

# D R A F T

## SUMMARY

Modifies police officer's duty to report misconduct. Requires law enforcement unit to investigate reports of misconduct.

Directs Bureau of Labor and Industries to establish and maintain form and database for reports of misconduct and to investigate certain reports of misconduct.

## A BILL FOR AN ACT

1  
2 Relating to police officer misconduct; creating new provisions; and amending  
3 section 2, chapter 5, Oregon Laws 2020 (first special session) (Enrolled  
4 House Bill 4205).

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

6 **SECTION 1.** Section 2, chapter 5, Oregon Laws 2020 (first special session)  
7 (Enrolled House Bill 4205), is amended to read:

8 **Sec. 2.** (1) As used in this section, "misconduct" means:

9 (a) Unjustified or excessive force that is objectively unreasonable under  
10 the circumstances or in violation of the use of force policy for the law  
11 enforcement unit employing the offending officer;

12 (b) Sexual harassment or sexual misconduct;

13 (c) Discrimination against a person based on race, color, religion, sex,  
14 sexual orientation, national origin, disability or age;

15 (d) A crime; or

16 (e) A violation of the minimum standards for physical, emotional, intel-  
17 lectual and moral fitness for public safety personnel established under ORS  
18 181A.410.

19 (2) Without regard to rank or assignment, a police officer or reserve of-

1 ficer shall intervene to prevent or stop another police officer or reserve of-  
2 ficer engaged in any act the intervening officer knows or reasonably should  
3 know is misconduct, unless the intervening officer cannot intervene safely.

4 (3)(a) A police officer or reserve officer who witnesses another police of-  
5 ficer or reserve officer engaging in misconduct shall report the misconduct  
6 [to a supervisor] as soon as practicable, but no later than 72 hours after  
7 witnessing the misconduct, to:

8 (A) A direct supervisor of the reporting officer;

9 (B) A person in the reporting officer's chain of command;

10 (C) Another person who the reporting officer believes has authority  
11 to investigate misconduct and impose discipline; or

12 (D) The Bureau of Labor and Industries as provided in section 2 of  
13 this 2021 Act.

14 (b) If the person to whom an officer reports misconduct does not  
15 have authority to investigate misconduct and impose discipline, the  
16 person shall report the misconduct to a person who has authority to  
17 investigate misconduct and impose discipline as soon as practicable,  
18 but no later than 72 hours after receiving the report.

19 (c) A person with authority to investigate misconduct and impose  
20 discipline who receives a report of misconduct under paragraph (a) or  
21 (b) of this subsection shall:

22 (A) Open an investigation of the misconduct within 48 hours after  
23 receiving the report;

24 (B) Transmit the report to the Bureau of Labor and Industries as  
25 provided in section 2 of this 2021 Act; and

26 (C) If the reported misconduct was committed against a civilian,  
27 transmit the report to the Department of Justice.

28 (d) A law enforcement unit that receives a report of misconduct  
29 under this subsection shall complete an investigation of the miscon-  
30 duct within three months after the date of the report. The law  
31 enforcement unit shall notify the Bureau of Labor and Industries of

1 **the outcome of the investigation.**

2 (4) Failure to intervene or report as required by subsections (2) and (3)  
3 of this section is grounds for disciplinary action against a police officer or  
4 reserve officer by the law enforcement unit employing the officer or for the  
5 Department of Public Safety Standards and Training to suspend or revoke  
6 the officer's certification as provided in ORS 181A.630, 181A.640 and  
7 181A.650.

8 (5) An employer may not discharge, demote, suspend or in any manner  
9 discriminate or retaliate against a police officer or reserve officer with re-  
10 gard to promotion, compensation or other terms, conditions or privileges of  
11 employment for the reason that the officer intervened or reported as required  
12 by subsections (2) and (3) of this section. Violation of this subsection is an  
13 unlawful employment practice as provided in ORS 659A.199.

14 (6) The Department of Public Safety Standards and Training shall report  
15 at least annually to an appropriate committee of the Legislative Assembly  
16 on any rules adopted by the department implementing this section.

17 **SECTION 2. (1)(a) The Bureau of Labor and Industries shall estab-**  
18 **lish and maintain a form and database for reports of misconduct under**  
19 **section 2, chapter 5, Oregon Laws 2020 (first special session) (Enrolled**  
20 **House Bill 4205).**

21 **(b) The form must be available on the bureau's website.**

22 **(c) The bureau shall document verbal reports in the database.**

23 **(d) The bureau shall make the database available to the Department**  
24 **of Justice.**

25 **(2) When the bureau receives a report of misconduct directly from**  
26 **a police officer or reserve officer under section 2 (3)(a)(D), chapter 5,**  
27 **Oregon Laws 2020 (first special session) (Enrolled House Bill 4205), the**  
28 **bureau shall investigate the report and notify the law enforcement**  
29 **agency employing the subject of the report of the outcome of the in-**  
30 **vestigation.**

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