

Subject Reclaiming Community Oversight Act

Authors Mariani

Analyst Jeffrey Diebel
Ben Johnson
Marta James (Article 2, section 15)

Date July 19, 2020

Overview

This bill 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; enhance peace officer training; and the rights of victims' families and felons.

Article 1: Law Enforcement Oversight

Section Description – Article 1: Law Enforcement Oversight

- 1 Board; members.**

Increases the number of members on the Peace Officer Standards and Training Board from 15 to 19 by adding four additional citizen members.
- 2 Police-Community Relations Council.**

Creates a Police-Community Relations Council under the POST Board. The council has 15 members representing both law enforcement and community interests. The council is responsible for advising the POST Board on all matters related to police-community relations, reviewing peace officer use of force data, and recommending discipline for officer misconduct. The POST Board must accept the council's peace officer discipline recommendations unless the board votes by a 2/3 majority to reject the council's recommendation.
- 3 Peace officer community policing excellence data.**

Requires law enforcement agencies to submit data on peace officer use of force incidents, complaints filed against peace officers, and officer misconduct incidents to a research organization selected by the Department of Public Safety. The designated research organization is charged with storing, organizing, and monitoring the data and identifying peace officers that require corrective action.

Section Description – Article 1: Law Enforcement Oversight

- 4 **Model policy to be developed.**
Requires law enforcement agencies to adopt a policy to ensure compliance with the data submission requirements in section 3.
- 5 **Applicability.**
Declares that the peace officers bill of rights does not apply in citizen oversight council investigations and proceedings.
- 6 **Citizen oversight.**
Removes the prohibition on civilian review boards making findings of fact or determinations regarding complaints against peace officers.
- 7 **Local citizen oversight councils for law enforcement agencies.**
Requires local units of government that have law enforcement agencies that employ 50 or more peace officers to establish a citizen oversight council. Empowers oversight councils to make recommendations and provide assessments on any facet of the agency's operations. A council may also conduct investigations into police misconduct allegations. A city may empower its council to impose discipline on officers.
- 8 **Timing.**
Establishes a deadline for local units of government to stand up their citizen oversight councils.
- 9 **Compliance reviews.**
Directs the state auditor to conduct compliance reviews of local units of government to ensure compliance with the citizen oversight council statute.
- 10 **Initial appointments; proposed meeting.**
Establishes August 1, 2020, as the deadline for appointments to be made to the Police-Community Relations Council created in section 2.
- 11 **Appropriation; peace officer community policing excellence report data.**
Appropriates \$475,000 in fiscal year 2021 to the Office of Justice Programs for a grant to a community-based research organization to collect, store, and monitor peace officer community policing excellence data as mandated under section 3.
- 12 **Appropriation; citizen oversight councils.**
Appropriates \$1,900,000 in fiscal year 2021 to the commissioner of public safety for grants to local units of government to establish and maintain citizen oversight

Section Description – Article 1: Law Enforcement Oversight

councils. Permits the commissioner to retain up to 2.5 percent to administer the program.

Article 2: Policies, Training, Reporting, Appropriations

Section Description – Article 2: Policies, Training, Reporting, Appropriations

- 1 No exception for on-premises residence.**
Makes a conforming change based on section two of this article.
- 2 Residency requirements for peace officers; hires made on or after July 1, 2020.**
Permits a statutory or home rule charter city or county to require that a peace officer hired on or after July 1, 2020, be a resident of the city or county in which the officer works.
- 3 Limitations period.**
Provides that an action for damages based on sexual abuse may be commenced at any time in the case of alleged sexual abuse by a peace officer. Makes the elimination of the statute of limitations retroactive.
- 4 Periods of investigation of peace officer not counted.**
Provides that the statutes of limitations for bringing an action for damages alleging harm caused by a peace officer are tolled during a criminal investigation, criminal prosecution, or administrative investigation into alleged wrongdoing. Makes the tolling period retroactive.
- 5 Death action.**
Provides that an action for damages based on wrongful death may be commenced at any time in the case of alleged act by a peace officer. Makes the elimination of the statute of limitations retroactive.
- 6 When authorized.**
Makes a conforming change related to the limitation on the use of certain restraints by peace officers.
- 7 Limitations on the use of certain restraints.**
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

Section Description – Article 2: Policies, Training, Reporting, Appropriations

- 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.
- 8 **Revocation; discovery of disqualifying conviction after licensure; termination for wrongful use of force.**
Requires the POST Board to consider suspension or revocation of peace officer's license if the officer is terminated for violating the use of force policy for the agency that employs the officer.
- 9 **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.
- 10 **Mandatory reporting peace officer terminations and resignations.**
Requires law enforcement agencies to notify the POST Board if a peace officer is discharged or resigns after a finding of misconduct and when an officer resigns while an investigation is pending.
- 11 **Deadly force policy.**
Requires each law enforcement agency in the state to add de-escalation guidelines and guidelines on interceding in excessive force situations to the agency's model policy on the use of force.
- 12 **Prohibition on use of certain restraints.**
Requires law enforcement agencies to update their policies on use of force to prohibit the use of a chokehold; securing all of a person's limbs together behind the person's back ("hog tying"); or securing a person in any way that results in transporting the person face down in a vehicle. Defines "chokehold" as a method of 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.
- 13 **Deadly force and use of firearms; initial instruction.**
Requires each law enforcement agency in the state to provide de-escalation training and training on interceding in excessive force situations to officers employed by the agency.

Section Description – Article 2: Policies, Training, Reporting, Appropriations

14 Duty to intercede and report; policies required.

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. Requires the POST Board to develop a model policy on the duty to intercede and for each law enforcement agency to adopt a conforming policy.

15 Peace officer grievance arbitration selection procedure.

This section creates a new arbitrator roster appointed by the governor to hear grievance arbitrations for written discipline, discharge, 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 all peace officer grievance arbitrations under this section heard on or after September 1, 2020. Collective bargaining agreements covering peace officers must include the selection procedure starting the day after final enactment. Does not apply to any other public employees.

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

Subd. 4. Roster of arbitrators. Creates a 9- to 15-person roster of arbitrators appointed by the governor, in consultation with stakeholders. Appointed arbitrators shall only hear peace officer grievance arbitrations under this section.

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

Subd. 6. Terms. Sets initial terms for arbitrators appointed to the roster until January of 2023, 2024, or 2025, and provides for 3-year terms after that.

Subd. 7. Applicability of Minnesota Rules, chapter 5530. Certain rules for arbitration rosters, including status, qualifications, conduct, and standards of arbitrators apply to the roster if they are consistent with this section.

Subd. 8. Performance measures. Provides applicable performance measures for arbitrators appointed to the roster.

Section Description – Article 2: Policies, Training, Reporting, Appropriations

Subd. 9. Removal; vacancies. Current rules and procedure for arbitrator removal apply to the roster. Vacancies on the roster are filled by the governor.

Subd. 10. Training. Requires training on racism, implicit bias, diversity, and culture competency within 6 months of appointment to the roster, or by July 1, 2021, if appointed in 2020. Provides for further required training and rulemaking.

Subd. 11. Selection of arbitrators. Requires the commissioner of the Bureau of Mediation Services to assign an arbitrator or panel from the roster on a random or rotating basis without participation from the parties. The arbitrator or panel's decision is final, subject to the appeal process under the Uniform Arbitration Act.

Subd. 12. Interaction with other laws. Changes to arbitrator selection procedure under this section supersede contrary existing law for peace officer grievance arbitrations. Parties cannot agree to a different selection procedure in future collective bargaining agreements covering peace officers. Current rules and chapters 179A and 572B, apply if they are consistent with this section.

16 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.

17 Report.

Extends the deadline for the missing and murdered indigenous women task force to file its report from December 15, 2020, to June 30, 2021.

18 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.

19 Appropriation.

Appropriates \$17,000 in fiscal year 2021 to the commissioner of POST Board to fund initiatives contained in this article. \$15,000 is added to the board's base.

20 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. \$47,000 is added to the bureau's base.

Article 3: Peace Officer Use of Force and Pretrial Detention

Section Description – Article 3: Peace Officer Use of Force and Pretrial Detention

- 1 Appearance.**
Creates an exception to the attorney general’s limited prosecutorial role to reflect that the attorney general will prosecute crimes arising out of peace-officer-involved deaths as provided for in section 2.
- 2 Peace-officer-involved deaths.**
Directs the attorney general to prosecute crimes arising out of peace-officer-involved deaths.
- 3 Risk assessment instrument.**
Requires the court to use an objective juvenile detention risk assessment instrument developed in coordination with the Minnesota Juvenile Detention Alternative Initiative. Directs the risk assessment instrument to assess the likelihood that a juvenile will return to court or be a danger to others. Further directs the instrument to identify appropriate noncustodial community-based supervision that will minimize the risk the child poses to others and increase the probability that the child will return to court.
- 4 Independent Use of Force Investigations Unit.**
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.
- 5 General provisions.**
Contains a conforming amendment to the county attorney jurisdiction statute to account for the transfer of peace-officer-involved death cases to the attorney general.
- 6 Legislative intent.**
Establishes the legislature’s intent for peace officer’s use of deadly force.
- 7 Use of deadly force.**
Limits the authority of peace officers to use deadly force in the course of their duties. Threats of harm must be “imminent.” Restricts the use of deadly force in cases where the person only presents a danger to self.
- 8 Deadly force policy.**
Conforming change.

Section Description – Article 3: Peace Officer Use of Force and Pretrial Detention

9 Providing release on bail; commitment.

Establishes limits on the use of financial conditions of release in most misdemeanor cases.

Subd. 1. Pretrial release. Provides that Rule 6.02 of the Rules of Criminal Procedure and this section control the pretrial release of a defendant, and states that this section takes precedence over any conflict with court rules.

Subd. 2. Release of a person charged with a misdemeanor offense. Requires that a defendant charged with a misdemeanor offense, other than a domestic assault-related offense or certain DWI offenses, must be released on the defendant's personal recognizance unless the court determines that there is a substantial likelihood that the defendant will not appear at future court proceedings or the defendant poses a threat to the victim's safety. Requires a court that makes such a determination to set the least restrictive conditions of release that will reasonably assure the defendant's return. Prohibits the court from imposing a financial condition of release that results in the pretrial detention of the defendant, using similar language to federal law (18 U.S.C. section 3142, paragraph (c), clause (2)). Establishes a presumption that the court imposed a financial condition that results in pretrial detention if a defendant remains in custody for 48 hours following a bail hearing. Establishes an exception for domestic violence related offenses and certain DWI offenses. Provides that, if a defendant released under this subdivision fails to appear at a required court hearing, the court must issue a summons or warrant consistent with the Rules of Criminal Procedure.

Subd. 3. Presumption of release on personal recognizance. Retains the current requirements in setting bail which appear in court rules for all offenses not covered under subdivision 2.

Subd. 4. Money bail; disposition. Adds a subdivision title to existing law.

10 Attorney general; appropriation.

Appropriates \$1,636,000 in fiscal year 2021 to the attorney general to fund the prosecutions of peace-officer-involved death cases.

11 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. Adds \$3,272,000 to the agency's base.

Article 4: Community Involvement in Public Safety

Section Description – Article 4: Community Involvement in Public Safety

- 1 **Peer counseling data.**
Makes conforming changes in relation to the classification of peer counseling data.
- 2 **Critical incident stress management data.**
Classifies data acquired by a critical incident stress management team member when providing critical incident stress management services.
- 3 **Public safety peer counseling.**
 - Subd. 1. Definitions.** Defines the terms “emergency service providers,” “peer support counselor,” and “public safety peer counseling” for purposes of this section.
 - 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.
 - 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.
 - 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.
- 4 **Critical incident stress management.**
 - 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.”
 - 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.

Section Description – Article 4: Community Involvement in Public Safety

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.

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.

5 Felony conviction; restoration of civil right to vote.

Restores the civil right to vote to individuals who have been convicted of a felony once the individual has completed any incarceration imposed and executed for the offense. If no incarceration is imposed, the right to vote is restored upon sentencing. If the individual is later subject to incarceration for that offense, the individual loses the right to vote only during the period of incarceration.

6 Form.

Requires updates to the voter registration application to reflect the change in the restoration of the civil right to vote provided by this bill.

7 Duties of secretary of state; information about voting rights.

Requires the secretary of state to prepare a publication that describes the voting rights of individuals who have been charged with or convicted of a crime. The publication must be electronically available to the state court administrator and the commissioner of corrections for further distribution.

8 Polling place roster; voter signature certificate; voter receipt.

Requires updates to the certification signed by voters in a polling place attesting to their eligibility to vote, to reflect the change in the restoration of the civil right to vote provided by this bill.

9 Notice of restoration of right to vote.

Requires the chief executive officer of each state and local correctional facility to designate one official within the facility to provide a notice of restoration of rights and a voter registration application to individuals whose rights are restored following a release from incarceration.

Subd. 1. Correctional facilities; designation of official. Requires designation of the official, and that the official maintain a sufficient supply of voter registration applications and informational materials.

Section Description – Article 4: Community Involvement in Public Safety

Subd. 2. Notice requirement. Establishes standards for when a notice of restored voting rights must be provided.

Subd. 3. Form of notice. Sets the full text of the notice that must be provided when an individual is restored to voting rights following release from incarceration.

Subd. 4. Failure to provide notice. Provides that the failure of a corrections official to provide the notice required by this section does not prevent the restoration of voting rights.

10 Officer-Involved Death Review Board.

Establishes an Officer-Involved Death Review Board in the Department of Public Safety to examine officer-involved deaths. The board is responsible for identifying the root causes of the death and making recommendations for reforms to reduce the number of future officer-involved deaths.

11 Community-led public safety coordinator.

Subd. 1. Community-led public safety coordinator established. Directs the commissioner of public safety to appoint a statewide community-led public safety coordinator in the Office of Justice Programs.

Subd. 2. Duties. Requires the coordinator to perform duties that include promoting alternatives to traditional policing models, strengthen connections between community members and local law enforcement agencies, and administer grants.

12 Restoration.

Eliminates a reference to the right to vote in an existing section of law governing the restoration of civil rights, including the right to vote and hold office, following discharge after conviction of a crime. Restoration of the right to vote would be governed by the new law established earlier in this bill.

13 Use of force reporting.

Subd. 1. Report required. 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

Section Description – Article 4: Community Involvement in Public Safety

of the BCA to summarize and analyze the reports, and file a written report with the legislative committees with jurisdiction over public safety.

14 Training in crisis response, conflict management, and cultural diversity.

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.

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.

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.

Subd. 3. Licensing sanctions; injunctive relief. No changes.

15 Autism training.

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.

16 Appropriation; peace officer crisis intervention and mental illness crisis training.

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. Adds \$137,000 to the board's base.

Section Description – Article 4: Community Involvement in Public Safety

- 17 Appropriation; police and mental health crisis team collaboration.**
Appropriates \$14,000 in fiscal year 2021 from the general fund to the Board of Peace Officer Standards and Training to administer a pilot project to create collaborations between county mobile crisis mental health services and municipal law enforcement agencies. The appropriation is onetime. Money must be used to purchase tablets and video conference telehealth services. Recipients must provide a written report describing the use of the money and its effectiveness. The POST Board must provide the legislative committees with jurisdiction over public safety with a compilation of those reports.
- 18 Appropriation.**
Appropriates \$8,000 in fiscal year 2021 to the BCA for training peace officers in autism awareness and response.
- 19 Community-led public safety grants.**
Appropriates \$15,000,000 in fiscal year 2020 to promote community-led public safety. Of that amount, \$100,000 is to fund the community-led public safety coordinator, \$7,450,000 is for grants to promote co-responder teams to respond to crisis situations and promote community safety, and \$7,450,000 is for grants to promote community healing and restorative justice. Requires the community-led public safety coordinator to provide the legislative committees with jurisdiction over public safety with a report on the grants issued.
- 20 Repealer.**
Repeals section 181.973, the public safety peer counseling and debriefing program that is replaced in this article.



**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