine whether the force being used
2.23 is justified or excessive under the circumstances and if so take reasonable measures to
2.24 intervene to stop the use of the force and then render immediate reasonable assistance to
2.25 the victim.

2.26 If the conduct described in clause (1) is committed by a chief law enforcement officer, the
2.27 officer reporting the action shall report it to the governing body having jurisdiction over
2.28 the law enforcement agency.

2.29 (b) Subject to sections 609.06, 609.065, and 609.066, a peace officer has the following
2.30 obligations regarding the use of force:

2.31 (1) to consider the sanctity of life as a core value before using force;

3.1 (2) to de-escalate situations before using force whenever doing so does not compromise
3.2 the officer's safety;

3.3 (3) to use only force that is reasonable, necessary, and proportionate under the
3.4 circumstances; and

3.5 (4) to use sound tactics before using force, including but not limited to time, distance,
3.6 and cover, to reduce the need to use force.

3.7 (c) When determining whether an officer has complied with the requirements of
3.8 paragraphs (a) and (b), the standard is what is objectively reasonable under the circumstances
3.9 based on what a reasonable peace officer would do under the totality of the circumstances.

3.10 Subd. 3. **Penalties for violation.** (a) The board may impose licensing sanctions, including
3.11 but not limited to the suspension or revocation of the officer's license, on a peace officer
3.12 who fails to comply with subdivision 2.

3.13 (b) In addition to licensing sanctions under paragraph (a), a peace officer who knowingly
3.14 violates an obligation imposed under subdivision 2 is guilty of a gross misdemeanor.

3.15 (c) It is an affirmative defense to a charge under paragraph (b) if the defendant proves
3.16 by a preponderance of the evidence that the defendant failed to perform the duty imposed
3.17 because the defendant reasonably perceived that doing so would pose a significant risk of
3.18 bodily harm to the defendant or others.

3.19 Subd. 4. **Rulemaking.** The board may adopt rules to implement subdivision 3, paragraph
3.20 (a).

3.21 Subd. 5. **Prohibition against employer retaliation.** (a) An employer shall not discharge,
3.22 discipline, threaten, otherwise discriminate against, or penalize a peace officer regarding
3.23 the officer's compensation, terms, conditions, location, or privileges of employment, because
3.24 the officer made a report as required under subdivision 2, paragraph (a), clause (1).

3.25 (b) An employer who violates paragraph (a) is guilty of a misdemeanor. In addition to
3.26 any criminal penalty imposed, the court may order the employer to pay back wages and
3.27 offer job reinstatement to any officer discharged from employment in violation of paragraph
3.28 (a).

3.29 (c) In addition to any remedies otherwise provided by law, a peace officer injured by a
3.30 violation of paragraph (a) may bring a civil action for recovery of damages, together with
3.31 costs and disbursements, including reasonable attorney fees, and may receive such injunctive
3.32 and other equitable relief, including reinstatement, as determined by the court.

- 4.1 **EFFECTIVE DATE.** This section is effective August 1, 2020, and applies to crimes
- 4.2 committed on or after that date.