

## SENATE AMENDMENTS TO SENATE BILL 301

By COMMITTEE ON JUDICIARY

May 18

1 On page 1 of the printed bill, line 2, delete “132.210,” and after “132.330” insert “, 132.430”.

2 In line 3, delete “161.239 and 161.245” and insert “146.135 and 181.662; appropriating money”.

3 Delete lines 5 through 27 and delete pages 2 through 7 and insert:

4 **“SECTION 1. As used in sections 1 to 7 of this 2005 Act:**

5 **“(1) ‘Employ,’ when used in the context of the relationship between a law enforcement**  
6 **agency and a police officer, includes the assignment of law enforcement duties on a volunteer**  
7 **basis to a reserve officer.**

8 **“(2) ‘Law enforcement agency’ means the Department of State Police, the Department**  
9 **of Justice, a district attorney, a political subdivision of the State of Oregon and a municipal**  
10 **corporation of the State of Oregon, that maintains a law enforcement unit as defined in ORS**  
11 **181.610 (12)(a)(A).**

12 **“(3) ‘Police officer’ means a person who is:**

13 **“(a) A police officer or reserve officer as defined in ORS 181.610; and**

14 **“(b) Employed by a law enforcement agency to enforce the criminal laws of this state.**

15 **“SECTION 2. (1) There is created in each county a deadly physical force planning au-**  
16 **thority consisting of the following members:**

17 **“(a) The district attorney and sheriff of the county.**

18 **“(b) A nonmanagement police officer selected by the district attorney and sheriff. If**  
19 **there are unions representing police officers within the county, the district attorney and**  
20 **sheriff shall select the police officer from among candidates nominated by any union repre-**  
21 **senting police officers within the county.**

22 **“(c) If at least one city within the county employs a police chief, a police chief selected**  
23 **by the police chiefs within the county.**

24 **“(d) A representative of the public selected by the district attorney and sheriff. The**  
25 **person selected under this paragraph may not be employed by a law enforcement agency.**

26 **“(e) A representative of the Oregon State Police selected by the Superintendent of State**  
27 **Police.**

28 **“(2) The district attorney and sheriff are cochairpersons of the planning authority.**

29 **“(3) The law enforcement agency that employs the police officer selected under sub-**  
30 **section (1)(b) of this section shall release the officer from other duties for at least 16 hours**  
31 **per year to enable the officer to serve on the planning authority. The agency shall compen-**  
32 **sate the officer at the officer’s regular hourly wage while the officer is engaged in planning**  
33 **authority activities.**

34 **“(4) The planning authority shall develop a plan consisting of the following:**

35 **“(a) An element dealing with education, outreach and training regarding the use of deadly**

1 physical force for police officers, attorneys employed by state or local government within the  
2 county and members of the community.

3 “(b) An element dealing with the immediate aftermath of an incident in which a police  
4 officer used deadly physical force.

5 “(c) An element dealing with the investigation of an incident in which a police officer  
6 used deadly physical force.

7 “(d) An element dealing with the exercise of district attorney discretion to resolve issues  
8 of potential criminal responsibility resulting from a police officer’s use of deadly physical  
9 force.

10 “(e) An element dealing with collecting information regarding a police officer’s use of  
11 deadly physical force, debriefing after an incident in which a police officer used deadly  
12 physical force and revising a plan developed under this subsection based on experience.

13 “(f) An estimate of the fiscal impact on the law enforcement agencies to which the plan  
14 applies of each element described in paragraphs (a) to (e) of this subsection.

15 “(5) The planning authority shall conduct at least one public hearing in the county before  
16 submitting a plan, or a revision of a plan, to the governing bodies in the county under sub-  
17 section (7) of this section.

18 “(6) The planning authority may consult with anyone the planning authority determines  
19 may be helpful in carrying out its responsibilities.

20 “(7) The planning authority shall submit the plan developed under subsection (4) of this  
21 section, and revisions of the plan, to the governing body of each law enforcement agency  
22 within the county except for the Department of State Police and the Department of Justice.

23 “(8) A governing body shall approve or disapprove the plan submitted to it under sub-  
24 section (7) of this section within 60 days after receiving the plan. The governing body may  
25 not amend the plan.

26 “(9) If the plan is not approved by at least two-thirds of the governing bodies to which  
27 the plan is submitted, the planning authority shall develop and submit a revised plan.

28 “(10) If the plan is approved by at least two-thirds of the governing bodies to which the  
29 plan is submitted, the planning authority shall submit the approved plan to the Attorney  
30 General. No later than 30 days after receiving the plan, the Attorney General shall review  
31 the plan for compliance with the minimum requirements described in section 3 of this 2005  
32 Act. If the Attorney General determines that the plan complies with the minimum require-  
33 ments, the Attorney General shall approve the plan. Upon approval of the plan:

34 “(a) Each law enforcement agency within the county to which the plan applies is subject  
35 to the provisions of the plan; and

36 “(b) Each law enforcement agency subject to the plan is entitled to grants as provided  
37 in section 4 of this 2005 Act.

38 “(11) Notwithstanding subsection (10)(a) of this section, a law enforcement agency is not  
39 subject to a provision of a plan approved under subsection (10) of this section that:

40 “(a) Conflicts with a provision of a city or county charter or a general ordinance that  
41 applies to the law enforcement agency; or

42 “(b) Imposes an obligation not required by section 5 of this 2005 Act if complying with  
43 the provision would require the law enforcement agency to budget moneys, or submit a re-  
44 venue measure for a vote of the people, in order to comply with the provision.

45 “(12) The Attorney General shall periodically publish all approved plans.

1       “(13) A law enforcement agency within a county has a duty to participate in good faith  
2 in the planning process of the planning authority for the county.

3       “(14) A person bringing an action challenging the validity or enforceability of a plan ap-  
4 proved under subsection (10) of this section shall serve the Attorney General with a copy of  
5 the complaint. If the Attorney General is not a party to the action, the Attorney General  
6 may intervene in the action.

7       “SECTION 3. In the plan required by section 2 (4) of this 2005 Act, a deadly physical force  
8 planning authority shall, at a minimum:

9       “(1)(a) Address, under section 2 (4)(a) of this 2005 Act, the manner in which each law  
10 enforcement agency within the county will comply with section 5 (2) of this 2005 Act; and

11       “(b) Attach a copy of each policy adopted under section 5 (2) of this 2005 Act to the plan.

12       “(2) Address, under section 2 (4)(b) of this 2005 Act, the manner in which each law  
13 enforcement agency within the county will comply with section 5 (3)(a) and (4) of this 2005  
14 Act.

15       “(3) Address, under section 2 (4)(c) of this 2005 Act, the manner in which each law  
16 enforcement agency within the county will comply with section 5 (5)(a) of this 2005 Act.

17       “(4) Address, under section 2 (4)(d) of this 2005 Act, the manner in which the district  
18 attorney of the county will comply with ORS 146.135 (2).

19       “(5) Address, under section 2 (4)(e) of this 2005 Act, the manner in which each law  
20 enforcement agency within the county will comply with section 5 (6) of this 2005 Act.

21       “SECTION 4. (1) As used in this section, ‘expenses’ does not include personnel costs.

22       “(2) To the extent that funds are appropriated to it for such purposes, the Department  
23 of Justice shall make grants to law enforcement agencies to reimburse the law enforcement  
24 agencies for expenses incurred in implementing and revising the plans required by section 2  
25 of this 2005 Act. A grant under this section may not exceed 75 percent of the expenses in-  
26 curred by the law enforcement agency.

27       “(3) The department may not make a grant under this section to a law enforcement  
28 agency unless the law enforcement agency is subject to a plan that has been approved by the  
29 Attorney General under section 2 (10) of this 2005 Act.

30       “(4) The department shall adopt rules necessary for the administration of this section.

31       “SECTION 5. (1) As used in this section, ‘involved officer’ means a police officer:

32       “(a) Whose official conduct, or official order to use deadly physical force, was a cause in  
33 fact of the death of a person. As used in this paragraph, ‘order to use deadly physical  
34 force’ means an order issued to another officer to use deadly physical force in a specific in-  
35 cident or an order or directive establishing rules of engagement for the use of deadly physical  
36 force for a specific incident.

37       “(b) Whose official conduct was not a cause in fact of the death of a person but whose  
38 official involvement in an incident in which the use of deadly physical force by a police officer  
39 resulted in the death of a person:

40       “(A) Began before or during the use of the deadly physical force; and

41       “(B) Was reasonably likely to have exposed the police officer to greater stresses or  
42 trauma than other police officers experienced as a result of their involvement in the incident  
43 before or during the use of the deadly physical force.

44       “(2) A law enforcement agency shall adopt a policy dealing with the use of deadly physical  
45 force by its police officers. At a minimum, the policy must include guidelines for the use of

1 **deadly physical force.**

2 **“(3)(a) For each involved officer employed by a law enforcement agency, the law**  
3 **enforcement agency shall pay the costs of at least two sessions with a mental health pro-**  
4 **fessional that are attended by the officer. The sessions must be held within six months after**  
5 **the incident in which the officer was involved.**

6 **“(b) An involved officer shall attend at least one of the sessions described in paragraph**  
7 **(a) of this subsection.**

8 **“(c) Sessions with a mental health professional under this subsection may not be substi-**  
9 **tuted for a fitness for duty examination required or requested as a condition of employment**  
10 **by the law enforcement agency that employs the involved officer.**

11 **“(4) For at least 72 hours immediately following an incident in which the use of deadly**  
12 **physical force by a police officer resulted in the death of a person, a law enforcement agency**  
13 **may not return an involved officer to duties that might place the officer in a situation in**  
14 **which the officer has to use deadly physical force. A law enforcement agency may not reduce**  
15 **an involved officer’s pay or benefits as a result of the law enforcement agency’s compliance**  
16 **with this subsection. Notwithstanding section 4 (1) of this 2005 Act, a personnel cost in-**  
17 **curring in complying with this subsection by a law enforcement agency employing 40 or fewer**  
18 **police officers is an expense for purposes of section 4 of this 2005 Act.**

19 **“(5)(a) A law enforcement agency employing an involved officer shall include at least one**  
20 **police officer from a different law enforcement agency in the investigation of the incident in**  
21 **which the involved officer was involved.**

22 **“(b) The failure of a law enforcement agency to comply with paragraph (a) of this sub-**  
23 **section is not grounds for suppressing evidence obtained in the investigation.**

24 **“(6)(a) A law enforcement agency shall collect at least the following information relating**  
25 **to incidents in which a police officer’s use of deadly physical force resulted in the death of**  
26 **a person:**

27 **“(A) The name, gender, race, ethnicity and age of the decedent.**

28 **“(B) The date, time and location of the incident.**

29 **“(C) A brief description of the circumstances surrounding the incident.**

30 **“(b) A law enforcement agency shall promptly submit the information collected under**  
31 **paragraph (a) of this subsection to the Department of Justice.**

32 **“(7) The department shall compile and periodically publish information submitted under**  
33 **subsection (6) of this section. The department, by rule, may specify a form to be used by law**  
34 **enforcement agencies in submitting information under subsection (6) of this section.**

35 **“SECTION 6. Conclusions and recommendations for future action made by or for a law**  
36 **enforcement agency that result from activities conducted pursuant to the element of a plan**  
37 **described in section 2 (4)(e) of this 2005 Act are not admissible as evidence in any subsequent**  
38 **civil action or administrative proceeding.**

39 **“SECTION 7. (1) Notwithstanding sections 2, 3, 5 (3) or (6) and 12 of this 2005 Act, if**  
40 **sufficient moneys are not appropriated to the Department of Justice for purposes of making**  
41 **grants under section 4 of this 2005 Act, a deadly physical force planning authority created**  
42 **by section 2 of this 2005 Act or a law enforcement agency is not required to comply with any**  
43 **requirement of sections 2, 3, 5 (3) or (6) or 12 of this 2005 Act for which the law enforcement**  
44 **agency is entitled to reimbursement under section 4 of this 2005 Act.**

45 **“(2) If sufficient moneys are not appropriated to the Department of Justice to pay the**

1 **costs of recording and transcribing testimony before a grand jury as required by section 12**  
2 **of this 2005 Act:**

3 **“(a) The Department of Justice is not required to comply with section 12 (5) of this 2005**  
4 **Act; and**

5 **“(b) A district attorney is not required to comply with section 12 of this 2005 Act.**

6 **“SECTION 8.** ORS 132.330 is amended to read:

7 **“132.330. (1)** The district attorney may submit an indictment to the grand jury in any case when  
8 the district attorney has good reason to believe that a crime has been committed which is triable  
9 within the county.

10 **“(2) The district attorney may present facts to the grand jury about an incident in which**  
11 **a police officer used deadly physical force.**

12 **“SECTION 9.** ORS 132.090 is amended to read:

13 **“132.090. (1)** Except as provided in subsections (2) and (3) of this section **and section 12 of this**  
14 **2005 Act,** no person other than the district attorney or a witness actually under examination shall  
15 be present during the sittings of the grand jury.

16 **“(2) If not otherwise required under section 12 of this 2005 Act,** upon a motion filed by the  
17 district attorney in the circuit court, the circuit judge may appoint a reporter who shall attend the  
18 sittings of the grand jury to take and report the testimony in any matters pending before the grand  
19 jury, and may appoint a parent, guardian or other appropriate person 18 years of age or older to  
20 accompany any child 12 years of age or younger, or any person with mental retardation, during an  
21 appearance before the grand jury. The circuit judge, upon the district attorney’s showing to the  
22 court that it is necessary for the proper examination of a witness appearing before the grand jury,  
23 may appoint a guard, medical or other special attendant or nurse, who shall be present in the grand  
24 jury room and shall attend such sittings.

25 **“(3)** The district attorney may designate an interpreter who is certified under ORS 45.291 to  
26 interpret the testimony of witnesses appearing before the grand jury. The district attorney may  
27 designate a qualified interpreter, as defined in ORS 45.288, if the circuit court determines that a  
28 certified interpreter is not available and that the person designated by the district attorney is a  
29 qualified interpreter as defined in ORS 45.288. An interpreter designated under this subsection may  
30 be present in the grand jury room and attend the sittings of the grand jury.

31 **“(4)** No person other than members of the grand jury shall be present when the grand jury is  
32 deliberating or voting upon a matter before it.

33 **“(5)** As used in this section, ‘mental retardation’ has the meaning given that term in ORS  
34 427.005. Mental retardation may be shown by attaching to the motion of the district attorney:

35 **“(a)** Documentary evidence of intellectual functioning; or

36 **“(b)** The affidavit of a qualified person familiar with the person with mental retardation. ‘Qual-  
37 ified person’ includes, but is not limited to, a teacher, therapist or physician.

38 **“SECTION 10. The Legislative Assembly finds that:**

39 **“(1) Grand juries originally were created and have existed for centuries as a check**  
40 **against potential abuse of the government’s power to charge individuals with crimes.**

41 **“(2) Grand jury proceedings are kept secret to help protect witnesses, victims and grand**  
42 **jurors against retaliation and innocent persons against wrongful accusations of crime.**

43 **“(3) As authorized by law and as guided by the policies of law enforcement agencies, po-**  
44 **lice officers may cause the death of a person by the use of deadly physical force.**

45 **“(4) The use of deadly physical force by a police officer that results in the death of a**

1 person requires a level of public scrutiny that uniquely justifies limited intrusions into the  
2 secrecy historically accorded grand jury proceedings.

3 **“SECTION 11. Section 12 of this 2005 Act is added to and made a part of ORS 132.310 to**  
4 **132.390.**

5 **“SECTION 12. (1) As used in this section:**

6 **“(a) ‘Certified shorthand reporter’ has the meaning given that term in ORS 8.415.**

7 **“(b) ‘Involved officer’ has the meaning given that term in section 5 of this 2005 Act.**

8 **“(c) ‘Police officer’ has the meaning given that term in section 1 of this 2005 Act.**

9 **“(2) A proceeding before a grand jury must be on the record and recorded by a certified**  
10 **shorthand reporter as provided in this subsection if the proceeding has been convened to**  
11 **examine the use of deadly physical force by a police officer that resulted in the death of a**  
12 **person. When a proceeding is required to be on the record under this subsection, the district**  
13 **attorney shall ensure that a certified shorthand reporter attends the sittings of the grand**  
14 **jury to take and report the questioning and testimony of all witnesses. The certified short-**  
15 **hand reporter may not record any information that reveals the identity of a grand juror. The**  
16 **certified shorthand reporter may not be present during, or record, the deliberations of the**  
17 **grand jury.**

18 **“(3) Unless the certified shorthand reporter can show good cause why the time should**  
19 **be extended, no later than seven days after a grand jury in a proceeding required to be on**  
20 **the record under subsection (2) of this section determines that no criminal charges should**  
21 **be returned or returns an indictment indorsed ‘not a true bill,’ the certified shorthand re-**  
22 **porter shall provide a certified transcript of the report to the district attorney of the county**  
23 **in which the incident occurred.**

24 **“(4)(a) No later than five days after receiving the transcript from the certified shorthand**  
25 **reporter, the district attorney shall send notice of the following to all witnesses who ap-**  
26 **peared before the grand jury:**

27 **“(A) The witness’s right to file a petition under subsection (6) of this section;**

28 **“(B) The time period within which the petition must be filed; and**

29 **“(C) The witness’s right to review the transcript and submit objections to the accuracy**  
30 **of the transcript as provided in paragraph (b) of this subsection.**

31 **“(b) No later than seven days after the district attorney sends the notice required by**  
32 **paragraph (a) of this subsection, a witness may:**

33 **“(A) Review, under the supervision of the district attorney, the portion of the grand jury**  
34 **transcript in which the witness’s testimony is transcribed; and**

35 **“(B) Submit an objection to the accuracy of the transcription of the witness’s testimony.**  
36 **A witness submitting an objection under this subparagraph shall attach the objection to the**  
37 **transcript.**

38 **“(c) No earlier than eight days after sending the notice required by paragraph (a) of this**  
39 **subsection, the district attorney shall provide a copy of the complete transcript to each in-**  
40 **involved officer in the incident and to the law enforcement agency that employs each involved**  
41 **officer.**

42 **“(5) The Department of Justice shall pay the costs of the recording and the transcripts**  
43 **required by subsections (2) and (3) of this section.**

44 **“(6)(a) No later than 14 days after the district attorney sends the notice required by**  
45 **subsection (4)(a) of this section, the district attorney, an involved officer, the law enforce-**

1 ment agency employing the involved officer or any witness who appeared before the grand  
2 jury may petition the circuit court for a judgment sealing all or part of the transcript or  
3 delaying the public release of all or part of the transcript. The petition must be served on  
4 the district attorney, the involved officer and the law enforcement agency employing the in-  
5 volved officer. The petition must be supported by an affidavit showing why the public interest  
6 in disclosure is outweighed by one of the factors listed in subsection (7)(b) of this section.

7 “(b) If no petition is timely filed, the district attorney shall make the transcript available  
8 to any person upon request and payment of copying fees set under ORS 192.440.

9 “(7)(a) No later than seven days after service under subsection (6)(a) of this section, the  
10 district attorney, an involved officer or the law enforcement agency that employs the in-  
11 volved officer may file an objection to the petition. If no objection is timely filed, the court  
12 may rule without a hearing on the petition. If an objection is timely filed, the court shall hold  
13 a hearing on the petition no later than seven days after the time for filing objections has  
14 expired.

15 “(b) The court shall deny the petition unless the court finds that the public interest in  
16 disclosure is outweighed by:

17 “(A) The impairment of the proceeding or prosecution of any criminal matter related to  
18 the proceeding;

19 “(B) The probable prejudice to the right of a witness who appeared before the grand jury  
20 or of an involved officer to a fair trial; or

21 “(C) The privacy right of a witness who appeared before the grand jury.

22 “(8) When the court determines that all or part of the transcript should be sealed or that  
23 disclosure of all or part of the transcript should be delayed, the court shall enter a judgment  
24 sealing the transcript or portions of the transcript or delaying the public release of the  
25 transcript or portions of the transcript.

26 “(9) A judgment sealing or delaying release of all or any portion of a transcript based on  
27 subsection (7)(b)(B) or (C) of this section has no further effect with respect to public release  
28 of the transcript after a witness whose testimony is subject to the judgment:

29 “(a) Files a civil action against an involved officer or the law enforcement agency em-  
30 ploying the involved officer; or

31 “(b) Gives testimony, including depositions, in a civil or criminal action arising out of the  
32 incident in which deadly physical force was used.

33 “(10) The testimony of a police officer who is the subject of an investigation of the use  
34 of deadly physical force and who is called as a witness before a grand jury in a proceeding  
35 required to be on the record under subsection (2) of this section is not admissible evidence  
36 in a civil proceeding except:

37 “(a) When the testimony before the grand jury is compelled under ORS 136.617; or

38 “(b) When the testimony before the grand jury is offered as a prior inconsistent state-  
39 ment to impeach the witness.

40 “(11) This section does not create a cause of action.

41 “(12) The failure of a certified shorthand reporter to record all of the grand jury pro-  
42 ceeding required to be recorded under subsection (2) of this section does not affect the va-  
43 lidity of any indictment or prosecution that arises from the proceeding.

44 “SECTION 13. ORS 146.135 is amended to read:

45 “146.135. (1) The district attorney for the county where the death occurs may order an inquest

1 to obtain a jury finding of the cause and manner of death in any case requiring investigation.

2 “(2) **The district attorney may not order an inquest under this section concerning a death**  
3 **that resulted from a police officer’s use of, or order to use, deadly physical force until after**  
4 **the district attorney has determined that the police officer did not commit a crime or a**  
5 **grand jury has received testimony concerning the incident and has declined to indict the**  
6 **police officer. As used in this subsection, ‘police officer’ has the meaning given that term in**  
7 **section 1 of this 2005 Act.**

8 “[2] (3) For the purpose of conducting an inquest, the district attorney shall have the powers  
9 of a judicial officer as described by ORS 1.240 and 1.250.

10 “[3] (4) The district attorney shall advise the jury of inquest as to its duties and instruct the  
11 jury on questions of law.

12 “[4] (5) The district attorney shall cause a record of the inquest proceedings to be made which  
13 shall include the written order of inquest, a record of the testimony of witnesses and the written  
14 verdict of the jury.

15 “[5] (6) Within a reasonable time after the verdict is returned, the record of inquest shall be  
16 filed in the district medical examiner’s office for the county where the inquest was held.

17 “[6] (7) A copy of the order of inquest and verdict of the jury shall be filed in the State Med-  
18 ical Examiner’s office.

19 “[7] (8) The record of inquest shall be available for inspection as provided by ORS 146.035 (5).

20 “**SECTION 14.** ORS 146.135, as amended by section 13 of this 2005 Act, is amended to read:

21 “146.135. (1) The district attorney for the county where the death occurs may order an inquest  
22 to obtain a jury finding of the cause and manner of death in any case requiring investigation.

23 “(2) The district attorney may not order an inquest under this section concerning a death that  
24 resulted from a police officer’s use of, or order to use, deadly physical force [*until after the district*  
25 *attorney has determined that the police officer did not commit a crime or a grand jury has received*  
26 *testimony concerning the incident and has declined to indict the police officer*]. As used in this sub-  
27 section, ‘police officer’ has the meaning given that term in section 1 of this 2005 Act.

28 “(3) For the purpose of conducting an inquest, the district attorney shall have the powers of a  
29 judicial officer as described by ORS 1.240 and 1.250.

30 “(4) The district attorney shall advise the jury of inquest as to its duties and instruct the jury  
31 on questions of law.

32 “(5) The district attorney shall cause a record of the inquest proceedings to be made which shall  
33 include the written order of inquest, a record of the testimony of witnesses and the written verdict  
34 of the jury.

35 “(6) Within a reasonable time after the verdict is returned, the record of inquest shall be filed  
36 in the district medical examiner’s office for the county where the inquest was held.

37 “(7) A copy of the order of inquest and verdict of the jury shall be filed in the State Medical  
38 Examiner’s office.

39 “(8) The record of inquest shall be available for inspection as provided by ORS 146.035 (5).

40 “**SECTION 15.** ORS 181.662 is amended to read:

41 “181.662. (1) The Department of Public Safety Standards and Training may deny or revoke the  
42 certification of any instructor or public safety officer, except a youth correction officer or fire ser-  
43 vice professional, after written notice and hearing consistent with the provisions of ORS 181.661,  
44 based upon a finding that:

45 “(a) The public safety officer or instructor falsified any information submitted on the application

1 for certification or on any documents submitted to the Board on Public Safety Standards and  
2 Training or the department.

3 “(b) The public safety officer or instructor has been convicted of a crime in this state or any  
4 other jurisdiction.

5 “(c) The public safety officer or instructor does not meet the applicable minimum standards,  
6 minimum training or the terms and conditions established under ORS 181.640 (1)(a) to (d).

7 **“(d) The public safety officer failed to comply with section 5 (3)(b) of this 2005 Act.**

8 “(2) The department may deny or revoke the certification of any fire service professional after  
9 written notice and hearing consistent with the provisions of ORS 181.661, based upon a finding that:

10 “(a) The fire service professional falsified any information submitted on the application for cer-  
11 tification or on any documents submitted to the board or the department; or

12 “(b) The fire service professional has been discharged for cause from employment in the fire  
13 service.

14 “(3) The department shall deny or revoke the certification of any public safety officer or in-  
15 structor, except a youth correction officer or fire service professional, after written notice and  
16 hearing consistent with the provisions of ORS 181.661, based upon a finding that the public safety  
17 officer or instructor has been discharged for cause from employment as a public safety officer.

18 “(4) The department, in consultation with the board, shall adopt rules specifying those crimes  
19 for which a conviction requires the denial or revocation of the certification of a public safety officer  
20 or instructor.

21 “(5) Notwithstanding the lapse, suspension, revocation or surrender of the certification of a  
22 public safety officer or instructor, the department may:

23 “(a) Proceed with any investigation of, or any action or disciplinary proceedings against, the  
24 public safety officer or instructor; or

25 “(b) Revise or render void an order suspending or revoking the certification.

26 “(6) The department shall deny or revoke the accreditation of a training or educational program  
27 or any course, subject, facility or instruction thereof if the program, course, subject, facility or in-  
28 struction is not in compliance with rules adopted or conditions prescribed under ORS 181.640 (1)(g)  
29 or 181.650 (3).

30 **“SECTION 16. (1) A deadly physical force planning authority created by section 2 of this**  
31 **2005 Act shall submit the plan required by section 2 (4) of this 2005 Act to the governing**  
32 **bodies described in section 2 (7) of this 2005 Act no later than July 1, 2006.**

33 **“(2) Notwithstanding section 2 (3) of this 2005 Act, for the period of time from the ef-**  
34 **fective date of this 2005 Act to June 30, 2006, the law enforcement agency that employs the**  
35 **police officer selected under section 2 (1)(b) of this 2005 Act shall release the officer from**  
36 **other duties for at least 80 hours to enable the officer to serve on the planning authority.**  
37 **The agency shall compensate the officer at the officer’s regular hourly wage while the officer**  
38 **is engaged in planning authority activities during that period of time.**

39 **“SECTION 17. A law enforcement agency shall adopt the policy required by section 5 (2)**  
40 **of this 2005 Act no later than July 1, 2006.**

41 **“SECTION 18. (1) A law enforcement agency that participates in the development of the**  
42 **plan required by section 2 of this 2005 Act shall keep track of the expenses it incurs by rea-**  
43 **son of its participation. For purposes of this subsection and subsection (2) of this section,**  
44 **‘expenses’ includes, but is not limited to, personnel costs.**

45 **“(2) The Department of Justice shall award a law enforcement agency one credit for each**

1 dollar of expense incurred before July 1, 2006, by reason of the law enforcement agency's  
2 participation in the development of the plan required by section 2 of this 2005 Act.

3 “(3) Notwithstanding section 4 (2) of this 2005 Act, when a law enforcement agency ap-  
4 plies for a grant under section 4 of this 2005 Act, the department, to the extent that funds  
5 are appropriated to the department for the purpose, shall make a grant that exceeds 75  
6 percent of the expenses incurred by the law enforcement agency if the law enforcement  
7 agency has unused credits awarded under subsection (2) of this section. When the depart-  
8 ment makes a grant that exceeds 75 percent of the expenses incurred by a law enforcement  
9 agency, the department shall deduct the amount of the grant that exceeds 75 percent from  
10 the credits awarded the law enforcement agency under subsection (2) of this section.

11 “(4) The department may adopt rules necessary for the administration of this section.

12 “**SECTION 19.** ORS 132.430 is amended to read:

13 “132.430. (1) When a person has been held to answer a criminal charge and the indictment in  
14 relation thereto is not found ‘a true bill,’ it must be indorsed ‘not a true bill,’ which indorsement  
15 must be signed by the foreman and filed with the clerk of the court, in whose office it shall remain  
16 a public record. **Except for the recording and transcript required by section 12 of this 2005**  
17 **Act,** in the case of an indictment not found ‘a true bill’ against a person not so held, the same, to-  
18 gether with the minutes of the evidence in relation thereto, must be destroyed by the grand jury.

19 “(2) When an indictment indorsed ‘not a true bill’ has been filed with the clerk of the court, the  
20 effect thereof is to dismiss the charge; and the same cannot be again submitted to or inquired of by  
21 the grand jury unless the court so orders.

22 “**SECTION 20.** A law enforcement agency, as defined in section 1 of this 2005 Act, may  
23 not use moneys it receives under section 4 of this 2005 Act to supplant moneys from another  
24 source that the law enforcement agency has been previously authorized to expend.

25 “**SECTION 21.** There is appropriated to the Department of Justice, for the biennium be-  
26 ginning July 1, 2005, out of the General Fund, the amount of \$\_\_\_\_\_ for the purpose of  
27 carrying out the provisions of sections 4 and 12 (5) of this 2005 Act.

28 “**SECTION 22.** (1) Sections 4, 10 to 12 and 20 of this 2005 Act and the amendments to ORS  
29 132.090, 132.430 and 181.662 by sections 9, 15 and 19 of this 2005 Act become operative on July  
30 1, 2006.

31 “(2) The amendments to ORS 146.135 by section 14 of this 2005 Act become operative on  
32 July 1, 2007.

33 “**SECTION 23.** (1) Notwithstanding the effective date of section 5 of this 2005 Act, section  
34 5 (3) to (7) of this 2005 Act applies to incidents occurring on or after July 1, 2006.

35 “(2) Section 12 of this 2005 Act applies to incidents occurring on or after July 1, 2006.

36 “**SECTION 24.** This 2005 Act being necessary for the immediate preservation of the public  
37 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect  
38 on its passage.”.