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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4866

1.1 A bill for an act
1.2 relating to public safety; requiring county attorneys to disclose certain information
1.3 regarding expert witnesses to peace officers in an officer-involved death incident;
1.4 proposing coding for new law in Minnesota Statutes, chapter 388.

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

1.6 Section 1. **[388.26] INVESTIGATION OF PEACE OFFICER; EXPERT WITNESS**
1.7 **DISCLOSURE.**

1.8 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the
1.9 meanings given.

1.10 (b) "Expert witness" means any person who:

1.11 (1) will provide expert testimony in a case and who a county attorney retains, employs,
1.12 or otherwise identifies as a witness; or

1.13 (2) is not expected to be called as a witness in a case and who a county attorney retains,
1.14 employs, or consults with during the review or investigation of an incident.

1.15 (c) "Officer-involved death" has the meaning given in section 299C.80, subdivision 1,
1.16 paragraph (c).

1.17 (d) "Peace officer" has the meaning given in section 626.84, subdivision 1, paragraph
1.18 (c).

1.19 Subd. 2. **Expert witness; disclosure required.** (a) A county attorney must disclose all
1.20 communications with an expert witness to a peace officer if:

- 2.1 (1) the county attorney is reviewing, investigating, or prosecuting an officer-involved
2.2 death;
- 2.3 (2) the peace officer is a defendant or subject of the review or investigation; and
- 2.4 (3) the expert witness is assessing whether the use of deadly force by the peace officer
2.5 was justified under section 609.066.
- 2.6 (b) Disclosure of all communications includes:
- 2.7 (1) all reports, photographs, video, and other evidence provided to the expert witness;
- 2.8 (2) all emails, letters, and other written communication sent or given to the expert witness;
- 2.9 (3) all emails, letters, and other written communication received from the expert witness;
- 2.10 (4) an accurate summary of any in-person meetings, virtual meetings, telephone calls,
2.11 face-to-face conversations, or other oral communications between the county attorney or
2.12 the county attorney's representative and the expert witness or the expert witness's
2.13 representative; and
- 2.14 (5) all drafts of any reports provided by the expert witness.
- 2.15 (c) The disclosures required under this section must take place within ten days of the
2.16 communication.
- 2.17 (d) A county attorney who has made a disclosure under this section must supplement or
2.18 correct the disclosure in a timely manner if the county attorney learns that in some material
2.19 respect the disclosure is incomplete or incorrect.
- 2.20 **EFFECTIVE DATE.** This section is effective the day following final enactment and
2.21 applies retroactively to any reviews, investigations, or prosecutions that are ongoing at that
2.22 time.