

# House Bill 4087

Sponsored by Representatives PILUSO, EVANS; Representatives GORSEK, MCLAIN, REARDON, WITT, Senator MONNES ANDERSON (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**.

Prohibits official action relating to employment or certification of police officer solely because police officer is on impeachment list or because of unproven allegation that police officer committed act or omission of kind for which name of police officer may be placed on impeachment list. Prohibits use of certain evidence regarding impeachment list in administrative hearing related to official action.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to police officers; creating new provisions; amending ORS 181A.355, 181A.490 and 181A.775;  
3 and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2016 Act is added to and made a part of ORS 181A.355 to**  
6 **181A.670.**

7 **SECTION 2. (1) No official action relating to the employment or certification of a police**  
8 **officer may be taken solely because the police officer has been placed on an impeachment list**  
9 **or because of an unproven allegation that the police officer has committed an act or omission**  
10 **of the kind for which the name of a police officer may be placed on an impeachment list.**

11 **(2)(a) Except as provided in paragraph (b) of this subsection, evidence that a police officer**  
12 **has been placed on an impeachment list or evidence of an unproven allegation that the police**  
13 **officer has committed an act or omission of the kind for which the name of a police officer**  
14 **may be placed on an impeachment list may not be introduced in an administrative hearing**  
15 **related to an official action relating to the employment or certification of a police officer.**

16 **(b) Evidence described in paragraph (a) of this subsection may be introduced in an ad-**  
17 **ministrative hearing related to an official action relating to the employment or certification**  
18 **of a police officer if, in the administrative hearing, the act or omission for which the police**  
19 **officer was placed on an impeachment list is proven and the police officer is found to be**  
20 **subject to punitive action relating to the police officer's employment or certification for the**  
21 **act or omission.**

22 **SECTION 3. ORS 181A.355 is amended to read:**

23 181A.355. As used in ORS 181A.355 to 181A.670, unless the context requires otherwise:

24 (1) "Abuse" has the meaning given that term in ORS 107.705.

25 (2) "Board" means the Board on Public Safety Standards and Training appointed pursuant to  
26 ORS 181A.360.

27 (3) "Certified reserve officer" means a reserve officer who has been designated by a local law  
28 enforcement unit, has received training necessary for certification and has met the minimum stan-

**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 dards and training requirements established under ORS 181A.410.

2 (4) "Commissioned" means being authorized to perform various acts or duties of a police officer,  
 3 certified reserve officer or reserve officer and acting under the supervision and responsibility of a  
 4 county sheriff or as otherwise provided by law.

5 (5) "Corrections officer" means an officer or member employed full-time by a law enforcement  
 6 unit who:

7 (a) Is charged with and primarily performs the duty of custody, control or supervision of indi-  
 8 viduals convicted of or arrested for a criminal offense and confined in a place of incarceration or  
 9 detention other than a place used exclusively for incarceration or detention of juveniles; or

10 (b) Has been certified as a corrections officer described in paragraph (a) of this subsection and  
 11 has supervisory or management authority for corrections officers described in paragraph (a) of this  
 12 subsection.

13 (6) "Department" means the Department of Public Safety Standards and Training.

14 (7) "Director" means the Director of the Department of Public Safety Standards and Training.

15 (8) "Domestic violence" means abuse between family or household members.

16 (9) "Emergency medical dispatcher" means a person who has responsibility to process requests  
 17 for medical assistance from the public or to dispatch medical care providers.

18 (10) "Family or household members" has the meaning given that term in ORS 107.705.

19 (11) "Fire service professional" means a paid or volunteer firefighter, an officer or a member  
 20 of a public or private fire protection agency that is engaged primarily in fire investigation, fire  
 21 prevention, fire safety, fire control or fire suppression or providing emergency medical services, light  
 22 and heavy rescue services, search and rescue services or hazardous materials incident response.  
 23 "Fire service professional" does not mean forest fire protection agency personnel.

24 **(12) "Impeachment list" means any list, index, system or other record that is maintained**  
 25 **by a prosecutor's office and that contains the names of police officers whose personnel files**  
 26 **are likely to contain evidence of dishonesty or bias.**

27 [(12)] (13) "Law enforcement unit" means:

28 (a) A police force or organization of the state, a city, university that has established a police  
 29 department under ORS 352.121 or 353.125, port, school district, mass transit district, county, county  
 30 service district authorized to provide law enforcement services under ORS 451.010, tribal govern-  
 31 ment as defined in ORS 181A.680 that employs authorized tribal police officers as defined in ORS  
 32 181A.680, the Criminal Justice Division of the Department of Justice, the Department of Corrections,  
 33 the Oregon State Lottery Commission, the Security and Emergency Preparedness Office of the Ju-  
 34 dicial Department or common carrier railroad the primary duty of which, as prescribed by law, or-  
 35 dinance or directive, is one or more of the following:

36 (A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating  
 37 to airport security;

38 (B) The custody, control or supervision of individuals convicted of or arrested for a criminal  
 39 offense and confined to a place of incarceration or detention other than a place used exclusively for  
 40 incarceration or detention of juveniles; or

41 (C) The control, supervision and reformation of adult offenders placed on parole or sentenced  
 42 to probation and investigation of adult offenders on parole or probation or being considered for  
 43 parole or probation;

44 (b) A police force or organization of a private entity with a population of more than 1,000 resi-  
 45 dents in an unincorporated area the employees of which are commissioned by a county sheriff;

1 (c) A district attorney's office;

2 (d) The Oregon Liquor Control Commission with regard to regulatory specialists; or

3 (e) A humane investigation agency as defined in ORS 181A.340.

4 [(13)] (14) "Parole and probation officer" means:

5 (a) An officer who is employed full-time by the Department of Corrections, a county or a court  
6 and who is charged with and performs the duty of:

7 (A) Community protection by controlling, investigating, supervising and providing or making  
8 referrals to reformative services for adult parolees or probationers or offenders on post-prison  
9 supervision; or

10 (B) Investigating adult offenders on parole or probation or being considered for parole or pro-  
11 bation; or

12 (b) An officer who:

13 (A) Is certified and has been employed as a full-time parole and probation officer for more than  
14 one year;

15 (B) Is employed part-time by the Department of Corrections, a county or a court; and

16 (C) Is charged with and performs the duty of:

17 (i) Community protection by controlling, investigating, supervising and providing or making re-  
18 ferrals to reformative services for adult parolees or probationers or offenders on post-prison super-  
19 vision; or

20 (ii) Investigating adult offenders on parole or probation or being considered for parole or pro-  
21 bation.

22 [(14)] (15) "Police officer" means:

23 (a) An officer, member or employee of a law enforcement unit employed full-time as a peace of-  
24 ficer who is:

25 (A) Commissioned by a city, port, school district, mass transit district, county, county service  
26 district authorized to provide law enforcement services under ORS 451.010, tribal government as  
27 defined in ORS 181A.680, the Criminal Justice Division of the Department of Justice, the Oregon  
28 State Lottery Commission, a university that has established a police department under ORS 352.121  
29 or 353.125, the Governor or the Department of State Police; and

30 (B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to  
31 airport security;

32 (b) An investigator of a district attorney's office if the investigator is or has been certified as  
33 a peace officer in this or another state;

34 (c) A humane special agent commissioned under ORS 181A.340;

35 (d) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181A.540; or

36 (e) An authorized tribal police officer as defined in ORS 181A.680.

37 [(15)] (16) "Public or private safety agency" means a unit of state or local government, a special  
38 purpose district or a private firm that provides, or has authority to provide, fire fighting, police,  
39 ambulance or emergency medical services.

40 [(16)] (17) "Public safety personnel" and "public safety officer" include corrections officers,  
41 youth correction officers, emergency medical dispatchers, parole and probation officers, police offi-  
42 cers, certified reserve officers, reserve officers, telecommunicators, regulatory specialists and fire  
43 service professionals.

44 [(17)] (18) "Regulatory specialist" has the meaning given that term in ORS 471.001.

45 [(18)] (19) "Reserve officer" means an officer or member of a law enforcement unit who is:

1 (a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port,  
 2 school district, mass transit district, county, county service district authorized to provide law  
 3 enforcement services under ORS 451.010, tribal government as defined in ORS 181A.680, the Crimi-  
 4 nal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a univer-  
 5 sity that has established a police department under ORS 352.121 or 353.125, the Governor or the  
 6 Department of State Police;

7 (b) Armed with a firearm; and

8 (c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordi-  
 9 nances relating to airport security.

10 [(19)] (20) “Telecommunicator” means a person employed as an emergency communications  
 11 worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving,  
 12 processing and transmitting public safety information received through the emergency communi-  
 13 cations system as defined in ORS 403.105.

14 [(20)] (21) “Youth correction officer” means an employee of the Oregon Youth Authority who is  
 15 charged with and primarily performs the duty of custody, control or supervision of youth offenders  
 16 confined in a youth correction facility.

17 **SECTION 4.** ORS 181A.490 is amended to read:

18 181A.490. (1) Except for a person who has requested and obtained an extension from the De-  
 19 partment of Public Safety Standards and Training pursuant to subsection (2) of this section, a person  
 20 may not be employed as a police officer, or utilized as a certified reserve officer, by any law  
 21 enforcement unit for more than 18 months unless:

22 (a) The person is a citizen of the United States; and

23 (b) The person has been certified as being qualified as a police officer or certified reserve officer  
 24 under the provisions of ORS 181A.355 to 181A.670 and the certification has neither lapsed nor been  
 25 revoked pursuant to ORS 181A.630, 181A.640 and 181A.650 (1) and not been reissued under ORS  
 26 181A.650 (2).

27 (2) The department, upon the facts contained in an affidavit accompanying the request for an  
 28 extension, may find good cause for failure to obtain certification within the time period described  
 29 in subsection (1) of this section. If the department finds that there is good cause for such failure,  
 30 the department may extend for up to one year the period that a person may serve as a police officer  
 31 or reserve officer without certification. The grant or denial of such an extension is within the sole  
 32 discretion of the department.

33 (3) Except as provided in subsection (4) of this section, a person employed as a police officer  
 34 by any law enforcement unit shall commence the training necessary for certification under ORS  
 35 181A.355 to 181A.670 at an academy operated by the department not later than the 90th day after  
 36 the date of the officer’s employment by the law enforcement unit.

37 (4) A law enforcement unit may delay the commencement of training of a police officer for up  
 38 to 120 days from the date of the officer’s employment when it considers the delay necessary. When  
 39 a law enforcement unit delays commencement of a police officer’s training under this subsection, it  
 40 shall file a written statement of its reasons with the department.

41 (5) When a delay in the commencement of training necessary for certification under ORS  
 42 181A.355 to 181A.670 at an academy operated by the department is caused by the inability of the  
 43 department, for any reason, to provide that training, the period of such delay shall not be counted  
 44 as part of the periods set forth in subsections (3) and (4) of this section within which the training  
 45 must be commenced.

1 (6) A person utilized as a certified reserve officer by a law enforcement unit must complete the  
2 training necessary for certification under ORS 181A.355 to 181A.670 at a site approved by the de-  
3 partment.

4 (7) Notwithstanding any other provision of law, the law enforcement unit described in ORS  
5 181A.355 [(12)(e)] (13)(e) shall bear the expense of training necessary for certification under ORS  
6 181A.355 to 181A.670.

7 **SECTION 5.** ORS 181A.775 is amended to read:

8 181A.775. As used in ORS 181A.775 to 181A.805:

9 (1) "Employ," when used in the context of the relationship between a law enforcement agency  
10 and a police officer, includes the assignment of law enforcement duties on a volunteer basis to a  
11 reserve officer.

12 (2) "Law enforcement agency" means the Department of State Police, the Department of Justice,  
13 a district attorney, a political subdivision of the State of Oregon, a municipal corporation of the  
14 State of Oregon, a tribal government and a university, that maintains a law enforcement unit as  
15 defined in ORS 181A.355 [(12)(a)(A)] (13)(a)(A).

16 (3) "Police officer" means a person who is:

17 (a) A police officer or reserve officer as defined in ORS 181A.355; and

18 (b) Employed by a law enforcement agency to enforce the criminal laws of this state.

19 (4) "Tribal government" means a tribal government as defined in ORS 181A.680:

20 (a) With land that is contiguous to the county in which the deadly physical force planning au-  
21 thority is created; and

22 (b) That has adopted the provision of tribal law described in ORS 181A.685 (4)(d)(A).

23 **SECTION 6. Section 2 of this 2016 Act and the amendments to ORS 181A.355 by section**  
24 **3 of this 2016 Act apply to official actions and administrative hearings conducted on or after**  
25 **the effective date of this 2016 Act.**

26 **SECTION 7. This 2016 Act being necessary for the immediate preservation of the public**  
27 **peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect**  
28 **on its passage.**

29