

Senate Bill 355

Sponsored by Senator FREDERICK (Pre-session filed.)

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 **as introduced**.

Requires law enforcement agency to notify Attorney General prior to beginning investigation when police officer uses deadly physical force. Requires Attorney General to appoint special investigator to lead investigation upon receipt of notification. Authorizes Attorney General to prosecute violations of law related to use of deadly physical force.

A BILL FOR AN ACT

1
2 Relating to the use of deadly physical force by police officers; amending ORS 181A.785, 181A.790 and
3 181A.800.

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

5 **SECTION 1.** ORS 181A.790 is amended to read:

6 181A.790. (1) As used in this section, "involved officer" means:

7 (a) A police officer whose official conduct, or official order to use deadly physical force, was a
8 cause in fact of the death of a person. As used in this paragraph, "order to use deadly physical
9 force" means an order issued to another officer to use deadly physical force in a specific incident
10 or an order or directive establishing rules of engagement for the use of deadly physical force for a
11 specific incident.

12 (b) A police officer whose official conduct was not a cause in fact of the death of a person but
13 whose official involvement in an incident in which the use of deadly physical force by a police offi-
14 cer resulted in the death of a person:

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

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

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

22 (3)(a) For each involved officer employed by a law enforcement agency, the law enforcement
23 agency shall pay the costs of at least two sessions with a mental health professional that are at-
24 tended by the officer. The sessions must be held within six months after the incident in which the
25 officer was involved.

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

28 (c) Sessions with a mental health professional under this subsection may not be substituted for
29 a fitness for duty examination required or requested as a condition of employment by the law
30 enforcement agency that employs the involved officer.

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 (4) For at least 72 hours immediately following an incident in which the use of deadly physical
 2 force by a police officer resulted in the death of a person, a law enforcement agency may not return
 3 an involved officer to duties that might place the officer in a situation in which the officer has to
 4 use deadly physical force. A law enforcement agency may not reduce an involved officer's pay or
 5 benefits as a result of the law enforcement agency's compliance with this subsection.
 6 Notwithstanding ORS 181A.805 (1), a personnel cost incurred in complying with this subsection by
 7 a law enforcement agency employing 40 or fewer police officers is an expense for purposes of ORS
 8 181A.805.

9 (5)(a) A law enforcement agency employing an involved officer shall:

10 **(A) Notify the Attorney General prior to beginning an investigation of the incident in**
 11 **which the involved officer was involved.**

12 **(B) Include at least one police officer from a different law enforcement agency in the investi-**
 13 **gation of the incident in which the involved officer was involved.**

14 (b) The failure of a law enforcement agency to comply with paragraph (a) of this subsection is
 15 not grounds for suppressing evidence obtained in the investigation.

16 **(6)(a) Upon receiving the notification described in subsection (5) of this section, the At-**
 17 **torney General shall appoint a special investigator to lead the investigation described in**
 18 **subsection (5)(a) of this section. The special investigator may not be employed by the office**
 19 **of the district attorney in the county in which the incident occurred or by any other office**
 20 **in the county in which the incident occurred.**

21 **(b) At the conclusion of the investigation described in subsection (5)(a) of this section,**
 22 **the Attorney General:**

23 **(A) May prosecute any violation of law, in which the circuit court has jurisdiction, that**
 24 **is related to the use of deadly physical force; and**

25 **(B) Shall have all the powers of a district attorney when acting under this paragraph.**

26 [(6)(a)] **(7)(a)** A law enforcement agency shall collect at least the following information relating
 27 to incidents in which a police officer's use of deadly physical force resulted in the death of a person:

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

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

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

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

33 [(7)] **(8)** The department shall compile and periodically publish information submitted under
 34 subsection [(6)] **(7)** of this section. The department, by rule, may specify a form to be used by law
 35 enforcement agencies in submitting information under subsection [(6)] **(7)** of this section.

36 **SECTION 2.** ORS 181A.785 is amended to read:

37 181A.785. In the plan required by ORS 181A.780 (4), a deadly physical force planning authority
 38 shall, at a minimum:

39 (1)(a) Address, under ORS 181A.780 (4)(a), the manner in which each law enforcement agency
 40 within the county will comply with ORS 181A.790 (2); and

41 (b) Attach a copy of each policy adopted under ORS 181A.790 (2) to the plan.

42 (2) Address, under ORS 181A.780 (4)(b), the manner in which each law enforcement agency
 43 within the county will comply with ORS 181A.790 (3)(a) and (4).

44 (3) Address, under ORS 181A.780 (4)(c), the manner in which each law enforcement agency
 45 within the county will comply with ORS 181A.790 (5)(a).

1 (4) Address, under ORS 181A.780 (4)(d), the manner in which the district attorney of the county
2 will exercise discretion to resolve issues of potential criminal responsibility.

3 (5) Address, under ORS 181A.780 (4)(e), the manner in which each law enforcement agency
4 within the county will comply with ORS 181A.790 [(6)] (7).

5 **SECTION 3.** ORS 181A.800 is amended to read:

6 181A.800. Notwithstanding ORS 181A.780, 181A.785 and 181A.790 (3) and [(6)] (7), if sufficient
7 moneys are not appropriated to the Department of Justice for purposes of making grants under ORS
8 181A.805, a deadly physical force planning authority created by ORS 181A.780 or a law enforcement
9 agency is not required to comply with any requirement of ORS 181A.780, 181A.785 or 181A.790 (3)
10 or [(6)] (7) for which the law enforcement agency is entitled to reimbursement under ORS 181A.805.

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