

Chapter 1

2020 Second Special Session

Subject Peace officer oversight and training

Analyst Jeffrey Diebel
Ben Johnson
Marta James (section 24)

Date August 11, 2020

Overview

This act contains a variety of proposals intended to address: incidents of peace officers using excessive force against members of the public; to increase community oversight of law enforcement; and enhance peace officer training.

Summary

Section	Description
1	<p>Peer counseling data. Makes conforming changes in relation to the classification of peer counseling data.</p>
2	<p>Critical incident stress management data. Classifies data acquired by a critical incident stress management team member when providing critical incident stress management services.</p>
3	<p>Public safety peer counseling.</p> <p>Subd. 1. Definitions. Defines the terms “emergency service providers,” “peer support counselor,” and “public safety peer counseling” for purposes of this section.</p> <p>Subd. 2. Peer support counselor; prohibition on being witness or party. Prohibits a peer support counselor from providing public safety peer counseling to an emergency service provider if the peer support counselor was a witness to the critical incident.</p> <p>Subd. 3. Disclosure prohibited. Prohibits disclosure of information obtained solely through the provision of, or receipt of, peer counseling unless an exception listed in subdivision 3 applies.</p> <p>Subd. 4. Exceptions. Establishes six exceptions to the prohibition on disclosure, permitting disclosure of information necessary to prevent a person receiving services from harming self or others or make mandatory reports of abuse. Also</p>

Section	Description
	permits disclosure with the written consent of the person who received services or if that person testifies.
4	<p>Critical incident stress management.</p> <p>Subd. 1. Definitions. Defines terms including “crisis intervention services,” “critical incident,” “critical incident stress management,” “emergency service provider,” “critical incident stress management team,” and “peer support activity.”</p> <p>Subd. 2. Team member; prohibition on being witness or party. Prohibits a peer support counselor from providing public safety peer counseling to an emergency service provider if the peer support counselor was a witness to the critical incident.</p> <p>Subd. 3. Disclosure prohibited. Prohibits disclosure of information obtained solely through the provision of, or receipt of, crisis intervention services unless an exception listed in subdivision 3 applies.</p> <p>Subd. 4. Exceptions. Establishes six exceptions to the prohibition on disclosure, permitting disclosure of information necessary to prevent a person receiving services from harming self or others or make mandatory reports of abuse. Also permits disclosure with the written consent of the person who received services or if that person testifies.</p>
5	<p>Independent Use of Force Investigations Unit.</p> <p>Establishes an independent Use of Force Investigations Unit in the BCA. The unit is responsible for investigating all officer involved deaths in the state as well as criminal sexual assault allegations made against peace officers. The unit expires after four years.</p>
6	<p>Residency incentives for peace officers.</p> <p>Permits a statutory home rule charter city or county to offer incentives to peace officers to encourage them to be a resident of the city or county in which they work.</p>
7	<p>When authorized.</p> <p>Makes a conforming change related to the limitation on the use of certain restraints by peace officers.</p>
8	<p>Limitations on the use of certain restraints.</p> <p>Prohibits peace officers from using the following restraints unless the use of deadly force is authorized: a chokehold, securing all of a person’s limbs together behind the person’s back (“hog tying”), and securing a person in any way that results in transporting the person face down in a vehicle. Defines “chokehold” as a method of</p>

Section	Description
	applying sufficient pressure to a person to make breathing difficult or impossible or stop the flow of blood to the brain via the carotid arteries.
9	Legislative intent. Establishes the legislature's intent for peace officer's use of deadly force.
10	Use of deadly force. Limits the authority of peace officers to use deadly force in the course of their duties. Provides that an officer must be able to articulate the threat with specificity, the threat must be reasonably likely to occur absent action by the officer, and the threat must be one that requires the officer to address it through the use of deadly force without unreasonable delay. Restricts the use of deadly force in cases where the person only presents a danger to self.
11	Use of force reporting. Subd. 1. Use of information collected. Requires chief law enforcement officers to provide the information requested by the FBI regarding any use of force by peace officers that results in serious bodily injury or death to the Bureau of Criminal Apprehension. Directs the superintendent of the BCA to adopt a reporting form. Subd. 2. Use of information collected. Requires chief law enforcement officers to file the report required in subdivision 1 once a month. Directs the superintendent of the BCA to summarize and analyze the reports, and file a written report with the legislative committees with jurisdiction over public safety.
12	Board; members. Increases the number of members on the Peace Officer Standards and Training Board from 15 to 17 by adding two additional citizen members.
13	Rules governing complaints. Provides that, if the Peace Officer Standards and Training Board establishes a subcommittee to investigate licensure actions, that subcommittee must have one voting board member appointed from the general public and three voting board members who are current or former peace officers.
14	Warrior-style training prohibited. Prohibits the Peace Officer Standards and Training Board from (1) approving law enforcement training courses that incorporate warrior training, and (2) granting continuing education credit or reimbursement payments to peace officers who attend courses that include warrior training. Prohibits chief law enforcement officers from providing warrior training to peace officers.

Section	Description
15	<p data-bbox="315 264 1425 296">Ensuring Police Excellence and Improving Community Relations Advisory Council.</p> <p data-bbox="367 310 1425 457">Subd. 1. Establishment and membership. Establishes an advisory council under the Peace Officer Standards and Training Board consisting of 15 members. The board includes representatives from the law enforcement community, the public, and members appointed by the legislature.</p> <p data-bbox="367 499 1425 762">Subd. 2. Purpose and duties. Provides that the duties of the council are to assist the board in maintaining policies and regulating peace officers in a manner that ensures the protection of civil and human rights, provide for citizen involvement in policing policies and supervision, and promoting positive interactions between peace officers and the community. Requires the board's chair to place the council's recommendations on the board's agenda within four months of receiving the recommendations.</p> <p data-bbox="367 804 1425 982">Subd. 3. Organization. Provides that the council is organized and administered pursuant to section 15.059 except that it does not expire. Provides that members serve at the pleasure of the appointing authority and must select a chair from among its members. The executive director of the Peace Officer Standards and Training Board serves as the council's executive secretary.</p> <p data-bbox="367 1024 1425 1140">Subd. 4. Meetings. Requires the council to meet at least quarterly, beginning no later than September 1, 2020. Provides that the meetings are governed by chapter 13D.</p> <p data-bbox="367 1182 1425 1245">Subd. 5. Office support. Provides that the Peace Officer Standards and Training Board shall provide support for the council.</p> <p data-bbox="367 1287 1425 1587">Subd. 6. Reports. Directs the council to submit a report by February 15 of each year to the chairs and ranking members of the legislative committees and divisions with jurisdiction over criminal justice policy and the Peace Officer Standards and Training Board. Establishes that the report must include the recommendations made by the council to the board and how the board acted on those recommendations, recommendations for statutory reform or legislative initiatives intended to promote relations between law enforcement and the community, and updates on the council's review and determinations.</p>
16	<p data-bbox="315 1629 1425 1661">Peace officer data.</p> <p data-bbox="315 1682 1425 1822">Directs the Peace Officer Standards and Training Board, in consultation with representatives from the law enforcement community, to create a database to serve as a central repository for peace officer data received pursuant to section 626.8457, subdivision 3, paragraph (b). Requires data on individual officers to be encrypted.</p>

Section	Description
17	<p>Updated policy required.</p> <p>Requires the Peace Officer Standards and Training Board, in consultation with interested parties, to adopt an updated model policy on peace officer use of force by September 1, 2020. Provides that the model policy must recognize and respect the sanctity and value of all human life and the need to treat all people with dignity and without prejudice. Requires the updated policy to include a duty for peace officers to (1) intercede when other officers are using force that is beyond what is objectively reasonable; (2) report the illegal use of force by other officers; and (3) only use deadly force, including choke holds and other techniques limited under section 609.06, subdivision 3, as authorized under law and after considering less lethal measures. Directs the board to incorporate recent changes to limitations on the use of force and use of deadly force statutes even if those statutes have a delayed effective date. Requires the chief law enforcement officer of every state and local law enforcement agency to update the agency's policy on use of force by December 15, 2020, so that it is consistent with the board's updated policy. Directs the board to assist local law enforcement agencies in developing and implementing the updated policies.</p>
18	<p>Record keeping required.</p> <p>Makes a conforming change related to the requirements for updated use of force policies.</p>
19	<p>Licensing sanctions; injunctive relief.</p> <p>Provides that the Peace Officer Standards and Training Board has authority to inspect state and local law enforcement policies to ensure compliance with the requirement to establish and update policies on the use of force and use of deadly force. Permits the board to conduct inspections based upon complaints or through a random selection process.</p>
20	<p>Report on alleged misconduct; database; report.</p> <p>Requires the chief law enforcement officer of each law enforcement agency to submit, in real time, certain individual peace officer data classified as public to the Peace Officer Standards and Training Board. Directs the board to determine what data is necessary to evaluate the effectiveness of required training, assist the Ensuring Police Excellence and Improving Community Relations Advisory Council in accomplishing the council's duties, and permit the board and council to identify patterns of behavior that suggest an officer is in crisis or likely to violate a mandatory policy. Requires chief law enforcement officers to update the submitted data. Directs the board to prepare a report summarizing the data received. Requires that the report be posted on the board's website and submitted to the legislative committees and divisions with jurisdiction over criminal justice policy.</p>

Section	Description
21	<p>Training in crisis response, conflict management, and cultural diversity.</p> <p>Subd. 1. In-service training required. Requires that six of the required 16 hours of training for peace officers in crisis intervention, conflict management, and recognizing and valuing community diversity include the training standards on crisis intervention and mental illness crisis training required under new subdivision 1a. Requires that four of the required 16 hours of training include training on safer interactions between peace officers and persons with autism.</p> <p>Subd. 1a. Crisis intervention and mental illness crisis training. Requires the Board of Peace Officer Standards and Training, in consultation with the commissioner of human services and mental health stakeholders, to create a list of approved entities and training courses to instruct peace officers in techniques for responding to a mental illness crisis. Requires the course to include instruction on most of ten specific subjects and on responding to situations where children and families of individuals with mental illness who are present during a crisis.</p> <p>Subd. 2. Record keeping required. Requires the head of every local and state law enforcement agency to maintain written records on the agency's compliance with the requirements and establishes requirements for those records. Directs the board to include an evaluation of the effectiveness of the training in reducing officer use of force and diverting people experiencing a mental illness crisis from arrest.</p> <p>Subd. 3. Licensing sanctions; injunctive relief. No changes.</p>
22	<p>Autism training.</p> <p>Requires the Peace Officer Standards and Training Board to develop learning objectives for courses that train peace officers to work with citizens with autism. Requires current and future peace officers to complete training that satisfies the learning objectives developed by the POST Board. Provides that the additional training is part of the required 16 hours of training for peace officers in crisis intervention, conflict management, and recognizing and valuing community diversity.</p>
23	<p>Duty to intercede and report.</p> <p>Establishes a duty for peace officers to intercede when another officer is using excessive force and report incidents of excessive force to supervisors. Failure of a peace officer to intercede or report excessive force subjects the officer to POST Board discipline.</p>
24	<p>Peace officer grievance arbitration selection procedure.</p> <p>Creates a new arbitrator roster appointed by the commissioner of the Bureau of Mediation Services to hear grievance arbitrations for written discipline, discharge,</p>

Section **Description**

and termination of peace officers that arise under collective bargaining agreements covering peace officers.

Subd. 1. Definitions. Provides definitions used in this section. Limits grievance arbitrations under this section to disputes or disagreements about a peace officer's written discipline, discharge, or termination under a collective bargaining agreement covering peace officers.

Subd. 2. Applicability. Applies to peace officer grievance arbitrations heard on or after September 1, 2020. Requires collective bargaining agreements covering peace officers negotiated on or after the day following final enactment to include this selection procedure. Does not apply to any other public employees.

Subd. 3. Fees. Provides fees charged by the roster are set annually by the commissioner of the Bureau of Mediation Services.

Subd. 4. Roster of arbitrators. Creates a six-person roster of arbitrators appointed by the commissioner of the Bureau of Mediation Services, in consultation with stakeholders. Appointees must be qualified to hear peace officer grievance arbitrations and cannot hear any other labor arbitrations.

Subd. 5. Applications. Applies rules for open appointments to multimember state agencies to applications for the roster.

Subd. 6. Terms. Sets initial terms for appointments to expire in January of 2023, 2024, or 2025, and provides for 3-year terms after that. Allows reappointments.

Subd. 7. Applicability of Minnesota Rules, chapter 5530. Applies current rules for arbitration rosters and proceedings, including status, conduct, and standards for arbitrators if consistent with this section.

Subd. 8. Performance measures. Provides applicable performance measures for roster arbitrators tracked by the Bureau of Mediation Services commissioner.

Subd. 9. Removal; vacancies. Specifies procedure for removal from the roster by the commissioner of the Bureau of Mediation Services under current rules. Allows commissioner to fill vacancies on the roster.

Subd. 10. Training. Requires training for arbitrators as determined by the commissioner, including initial training on racism, implicit bias, diversity, cultural competency, and the daily experience of peace officers. Authorizes rulemaking.

Subd. 11. Selection of arbitrators. Requires the commissioner to assign an arbitrator or panel on a rotating basis, alphabetically by arbitrator last name, and

Section	Description
	without participation from the parties. Arbitration decisions are final, subject to the appeal process under the Uniform Arbitration Act.
	Subd. 12. Interaction with other laws. Changes to selection procedure for peace officer grievance arbitrations under this section supersede contrary existing law for arbitrator selection. Parties cannot agree to a different selection procedure in future collective bargaining agreements covering peace officers. Current rules and chapters 179A and 572B, only apply if consistent with this section.
25	Office of Justice Programs. Permits the missing and murdered Indigenous Women Task Force to continue using an appropriation made in 2019 until June 30, 2021.
26	Peace officer training assistance. Extends the sunset on an annual appropriation of \$6,000,000 to the Peace Officer Standards and Training Board for supporting and strengthening law enforcement training from fiscal year 2022 to fiscal year 2024.
27	Report. Requires the missing and murdered Indigenous Women Task Force to file a report on December 15, 2020, and extends the deadline for the task force to file its final report from December 15, 2020, to June 30, 2021.
28	Expiration. Extends the existence of the missing and murdered Indigenous Women Task Force to file its report from December 15, 2020, to June 30, 2021.
29	Appropriation; Bureau of Mediation Services. Appropriates \$120,000 in fiscal year 2021 to the Bureau of Mediation services for costs associated with peace officer grievance procedures. The base for the appropriation is \$47,000 in fiscal year 2022 and thereafter.
30	Appropriation for independent Use of Force Investigations Unit in BCA. Appropriates \$3,365,000 in fiscal year 2021 to fund the operations of the independent Use of Force Investigations Unit in the BCA. The base for the appropriation is \$3,272,000 in fiscal years 2022 and 2023, and \$0 in fiscal year 2024.
31	Appropriation; autism training. Appropriates \$8,000 in fiscal year 2021 to the BCA for training peace officers in autism awareness and response.

Section	Description
32	<p>Appropriation; database.</p> <p>Appropriates \$3,500,000 in fiscal year 2021 to the Peace Officer Standards and Training Board to build, implement, and operate a database for peace officer data. The base for the appropriation is \$500,000 in fiscal year 2022 and thereafter.</p>
33	<p>Appropriation; Ensuring Police Excellence and Improving Community Relations Advisory Council.</p> <p>Appropriates \$23,000 in fiscal year 2021 to the Peace Officer Standards and Training Board for costs associated with providing support for the Ensuring Police Excellence and Improving Community Relations Advisory Council. The base for the appropriation is \$20,000 in fiscal year 2022 and thereafter.</p>
34	<p>Appropriation; data system staffing.</p> <p>Appropriates \$96,000 in fiscal year 2021 to the Peace Officer Standards and Training Board for costs associated with staffing the database that receives data on peace officers. The base for the appropriation is \$128,000 in fiscal year 2022 and thereafter.</p>
35	<p>Appropriation; peace officer crisis intervention and mental illness crisis training.</p> <p>Appropriates \$145,000 in fiscal year 2021 from the general fund to the Board of Peace Officer Standards and Training to reimburse law enforcement agency crisis intervention and mental illness crisis training expenses. The base for the appropriation is \$137,000 in fiscal year 2022 and thereafter.</p>
36	<p>Repealer.</p> <p>Repeals section 181.973, the public safety peer counseling and debriefing program that is replaced in this act.</p>



**MN HOUSE
RESEARCH**

Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.

www.house.mn/hrd | 651-296-6753 | 600 State Office Building | St. Paul, MN 55155