Senate Bill 427

Sponsored by Senator 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

Relating to investigations of the use of deadly physical force by peace officers; amending ORS 181A.785 and 181A.790.

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

SECTION 1. ORS 181A.790 is amended to read:

181A.790. (1) As used in this section, “involved officer” means:

(a) A police officer whose official conduct, or official order to use deadly physical force, was a cause in fact of the death of a person. As used in this paragraph, “order to use deadly physical force” means an order issued to another officer to use deadly physical force in a specific incident or an order or directive establishing rules of engagement for the use of deadly physical force for a specific incident.

(b) A police officer whose official conduct was not a cause in fact of the death of a person but whose official involvement in an incident in which the use of deadly physical force by a police officer resulted in the death of a person:

(A) Began before or during the use of the deadly physical force; and

(B) Was reasonably likely to have exposed the police officer to greater stresses or trauma than other police officers experienced as a result of their involvement in the incident before or during the use of the deadly physical force.

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

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

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

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

(4) For at least 72 hours immediately following an incident in which the use of deadly physical force...
force by a police officer resulted in the death of a person, a law enforcement agency may not return
an involved officer to duties that might place the officer in a situation in which the officer has to
use deadly physical force. A law enforcement agency may not reduce an involved officer’s pay or
benefits as a result of the law enforcement agency’s compliance with this subsection.
Notwithstanding ORS 181A.805 (1), a personnel cost incurred in complying with this subsection by
a law enforcement agency employing 40 or fewer police officers is an expense for purposes of ORS
181A.805.

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

(5)(a) In the investigation of an incident in which an involved officer was involved:

(A) The law enforcement agency that employs the involved officer shall include at least
one police officer from a different law enforcement agency; and

(B) The Attorney General shall appoint to lead the investigation an attorney that is not
employed by the office of the district attorney in the county in which the incident occurred
or by any other office in the county in which the incident occurred.

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

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

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

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

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

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

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

SECTION 2. ORS 181A.785 is amended to read:

181A.785. In the plan required by ORS 181A.780 (4), a deadly physical force planning authority
shall, at a minimum:

(1)(a) Address, under ORS 181A.780 (4)(a), the manner in which each law enforcement agency
within the county will comply with ORS 181A.790 (2); and

(b) Attach a copy of each policy adopted under ORS 181A.790 (2) to the plan.

(2) Address, under ORS 181A.780 (4)(b), the manner in which each law enforcement agency
within the county will comply with ORS 181A.790 (3)(a) and (4).

(3) Address, under ORS 181A.780 (4)(c), the manner in which each law enforcement agency
within the county will comply with ORS 181A.790 (5)(a)(A).

(4) Address, under ORS 181A.780 (4)(d), the manner in which the district attorney of the county
will exercise discretion to resolve issues of potential criminal responsibility.

(5) Address, under ORS 181A.780 (4)(e), the manner in which each law enforcement agency
within the county will comply with ORS 181A.790 (6).