

**HB 4205 A STAFF MEASURE SUMMARY**  
**Joint Committee On The First Special Session of 2020**

**Carrier:** Rep. Alonso Leon

**Action Date:** 06/25/20

**Action:** Do pass with amendments. (Printed A-Eng.)

**House Vote**

**Yeas:** 7 - Bynum, Drazan, Holvey, Lewis, Salinas, Speaker Kotek, Stark

**Senate Vote**

**Yeas:** 7 - Burdick, Frederick, Girod, Knopp, President Courtney, Prozanski, Thatcher

**Fiscal:** Fiscal impact issued

**Revenue:** No revenue impact

**Prepared By:** Channa Newell, LPRO Analyst

**Meeting Dates:** 6/25

**WHAT THE MEASURE DOES:**

Proclaims Black Lives Matter and detailing current and historic experiences of Black and other Persons of Color interactions with law enforcement officers. Requires police officer or reserve officer to intervene when another officer engages in act the intervening officer knows or reasonably should have known is misconduct. Requires report of misconduct to be made by witnessing officer as soon as practicable, but no later than 72 hours from witnessing misconduct. Defines misconduct as unjustified or excessive force that is objectively unreasonable under the circumstances or in violation of the law enforcement agency's use of force policy; sexual harassment or sexual misconduct; discrimination against a person based on protected class; committing a crime; or violation of the minimum standards for fitness for public safety personnel. Specifies failure to report or failure to intervene is grounds for discipline by agency or Department of Public Safety Standards and Training (DPSST). Requires DPSST to provide annual report on rules adopted by DPSST for implementation of measure to appropriate committee of the Legislative Assembly.

**ISSUES DISCUSSED:**

- Description of law enforcement officers observing but not intervening in use of force that lead to George Floyd's death
- Need for requirement to intervene and to report misconduct
- Prohibitions on retaliation for intervention or report
- Desire to ensure that supervisors receiving reports take timely action to investigate misconduct

**EFFECT OF AMENDMENT:**

Adds whereas clauses proclaiming Black Lives Matter and detailing current and historic experiences of Black and other Persons of Color interactions with law enforcement officers. Modifies duty to intervene and duty to report misconduct.

**BACKGROUND:**

The Department of Public Safety Standards and Training (DPSST) is the state agency responsible for training and certifying police officers in Oregon. Under ORS 181A.640, DPSST may suspend or revoke an officer's certification if the officer falsifies information on their application, is convicted of a crime or violation in any state, fails to attend a session with a mental health professional after being involved in a deadly force incident, or otherwise fails to meet DPSST standards and conditions. An officer subject to a suspension or revocation of their certification is entitled to notice and an opportunity for a hearing and appeal. There is currently no state statute requiring an officer to report or intervene to stop misconduct by another officer. However, a law enforcement agency could

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adopt policies requiring such action and impose its own discipline.

House Bill 4205-A requires officers to intervene when they know, or reasonably should have known, that another officer is engaged in misconduct. Misconduct can include unreasonable or unjustified use of force, or force used in violation of an agency's policies; sexual harassment or sexual misconduct; discrimination against a person based on protected class; committing a crime; or violation of the minimum standards for fitness for public safety personnel. Officers also have a duty to report the misconduct and are protected from retaliation for doing so.