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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2646

05/15/2021 Authored by Johnson, Poston, McDonald and Lueck
The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; modifying the police use of deadly force law; amending
1.3 Minnesota Statutes 2020, section 609.066, subdivisions 1a, 2.

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

1.5 Section 1. Minnesota Statutes 2020, section 609.066, subdivision 1a, is amended to read:

1.6 Subd. 1a. Legislative intent. The legislature hereby finds and declares the following:

1.7 (1) that the authority to use deadly force, conferred on peace officers by this section, is
1.8 a critical responsibility that shall be exercised judiciously and with respect for human rights
1.9 and dignity and for the sanctity of every human life. The legislature further finds and declares
1.10 that every person has a right to be free from excessive use of force by officers acting under
1.11 color of law;

1.12 (2) as set forth below, it is the intent of the legislature that peace officers use deadly
1.13 force only when necessary in defense of human life or to prevent great bodily harm. In
1.14 determining whether deadly force is necessary, officers shall evaluate each situation in light
1.15 of the particular circumstances of each case;

1.16 (3) that the decision by a peace officer to use deadly force shall be evaluated from the
1.17 perspective of a reasonable officer in the same situation, based on the totality of the
1.18 circumstances known to or perceived by the officer at the time, rather than with the benefit
1.19 of hindsight, and that the totality of the circumstances shall account for occasions when
1.20 officers may be forced to make quick judgments about using deadly force in tense, uncertain,
1.21 and rapidly evolving circumstances; and

2.1 (4) that peace officers should exercise special care when interacting with individuals
 2.2 with known physical, mental health, developmental, or intellectual disabilities as an
 2.3 individual's disability may affect the individual's ability to understand or comply with
 2.4 commands from peace officers.

2.5 **EFFECTIVE DATE.** This section is effective retroactively from March 1, 2021.

2.6 Sec. 2. Minnesota Statutes 2020, section 609.066, subdivision 2, is amended to read:

2.7 Subd. 2. **Use of deadly force.** (a) Notwithstanding the provisions of section 609.06 or
 2.8 609.065, the use of deadly force by a peace officer in the line of duty is justified only if an
 2.9 objectively reasonable officer would believe, based on the totality of the circumstances
 2.10 known to the officer at the time and without the benefit of hindsight, that such force is
 2.11 necessary. The reasonableness of the use of deadly force is based upon the totality of the
 2.12 circumstances known to or perceived by the peace officer at the time, and the use of deadly
 2.13 force is not to be judged on the basis of hindsight. Deadly force is justified:

2.14 (1) to protect the peace officer or another from a reasonably perceived risk of death or
 2.15 great bodily harm, provided that the threat:

2.16 (i) ~~can be articulated with specificity by the law enforcement officer;~~

2.17 (ii) the perceived risk of death or great bodily harm is reasonably likely to occur absent
 2.18 action by the law enforcement officer the peace officer's use of deadly force; and

2.19 (ii) in light of the perceived risk of death or great bodily harm, the use of deadly force
 2.20 could not have been reasonably delayed;

2.21 (iii) ~~must be addressed through the use of deadly force without unreasonable delay; or~~

2.22 (2) to ~~effect~~ effectuate the arrest or capture, or prevent the escape, of a person ~~whom~~
 2.23 ~~the peace officer knows or has reasonable grounds to believe~~ where there is probable cause
 2.24 to believe the person has committed or attempted to commit a felony and the peace officer
 2.25 reasonably believes that the person will cause death or great bodily harm to another person
 2.26 under the threat criteria in clause (1), items (i) to (iii) reasonably perceives the person poses
 2.27 a risk of death or great bodily harm to the peace officer or another, unless immediately
 2.28 apprehended.

2.29 (b) A peace officer shall not use deadly force against a person based only on the danger
 2.30 the person poses to self if ~~an objectively reasonable officer would believe, based on the~~
 2.31 ~~totality of the circumstances known to the officer at the time and without the benefit of~~
 2.32 ~~hindsight, that the person does not pose a threat of death or great bodily harm to the peace~~

3.1 ~~officer or to another under the threat criteria in paragraph (a), clause (1), items (i) to (iii),~~
3.2 provided the individual does not meet the risk criteria in paragraph (a), clause (1), items (i)
3.3 and (ii), as a threat to a peace officer or another.

3.4 **EFFECTIVE DATE.** This section is effective retroactively from March 1, 2021.