

Senate Bill 871

Sponsored by Senator SHIELDS

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**.

Directs law enforcement agency to notify Attorney General when police officer's use of deadly physical force causes death of person.

Directs Attorney General to appoint special prosecutor to investigate and, if appropriate, prosecute use of deadly physical force. Requires that subsequent prosecution occur using preliminary hearing.

Directs law enforcement agency to fully cooperate with investigation. Authorizes Attorney General to prosecute obstruction of investigation or bring action for costs caused by failure to cooperate.

Provides that family of person whose death was caused by use of deadly physical force is victim for purposes of certain victims' rights.

A BILL FOR AN ACT

1
2 Relating to use of deadly physical force by police officers.

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

4 **SECTION 1. (1) A law enforcement agency shall notify the Attorney General within 24**
5 **hours when the use of deadly physical force during the course of official duty by a police**
6 **officer employed by the law enforcement agency was a cause in fact of the death of a person.**

7 **(2) Upon receiving the notification described in subsection (1) of this section, the Attor-**
8 **ney General shall appoint a special prosecutor to lead the investigation of the use of deadly**
9 **physical force and to initiate any resulting prosecution. The special prosecutor may not be**
10 **employed by the office of the district attorney in the county in which the incident occurred**
11 **or by any other public office in the county in which the incident occurred.**

12 **(3) A law enforcement agency shall fully cooperate with an investigation described in**
13 **subsection (2) of this section. If the Attorney General determines that the law enforcement**
14 **agency has failed to fully cooperate with the investigation, the Attorney General may:**

15 **(a) Prosecute any person obstructing the investigation under ORS 162.235; or**

16 **(b) Bring a civil action against the law enforcement agency for costs resulting from the**
17 **failure to cooperate.**

18 **(4)(a) If, after the investigation described in subsection (2) of this section, the Attorney**
19 **General believes that the use of deadly physical force constitutes a crime punishable as a**
20 **felony, the Attorney General shall file an information against the involved police officer in**
21 **circuit court and shall proceed to charge the offense in a preliminary hearing as described**
22 **in ORS 135.070 to 135.225.**

23 **(b) The immediate family of the person whose death was caused by the involved police**
24 **officer's use of deadly physical force shall be considered a victim for the purposes of ORS**
25 **147.500 to 147.550.**

26 **(5) The Attorney General shall have all the powers of a district attorney when acting**
27 **under this section, including the power to issue or cause to be issued subpoenas or other**

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 **process.**

2 **(6) As used in this section:**

3 **(a) “Deadly physical force” has the meaning given that term in ORS 161.015.**

4 **(b) “Law enforcement agency” means an agency employing police officers to enforce**
5 **criminal laws.**

6 **(c) “Police officer” means an officer employed to enforce criminal laws by:**

7 **(A) This state or a municipal government within this state;**

8 **(B) A political subdivision, agency, department or bureau of the governments described**
9 **in subparagraph (A) of this paragraph; or**

10 **(C) A police department established by a university under ORS 352.383 or 353.125.**

11 **SECTION 2. Section 1 of this 2015 Act applies to the use of deadly physical force by a**
12 **police officer occurring on or after the effective date of this 2015 Act.**

13