

House Bill 2936

Sponsored by Representative SHIELDS (at the request of former state Representative Joe Smith)

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 Attorney General to conduct investigation and prosecution of homicide committed by police officer in line of duty.

A BILL FOR AN ACT

1
2 Relating to Attorney General; amending ORS 180.070, 180.080, 194.330 and 194.980.

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

4 **SECTION 1.** ORS 180.070 is amended to read:

5 180.070. (1) The Attorney General may, when directed to do so by the Governor, take full charge
6 of any investigation or prosecution of violation of law in which the circuit court has jurisdiction.

7 **(2) The Attorney General shall take full charge of any investigation or prosecution of a**
8 **homicide committed by a police officer in the line of duty. As used in this subsection, "police**
9 **officer" has the meaning given that term in ORS 181.610.**

10 [(2)] **(3)** When acting under this section, the Attorney General shall have all the powers of a
11 district attorney, including the power to issue or cause to be issued subpoenas or other process. The
12 Attorney General may, when the Attorney General considers the public interest requires, with or
13 without the concurrence of the district attorney, direct the county grand jury to convene for the
14 investigation and consideration of such matters of a criminal nature as the Attorney General desires
15 to submit to it. The Attorney General may take full charge of the presentation of such matters to
16 the grand jury, issue subpoenas, prepare indictments, and do all other things incident thereto to the
17 same extent as the district attorney may do.

18 [(3)] **(4)** All costs, fees and other expense shall be paid by the county in which the investigation
19 takes place, to the same extent as if conducted by the district attorney of that county.

20 [(4)] **(5)** The power conferred by this section, ORS 180.060, 180.220 or 180.240 does not deprive
21 the district attorneys of any of their authority, or relieve them from any of their duties to prosecute
22 criminal violations of law and advise the officers of the counties composing their districts.

23 **SECTION 2.** ORS 180.080 is amended to read:

24 180.080. When directed by the Governor **or when required by ORS 180.070 (2)**, the Attorney
25 General shall attend in person, or by one of the assistants of the Attorney General, any term of any
26 court, or appear before the grand jury in any county, for the purpose of managing and conducting
27 in such court, or before such jury, the criminal action or proceeding specified in the requirement.
28 The Attorney General, or the assistant of the Attorney General so attending, shall exercise all the
29 powers and perform all the duties in respect of the action or proceeding which the district attorney
30 would otherwise be authorized to exercise or perform. The district attorney shall only exercise such
31 powers and perform such duties in the action or proceeding as are required of the district attorney

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 by the Attorney General, or the assistant of the Attorney General so attending.

2 **SECTION 3.** ORS 194.330 is amended to read:

3 194.330. If, in the opinion of the Secretary of State, any alleged violation of ORS 194.005 to
 4 194.200, 194.505 to 194.595 or 194.990 is not being investigated or prosecuted, the Secretary of State
 5 may direct the Attorney General to take full charge of the investigation or prosecution. If so di-
 6 rected, the Attorney General shall take full charge of the investigation or prosecution and the pro-
 7 visions of ORS 180.070, 180.080 and 180.090 shall apply. Notwithstanding ORS 180.070 [(3)] (4),
 8 expenses associated with the Attorney General’s investigation or prosecution shall be paid from the
 9 Operating Account under ORS 56.041.

10 **SECTION 4.** ORS 194.980 is amended to read:

11 194.980. (1) In addition to any other penalty provided by law, any notary public who is found to
 12 have performed an act of official misconduct may incur a civil penalty in the amount adopted under
 13 subsection (2) of this section, plus any costs of service or recording costs.

14 (2)(a) The Secretary of State shall by rule establish the amount of civil penalty that may be
 15 imposed for a particular act of official misconduct. A civil penalty shall not exceed \$1,500 per act
 16 of official misconduct.

17 (b) In imposing a penalty authorized by this section, the Secretary of State may consider the
 18 following factors:

19 (A) The past history of the person incurring a penalty in taking all feasible steps or procedures
 20 necessary or appropriate to correct any official misconduct.

21 (B) Any prior acts of official misconduct.

22 (C) The gravity and magnitude of the official misconduct.

23 (D) Whether the official misconduct was repeated or continuous.

24 (E) Whether the cause of the official misconduct was an unavoidable accident, negligence or an
 25 intentional act.

26 (F) Any relevant rule of the Secretary of State.

27 (G) The notary’s cooperativeness and efforts to correct the act of official misconduct.

28 (c) The penalty imposed under this section may be paid upon those terms and conditions as the
 29 Secretary of State determines to be proper and consistent with the public benefit. Upon request of
 30 the notary incurring the penalty, the Secretary of State shall consider evidence of the economic and
 31 financial condition of the notary in determining whether a penalty shall be paid.

32 (3) Imposition or payment of a civil penalty under this section shall not be a bar to any action
 33 or suit described in ORS 194.200, to a criminal proceeding or to a proceeding under ORS 194.168.

34 (4) A civil penalty shall not be imposed under this section until the notary public incurring the
 35 penalty has been given notice in writing from the Secretary of State specifying the violation. The
 36 notice is in addition to the notice required under ORS 183.745 and shall be served in the same
 37 manner as the notice required under ORS 183.745.

38 (5)(a) After initial notice as provided in subsection (4) of this section, a civil penalty may be
 39 imposed in the manner provided in ORS 183.745.

40 (b) The Secretary of State may delegate to a hearings officer appointed by the Secretary of
 41 State, upon such conditions as deemed necessary, all or part of the authority to conduct hearings
 42 required under ORS 183.745.

43 (6) Notwithstanding ORS 180.070 [(3)] (4), expenses incurred by the Secretary of State or At-
 44 torney General under subsections (1) to (5) of this section or under ORS 194.200 (2) shall be paid
 45 from the Operating Account under ORS 56.041.

1 (7) All civil penalties and costs recovered under this section shall be paid into the Operating
2 Account under ORS 56.041.
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