

House Bill 2953

Sponsored by Representative FREDERICK; Representatives DEMBROW, KOTEK (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**.

Modifies element of plan adopted by county deadly physical force planning authority to consist of outreach and training regarding use of reasonable deadly physical force.

Modifies requirement that law enforcement agency adopt guidelines for reasonable use of deadly physical force.

A BILL FOR AN ACT

1
2 Relating to the use of deadly physical force; amending ORS 181.783 and 181.789.

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

4 **SECTION 1.** ORS 181.783 is amended to read:

5 181.783. (1) There is created in each county a deadly physical force planning authority consist-
6 ing of the following members:

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

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

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

14 (d) A representative of the public selected by the district attorney and sheriff. The person se-
15 lected under this paragraph may not be employed by a law enforcement agency.

16 (e) A representative of the Oregon State Police selected by the Superintendent of State Police.

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

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

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

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

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

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

30 (d) An element dealing with the exercise of district attorney discretion to resolve issues of po-

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 tential criminal responsibility resulting from a police officer's use of deadly physical force.

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

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

7 (5) The planning authority shall conduct at least one public hearing in the county before sub-
 8 mitting a plan, or a revision of a plan, to the governing bodies in the county under subsection (7)
 9 of this section.

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

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

15 (8) A governing body shall approve or disapprove the plan submitted to it under subsection (7)
 16 of this section within 60 days after receiving the plan. The governing body may not amend the plan.

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

19 (10) If the plan is approved by at least two-thirds of the governing bodies to which the plan is
 20 submitted, the planning authority shall submit the approved plan to the Attorney General. No later
 21 than 30 days after receiving the plan, the Attorney General shall review the plan for compliance
 22 with the minimum requirements described in ORS 181.786. If the Attorney General determines that
 23 the plan complies with the minimum requirements, the Attorney General shall approve the plan.
 24 Upon approval of the plan:

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

27 (b) Each law enforcement agency subject to the plan is entitled to grants as provided in ORS
 28 181.796.

29 (11) If the plan is not approved by the Attorney General, the planning authority shall develop
 30 and submit a revised plan.

31 (12) Notwithstanding subsection (10)(a) of this section, a law enforcement agency is not subject
 32 to a provision of a plan approved under subsection (10) of this section that:

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

35 (b) Imposes an obligation not required by ORS 181.789 if complying with the provision would
 36 require the law enforcement agency to budget moneys, or submit a revenue measure for a vote of
 37 the people, in order to comply with the provision.

38 (13) The Attorney General shall periodically publish all approved plans.

39 (14) A law enforcement agency within a county has a duty to participate in good faith in the
 40 planning process of the planning authority for the county.

41 (15) A person bringing an action challenging the validity or enforceability of a plan approved
 42 under subsection (10) of this section shall serve the Attorney General with a copy of the complaint.
 43 If the Attorney General is not a party to the action, the Attorney General may intervene in the
 44 action.

45 **SECTION 2.** ORS 181.789 is amended to read:

1 181.789. (1) As used in this section, “involved officer” means:

2 (a) A police officer whose official conduct, or official order to use deadly physical force, was a
 3 cause in 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 incident
 5 or an order or directive establishing rules of engagement for the use of deadly physical force for a
 6 specific incident.

7 (b) A police officer whose official conduct was not a cause in fact of the death of a person but
 8 whose official involvement in an incident in which the use of deadly physical force by a police offi-
 9 cer 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 than
 12 other police officers experienced as a result of their involvement in the incident before or during
 13 the use of the deadly physical force.

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

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

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

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

26 (4) For at least 72 hours immediately following an incident in which the use of deadly physical
 27 force by a police officer resulted in the death of a person, a law enforcement agency may not return
 28 an involved officer to duties that might place the officer in a situation in which the officer has to
 29 use deadly physical force. A law enforcement agency may not reduce an involved officer’s pay or
 30 benefits as a result of the law enforcement agency’s compliance with this subsection.
 31 Notwithstanding ORS 181.796 (1), a personnel cost incurred in complying with this subsection by a
 32 law enforcement agency employing 40 or fewer police officers is an expense for purposes of ORS
 33 181.796.

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

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

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

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

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

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

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

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

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