

B-Engrossed
Senate Bill 301

Ordered by the Senate July 21
Including Senate Amendments dated May 18 and July 21

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Creates planning authority in each county to develop plan concerning use of deadly physical force by police officers. Directs planning authority to submit plan to governing body of each law enforcement agency within county except Department of State Police and Department of Justice. Specifies required elements of plan. Directs governing body to approve or disapprove plan.

Authorizes Department of Justice, to extent funds are appropriated for such purposes, to make grants to law enforcement agencies for expenses incurred in implementing and revising approved plans.

Establishes procedures for law enforcement agencies to follow in dealing with use of deadly physical force and for grand jury proceedings in which use of deadly physical force is element.

Appropriates moneys from General Fund to Department of Justice for grants and for grand jury recording and transcription costs.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to use of physical force; creating new provisions; amending ORS 132.090, 132.330, 132.430,
3 146.135 and 181.662; appropriating money; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

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

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

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

13 (3) **"Police officer" means a person who is:**

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

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

16 **SECTION 2. (1) There is created in each county a deadly physical force planning author-**
17 **ity consisting of the following members:**

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **police officers within the county.**

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

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

6 (e) **A representative of the Oregon State Police selected by the Superintendent of State**
7 **Police.**

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

9 (3) **The law enforcement agency that employs the police officer selected under subsection**
10 **(1)(b) of this section shall release the officer from other duties for at least 16 hours per year**
11 **to enable the officer to serve on the planning authority. The agency shall compensate the**
12 **officer at the officer's regular hourly wage while the officer is engaged in planning authority**
13 **activities.**

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

15 (a) **An element dealing with education, outreach and training regarding the use of deadly**
16 **physical force for police officers, attorneys employed by state or local government within the**
17 **county and members of the community.**

18 (b) **An element dealing with the immediate aftermath of an incident in which a police**
19 **officer used deadly physical force.**

20 (c) **An element dealing with the investigation of an incident in which a police officer used**
21 **deadly physical force.**

22 (d) **An element dealing with the exercise of district attorney discretion to resolve issues**
23 **of potential criminal responsibility resulting from a police officer's use of deadly physical**
24 **force.**

25 (e) **An element dealing with collecting information regarding a police officer's use of**
26 **deadly physical force, debriefing after an incident in which a police officer used deadly**
27 **physical force and revising a plan developed under this subsection based on experience.**

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

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

33 (6) **The planning authority may consult with anyone the planning authority determines**
34 **may be helpful in carrying out its responsibilities.**

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

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

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

43 (10) **If the plan is approved by at least two-thirds of the governing bodies to which the**
44 **plan is submitted, the planning authority shall submit the approved plan to the Attorney**
45 **General. No later than 30 days after receiving the plan, the Attorney General shall review**

1 the plan for compliance with the minimum requirements described in section 3 of this 2005
2 Act. If the Attorney General determines that the plan complies with the minimum require-
3 ments, the Attorney General shall approve the plan. Upon approval of the plan:

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

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

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

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

12 (b) Imposes an obligation not required by section 5 of this 2005 Act if complying with the
13 provision would require the law enforcement agency to budget moneys, or submit a revenue
14 measure for a vote of the people, in order to comply with the provision.

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

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

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

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

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

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

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

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

32 (4) Address, under section 2 (4)(d) of this 2005 Act, the manner in which the district at-
33 torney of the county will comply with ORS 146.135 (2).

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

36 **SECTION 4.** (1) As used in this section, "expenses" does not include personnel costs.

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

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

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

1 **SECTION 5.** (1) As used in this section, “involved officer” means a police officer:

2 (a) Whose official conduct, or official order to use deadly physical force, was a cause in
3 fact of the death of a person. As used in this paragraph, “order to use deadly physical
4 force” means an order issued to another officer to use deadly physical force in a specific
5 incident or an order or directive establishing rules of engagement for the use of deadly
6 physical force for a specific incident.

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

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

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

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

17 (3)(a) For each involved officer employed by a law enforcement agency, the law enforce-
18 ment agency shall pay the costs of at least two sessions with a mental health professional
19 that are attended by the officer. The sessions must be held within six months after the in-
20 cident in which the officer was involved.

21 (b) An involved officer shall attend at least one of the sessions described in paragraph
22 (a) of this subsection.

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

26 (4) For at least 72 hours immediately following an incident in which the use of deadly
27 physical force by a police officer resulted in the death of a person, a law enforcement agency
28 may not return an involved officer to duties that might place the officer in a situation in
29 which the officer has to use deadly physical force. A law enforcement agency may not reduce
30 an involved officer’s pay or benefits as a result of the law enforcement agency’s compliance
31 with this subsection. Notwithstanding section 4 (1) of this 2005 Act, a personnel cost in-
32 curred in complying with this subsection by a law enforcement agency employing 40 or fewer
33 police officers is an expense for purposes of section 4 of this 2005 Act.

34 (5)(a) A law enforcement agency employing an involved officer shall include at least one
35 police officer from a different law enforcement agency in the investigation of the incident in
36 which the involved officer was involved.

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

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

42 (A) The name, gender, race, ethnicity and age of the decedent.

43 (B) The date, time and location of the incident.

44 (C) A brief description of the circumstances surrounding the incident.

45 (b) A law enforcement agency shall promptly submit the information collected under

1 **paragraph (a) of this subsection to the Department of Justice.**

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

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

9 **SECTION 7. (1) Notwithstanding sections 2, 3, 5 (3) or (6) and 12 of this 2005 Act, if suf-**
10 **ficient moneys are not appropriated to the Department of Justice for purposes of making**
11 **grants under section 4 of this 2005 Act, a deadly physical force planning authority created**
12 **by section 2 of this 2005 Act or a law enforcement agency is not required to comply with any**
13 **requirement of sections 2, 3, 5 (3) or (6) or 12 of this 2005 Act for which the law enforcement**
14 **agency is entitled to reimbursement under section 4 of this 2005 Act.**

15 **(2) If sufficient moneys are not appropriated to the Department of Justice to pay the**
16 **costs of recording and transcribing testimony before a grand jury as required by section 12**
17 **of this 2005 Act:**

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

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

21 **SECTION 8. ORS 132.330 is amended to read:**

22 **132.330. (1) The district attorney may submit an indictment to the grand jury in any case when**
23 **the district attorney has good reason to believe that a crime has been committed which is triable**
24 **within the county.**

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

27 **SECTION 9. ORS 132.090 is amended to read:**

28 **132.090. (1) Except as provided in subsections (2) and (3) of this section and section 12 of this**
29 **2005 Act, no person other than the district attorney or a witness actually under examination shall**
30 **be present during the sittings of the grand jury.**

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

40 **(3) The district attorney may designate an interpreter who is certified under ORS 45.291 to in-**
41 **terpret the testimony of witnesses appearing before the grand jury. The district attorney may des-**
42 **ignate a qualified interpreter, as defined in ORS 45.288, if the circuit court determines that a**
43 **certified interpreter is not available and that the person designated by the district attorney is a**
44 **qualified interpreter as defined in ORS 45.288. An interpreter designated under this subsection may**
45 **be present in the grand jury room and attend the sittings of the grand jury.**

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

3 (5) As used in this section, “mental retardation” has the meaning given that term in ORS
4 427.005. Mental retardation may be shown by attaching to the motion of the district attorney:

5 (a) Documentary evidence of intellectual functioning; or

6 (b) The affidavit of a qualified person familiar with the person with mental retardation. “Quali-
7 fied person” includes, but is not limited to, a teacher, therapist or physician.

8 **SECTION 10. The Legislative Assembly finds that:**

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

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

13 (3) **As authorized by law and as guided by the policies of law enforcement agencies, police
14 officers may cause the death of a person by the use of deadly physical force.**

15 (4) **The use of deadly physical force by a police officer that results in the death of a
16 person requires a level of public scrutiny that uniquely justifies limited intrusions into the
17 secrecy historically accorded grand jury proceedings.**

18 **SECTION 11. Section 12 of this 2005 Act is added to and made a part of ORS 132.310 to
19 132.390.**

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

21 (a) **“Certified shorthand reporter” has the meaning given that term in ORS 8.415.**

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

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

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

33 (3) **Unless the certified shorthand reporter can show good cause why the time should be
34 extended, no later than seven days after a grand jury in a proceeding required to be on the
35 record under subsection (2) of this section determines that no criminal charges should be
36 returned or returns an indictment indorsed “not a true bill,” the certified shorthand reporter
37 shall provide a certified transcript of the report to the district attorney of the county in
38 which the incident occurred.**

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

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

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

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

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

3 (A) Review, under the supervision of the district attorney, the portion of the grand jury
4 transcript in which the witness's testimony is transcribed; and

5 (B) Submit an objection to the accuracy of the transcription of the witness's testimony.
6 A witness submitting an objection under this subparagraph shall attach the objection to the
7 transcript.

8 (c) No earlier than eight days after sending the notice required by paragraph (a) of this
9 subsection, the district attorney shall provide a copy of the complete transcript to each in-
10 volved officer in the incident and to the law enforcement agency that employs each involved
11 officer.

12 (5) The Department of Justice shall pay the costs of the recording and the transcripts
13 required by subsections (2) and (3) of this section.

14 (6)(a) No later than 14 days after the district attorney sends the notice required by sub-
15 section (4)(a) of this section, the district attorney, an involved officer, the law enforcement
16 agency employing the involved officer or any witness who appeared before the grand jury
17 may petition the circuit court for a judgment sealing all or part of the transcript or delaying
18 the public release of all or part of the transcript. The petition must be served on the district
19 attorney, the involved officer and the law enforcement agency employing the involved officer.
20 The petition must be supported by an affidavit showing why the public interest in disclosure
21 is outweighed by one of the factors listed in subsection (7)(b) of this section.

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

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

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

32 (A) The impairment of the proceeding or prosecution of any criminal matter related to
33 the proceeding;

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

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

37 (8) When the court determines that all or part of the transcript should be sealed or that
38 disclosure of all or part of the transcript should be delayed, the court shall enter a judgment
39 sealing the transcript or portions of the transcript or delaying the public release of the
40 transcript or portions of the transcript.

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

44 (a) Files a civil action against an involved officer or the law enforcement agency em-
45 ploying the involved officer; or

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

3 **(10) The testimony of a police officer who is the subject of an investigation of the use of**
4 **deadly physical force and who is called as a witness before a grand jury in a proceeding re-**
5 **quired to be on the record under subsection (2) of this section is not admissible evidence in**
6 **a civil proceeding except:**

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

8 **(b) When the testimony before the grand jury is offered as a prior inconsistent statement**
9 **to impeach the witness.**

10 **(11) This section does not create a cause of action.**

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

14 **SECTION 13.** ORS 146.135 is amended to read:

15 146.135. (1) The district attorney for the county where the death occurs may order an inquest
16 to obtain a jury finding of the cause and manner of death in any case requiring investigation.

17 **(2) The district attorney may not order an inquest under this section concerning a death**
18 **that resulted from a police officer's use of, or order to use, deadly physical force until after**
19 **the district attorney has determined that the police officer did not commit a crime or a**
20 **grand jury has received testimony concerning the incident and has declined to indict the**
21 **police officer. As used in this subsection, "police officer" has the meaning given that term**
22 **in section 1 of this 2005 Act.**

23 [(2)] **(3)** For the purpose of conducting an inquest, the district attorney shall have the powers
24 of a judicial officer as described by ORS 1.240 and 1.250.

25 [(3)] **(4)** The district attorney shall advise the jury of inquest as to its duties and instruct the
26 jury on questions of law.

27 [(4)] **(5)** The district attorney shall cause a record of the inquest proceedings to be made which
28 shall include the written order of inquest, a record of the testimony of witnesses and the written
29 verdict of the jury.

30 [(5)] **(6)** Within a reasonable time after the verdict is returned, the record of inquest shall be
31 filed in the district medical examiner's office for the county where the inquest was held.

32 [(6)] **(7)** A copy of the order of inquest and verdict of the jury shall be filed in the State Medical
33 Examiner's office.

34 [(7)] **(8)** The record of inquest shall be available for inspection as provided by ORS 146.035 (5).

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

36 146.135. (1) The district attorney for the county where the death occurs may order an inquest
37 to obtain a jury finding of the cause and manner of death in any case requiring investigation.

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

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

45 (4) The district attorney shall advise the jury of inquest as to its duties and instruct the jury

1 on questions of law.

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

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

7 (7) A copy of the order of inquest and verdict of the jury shall be filed in the State Medical
8 Examiner's office.

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

10 **SECTION 15.** ORS 181.662 is amended to read:

11 181.662. (1) The Department of Public Safety Standards and Training may deny or revoke the
12 certification of any instructor or public safety officer, except a youth correction officer or fire ser-
13 vice professional, after written notice and hearing consistent with the provisions of ORS 181.661,
14 based upon a finding that:

15 (a) The public safety officer or instructor falsified any information submitted on the application
16 for certification or on any documents submitted to the Board on Public Safety Standards and
17 Training or the department.

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

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

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

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

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

27 (b) The fire service professional has been discharged for cause from employment in the fire
28 service.

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

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

36 (5) Notwithstanding the lapse, suspension, revocation or surrender of the certification of a pub-
37 lic safety officer or instructor, the department may:

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

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

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

45 **SECTION 16.** (1) A deadly physical force planning authority created by section 2 of this

1 2005 Act shall submit the plan required by section 2 (4) of this 2005 Act to the governing
2 bodies described in section 2 (7) of this 2005 Act no later than July 1, 2006.

3 (2) Notwithstanding section 2 (3) of this 2005 Act, for the period of time from the effective
4 date of this 2005 Act to June 30, 2006, the law enforcement agency that employs the police
5 officer selected under section 2 (1)(b) of this 2005 Act shall release the officer from other
6 duties for at least 80 hours to enable the officer to serve on the planning authority. The
7 agency shall compensate the officer at the officer's regular hourly wage while the officer is
8 engaged in planning authority activities during that period of time.

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

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

15 (2) The Department of Justice shall award a law enforcement agency one credit for each
16 dollar of expense incurred before July 1, 2006, by reason of the law enforcement agency's
17 participation in the development of the plan required by section 2 of this 2005 Act.

18 (3) Notwithstanding section 4 (2) of this 2005 Act, when a law enforcement agency applies
19 for a grant under section 4 of this 2005 Act, the department, to the extent that funds are
20 appropriated to the department for the purpose, shall make a grant that exceeds 75 percent
21 of the expenses incurred by the law enforcement agency if the law enforcement agency has
22 unused credits awarded under subsection (2) of this section. When the department makes a
23 grant that exceeds 75 percent of the expenses incurred by a law enforcement agency, the
24 department shall deduct the amount of the grant that exceeds 75 percent from the credits
25 awarded the law enforcement agency under subsection (2) of this section.

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

27 **SECTION 19.** ORS 132.430 is amended to read:

28 132.430. (1) When a person has been held to answer a criminal charge and the indictment in
29 relation thereto is not found "a true bill," it must be indorsed "not a true bill," which indorsement
30 must be signed by the foreman and filed with the clerk of the court, in whose office it shall remain
31 a public record. **Except for the recording and transcript required by section 12 of this 2005**
32 **Act,** in the case of an indictment not found "a true bill" against a person not so held, the same,
33 together with the minutes of the evidence in relation thereto, must be destroyed by the grand jury.

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

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

40 **SECTION 21.** There is appropriated to the Department of Justice, for the biennium be-
41 ginning July 1, 2005, out of the General Fund, the amount of \$300,000 for the purpose of
42 carrying out the provisions of sections 4 and 12 (5) of this 2005 Act.

43 **SECTION 22.** (1) Sections 4, 10 to 12 and 20 of this 2005 Act and the amendments to ORS
44 132.090, 132.430 and 181.662 by sections 9, 15 and 19 of this 2005 Act become operative on July
45 1, 2006.

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

3 **SECTION 23.** (1) **Notwithstanding the effective date of section 5 of this 2005 Act, section**
4 **5 (3) to (7) of this 2005 Act applies to incidents occurring on or after July 1, 2006.**

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

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

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