

# House Bill 2702

Sponsored by Representative FREDERICK (Presession 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 Attorney General to appoint attorney from outside county in which peace officer uses deadly physical force to lead investigation into use of deadly physical force.

## A BILL FOR AN ACT

1  
2 Relating to investigation of use of deadly physical force by peace officers; amending ORS 181.786  
3 and 181.789.

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

5 **SECTION 1.** ORS 181.789 is amended to read:

6 181.789. (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.

31 (4) For at least 72 hours immediately following an incident in which the use of deadly physical

**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 force by a police officer resulted in the death of a person, a law enforcement agency may not return  
 2 an involved officer to duties that might place the officer in a situation in which the officer has to  
 3 use deadly physical force. A law enforcement agency may not reduce an involved officer's pay or  
 4 benefits as a result of the law enforcement agency's compliance with this subsection.  
 5 Notwithstanding ORS 181.796 (1), a personnel cost incurred in complying with this subsection by a  
 6 law enforcement agency employing 40 or fewer police officers is an expense for purposes of ORS  
 7 181.796.

8 (5)(a) *[A law enforcement agency employing an involved officer shall include at least one police*  
 9 *officer from a different law enforcement agency in the investigation of the incident in which the involved*  
 10 *officer was involved.]* **In the investigation of an incident in which an involved officer was in-**  
 11 **olved:**

12 **(A) The law enforcement agency employing the involved officer shall include at least one**  
 13 **police officer from a different law enforcement agency; and**

14 **(B) The Attorney General shall appoint to lead the investigation an attorney not em-**  
 15 **ployed by the office of the district attorney in the county in which the incident occurred or**  
 16 **by any other office in the county in which the incident occurred.**

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

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

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

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

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

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

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

29 **SECTION 2.** ORS 181.786 is amended to read:

30 181.786. In the plan required by ORS 181.783 (4), a deadly physical force planning authority  
 31 shall, at a minimum:

32 (1)(a) Address, under ORS 181.783 (4)(a), the manner in which each law enforcement agency  
 33 within the county will comply with ORS 181.789 (2); and

34 (b) Attach a copy of each policy adopted under ORS 181.789 (2) to the plan.

35 (2) Address, under ORS 181.783 (4)(b), the manner in which each law enforcement agency within  
 36 the county will comply with ORS 181.789 (3)(a) and (4).

37 (3) Address, under ORS 181.783 (4)(c), the manner in which each law enforcement agency within  
 38 the county will comply with ORS 181.789 (5)(a)(A).

39 (4) Address, under ORS 181.783 (4)(d), the manner in which the district attorney of the county  
 40 will exercise discretion to resolve issues of potential criminal responsibility.

41 (5) Address, under ORS 181.783 (4)(e), the manner in which each law enforcement agency within  
 42 the county will comply with ORS 181.789 (6).