

**A-Engrossed**  
**House Bill 4207**

Ordered by the House June 26  
Including House Amendments dated June 26

Sponsored by Representative KOTEK; Representatives ALONSO LEON, CLEM, HERNANDEZ, HOLVEY, LEWIS, MITCHELL, PILUSO, SANCHEZ, WILDE (at the request of Joint Committee on the First Special Session of 2020)

**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.

*[Directs Department of Public Safety Standards and Training to establish statewide database of police officer discipline records. Directs department to publish online information about disciplinary proceedings against police officers.]*

**Directs Department of Public Safety Standards and Training to establish public statewide online database of suspensions and revocations of certifications of police officers.**

Directs department to submit annual report to appropriate committee of Legislative Assembly on *[complaints against police officers]* database.

**Requires law enforcement agency, before extending offer of employment to police officer applicant, to request and review personnel records of applicant from law enforcement agencies that previously employed applicant. Requires law enforcement agencies to maintain and share personnel records. Limits liability of agency that complies with requirements.**

**Requires department to deny application for training or deny, suspend or revoke certification of police officer based upon certain findings.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to records of discipline of police officers; creating new provisions; amending ORS 181A.640  
3 and 181A.830; and declaring an emergency.

4 Whereas Black Lives Matter; and

5 Whereas the lives of Kendra James, Jason Washington, Andre Gladen, Patrick Kimmons, Chase  
6 Arnae Peoples, Terrell Kyreem Johnson, Quanice Derrick Hayes, Denorris Laron McClendon, Darris  
7 Eugene Johnson matter; and

8 Whereas we count on the police to protect and serve; and

9 Whereas accountability is a vital element of American policing; and

10 Whereas in Oregon, a police officer's disciplinary history is mostly unavailable through public  
11 records requests; and

12 Whereas police discipline records are purposefully obfuscated from the public; and

13 Whereas there is growing public concern about police accountability and transparency; and

14 Whereas the public deserves to know the record of the officers who hold the greatest power and  
15 authority in our communities; and

16 Whereas we cannot legislate away racism but we can legislate bringing it to light; and

17 Whereas there is a pattern of abuse of citizens' rights; and

18 Whereas across the country, there are instances of police misconduct followed by firing and  
19 rehiring in another jurisdiction; and

20 Whereas in Oregon, there is evidence of jurisdiction transfers in response to misconduct; and

**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 Whereas Officer Jason Sery of the Portland Police Bureau shot and killed James Jahar Perez  
2 during a routine traffic stop over a missed turn signal; and

3 Whereas Officer Sery resigned from the Portland Police Bureau and now works to train officers  
4 with the Beaverton Police Department; and

5 Whereas abuses like this cause irreparable loss of public trust and confidence in the ability of  
6 law enforcement to be fair and unbiased; and

7 Whereas in addition to costing citizens their sense of safety and sometimes their lives, police  
8 misconduct has a large economic impact; and

9 Whereas cities across the country spend millions of dollars each year settling police misconduct  
10 lawsuits; and

11 Whereas nationally, false arrests, civil rights violations and excessive force cost taxpayers over  
12 \$300 million in 2019; and

13 Whereas the taxpayers are going to bear the brunt for the cost of police brutality; and

14 Whereas without a database to track instances of police misconduct, it is difficult to know how  
15 many officers with charges of misconduct on their records leave one department and go to another;  
16 now, therefore,

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

18 **SECTION 1. Sections 2 to 4 of this 2020 special session Act are added to and made a part**  
19 **of ORS 181A.355 to 181A.670.**

20 **SECTION 2. The Legislative Assembly finds that:**

21 **(1) It is in the public interest to have trust and transparency in the hiring of law**  
22 **enforcement officers.**

23 **(2) It is in the public interest to ensure that information relating to allegations of mis-**  
24 **conduct are not shielded in the employment process, while ensuring due process and a fair**  
25 **chance for police officers accused of misconduct in order to promote the hiring of individuals**  
26 **who represent the highest values of policing.**

27 **SECTION 3. (1) The Department of Public Safety Standards and Training shall establish**  
28 **a statewide online database of suspensions and revocations of the certifications of police of-**  
29 **icers that is accessible by the public.**

30 **(2) The department shall publish information on the database when the department sus-**  
31 **pends or revokes the certification of a police officer under ORS 181A.630, 181A.640 and**  
32 **181A.650, including but not limited to:**

33 **(a) The name of the officer;**

34 **(b) The law enforcement unit at which the officer was employed; and**

35 **(c) A description of the facts underlying the suspension or revocation.**

36 **(3) The department shall publish the information required under subsection (2) of this**  
37 **section within 10 days after:**

38 **(a) The time for filing an appeal of the department's decision under ORS 181A.650 has**  
39 **passed and no appeal has been filed; or**

40 **(b) The decision of the department is appealed under ORS 181A.650 and the department's**  
41 **decision has been sustained by the Court of Appeals or the appeal has been dropped.**

42 **(4) The department shall submit an annual report to an appropriate committee of the**  
43 **Legislative Assembly summarizing and analyzing the data in the database.**

44 **SECTION 4. (1) As used in this section:**

45 **(a) "Law enforcement agency" has the meaning given that term in ORS 181A.775.**

1       **(b) “Personnel records” means the entire personnel file of a police officer or reserve of-**  
2 **ficer, including but not limited to records of complaints and disciplinary action against the**  
3 **officer.**

4       **(2) Before extending an offer of employment to an applicant for a police officer or reserve**  
5 **officer position, a law enforcement agency shall request and review the applicant’s personnel**  
6 **records from all law enforcement agencies in any jurisdiction at which the applicant was**  
7 **formerly employed.**

8       **(3) A law enforcement agency shall provide the personnel records of a police officer or**  
9 **reserve officer who was employed by the law enforcement agency at any time to another law**  
10 **enforcement agency that requests the records for review under subsection (2) of this section.**

11       **(4) A law enforcement agency shall retain the personnel records of a police officer or**  
12 **reserve officer employed by the agency for at least 10 years after the officer leaves employ-**  
13 **ment with the agency.**

14       **(5)(a) A law enforcement agency that complies with subsection (2) of this section is im-**  
15 **mune from civil liability for any harm arising from relying on personnel records received**  
16 **under subsection (2) of this section.**

17       **(b) A law enforcement agency that complies with subsection (3) of this section is immune**  
18 **from civil liability for any harm arising from providing personnel records under subsection**  
19 **(3) of this section.**

20       **(c) This subsection does not limit the liability of a law enforcement agency that fails to**  
21 **request, provide or retain records as required by subsections (2) to (4) of this section.**

22       **(d) This subsection does not limit the liability of a law enforcement agency for negligent**  
23 **hiring.**

24       **SECTION 5. ORS 181A.830 is amended to read:**

25       181A.830. (1) As used in this section:

26       (a) “Public body” has the meaning given that term in ORS 192.311.

27       (b) “Public safety employee” means a certified reserve officer, corrections officer, parole and  
28 probation officer, police officer or youth correction officer as those terms are defined in ORS  
29 181A.355.

30       (2) A public body may not disclose a photograph of a public safety employee of the public body  
31 without the written consent of the employee. This subsection does not apply to the use by the public  
32 body of a photograph of a public safety employee.

33       (3) A public body may not disclose information about a personnel investigation of a public safety  
34 employee of the public body if the investigation does not result in discipline of the employee.

35       (4) Subsection (3) of this section does not apply:

36       (a) When the public interest requires disclosure of the information.

37       (b) When the employee consents to disclosure in writing.

38       (c) When disclosure is necessary for an investigation by the public body, the Department of  
39 Public Safety Standards and Training or a citizen review body designated by the public body.

40       **(d) To disclosures required under section 4 of this 2020 special session Act.**

41       [(d)] (e) When the public body determines that nondisclosure of the information would adversely  
42 affect the confidence of the public in the public body.

43       (5) If an investigation of a public safety employee of a public body results from a complaint, the  
44 public body may disclose to the complainant the disposition of the complaint and, to the extent the  
45 public body considers necessary to explain the action of the public body on the complaint, a written

1 summary of information obtained in the investigation.

2 (6) A public body must notify a public safety employee of the public body if the public body re-  
3 ceives a request for:

4 (a) A photograph of the employee.

5 (b) Information about the employee that is exempt from disclosure under ORS 192.345 or 192.355  
6 (2) or (3).

7 (c) Information about the employee that is prohibited from disclosure by subsection (3) of this  
8 section.

9 **SECTION 6.** ORS 181A.640 is amended to read:

10 181A.640. (1) The Department of Public Safety Standards and Training may deny the application  
11 for training, or deny, suspend or revoke the certification, of any public safety officer or instructor,  
12 except a youth correction officer or fire service professional, after written notice and hearing con-  
13 sistent with the provisions of ORS 181A.630, based upon a finding that:

14 (a) The public safety officer or instructor falsified any information submitted on the application  
15 for certification or on any documents submitted to the Board on Public Safety Standards and  
16 Training or the department.

17 (b) The public safety officer or instructor has been convicted of a crime or violation in this state  
18 or any other jurisdiction.

19 (c) The public safety officer or instructor does not meet the applicable minimum standards,  
20 minimum training or the terms and conditions established under ORS 181A.410 (1)(a) to (d).

21 (d) The public safety officer failed to comply with ORS 181A.790 (3)(b).

22 **(2) The department shall deny the application for training or deny, suspend or revoke the**  
23 **certification of a police officer, after written notice and hearing consistent with the pro-**  
24 **visions of ORS 181A.630, based upon a finding that:**

25 **(a) The officer has a conviction for any offense designated under the law of the jurisdic-**  
26 **tion where the conviction occurred as being punishable as a felony or as a crime for which**  
27 **a maximum term of imprisonment of more than one year may be imposed;**

28 **(b) The officer has a conviction in any jurisdiction for any offense involving the unlawful**  
29 **use, possession, delivery or manufacture of a controlled substance, narcotic or dangerous**  
30 **drug, except for offenses involving the use or possession of marijuana;**

31 **(c) The officer has a conviction in any jurisdiction for any offense involving domestic vi-**  
32 **olence, as defined in ORS 135.230;**

33 **(d) The officer has a conviction in any jurisdiction for any offense involving abuse, as**  
34 **defined in ORS 107.705, of a child who is under 18 years of age and is a natural child, adopted**  
35 **child, stepchild, a child under the guardianship of, or a child who regularly resides or for-**  
36 **merly resided in the same household as, the officer;**

37 **(e) The officer is a sex offender as defined in ORS 163A.005; or**

38 **(f) The officer has been discharged for cause from employment as a police officer as a**  
39 **result of intentional conduct performed under the color of office to:**

40 **(A) Obtain false confessions;**

41 **(B) Make false arrests;**

42 **(C) Create or use falsified evidence, including false testimony, or to destroy evidence to**  
43 **create a false impression;**

44 **(D) Compel a person to abstain from doing, or to do, any act that the person has a legal**  
45 **right to do or abstain from doing;**

1 **(E) Deprive, or attempt to deprive, another person or persons of their legal rights; or**

2 **(F) Gain advantage for a public or private safety agency or for personal gain.**

3 [(2)] (3) The department shall deny, suspend or revoke the certification of a fire service profes-  
4 sional, after written notice and hearing consistent with the provisions of ORS 181A.630, based upon  
5 a finding that the fire service professional has been convicted in this state of a crime listed in ORS  
6 137.700 or in any other jurisdiction of a crime that, if committed in this state, would constitute a  
7 crime listed in ORS 137.700.

8 [(3)] (4) The department may deny, suspend or revoke the certification of any fire service pro-  
9 fessional after written notice and hearing consistent with the provisions of ORS 181A.630, based  
10 upon a finding:

11 (a) That the fire service professional falsified any information submitted on the application for  
12 certification or on any documents submitted to the board or the department; or

13 (b) Consistent with ORS 670.280, that the fire service professional is not fit to receive or hold  
14 the certification as a result of conviction of a crime in this state, or in any other jurisdiction, other  
15 than a crime described in subsection [(2)] (3) of this section.

16 [(4)] (5) The department shall deny, suspend or revoke the certification of any public safety of-  
17 ficer or instructor, except a youth correction officer, after written notice and hearing consistent  
18 with the provisions of ORS 181A.630, based upon a finding that the public safety officer or instructor  
19 has been discharged for cause from employment as a public safety officer.

20 [(5)] (6) The department, in consultation with the board, shall adopt rules specifying those  
21 crimes and violations for which a conviction requires the denial, suspension or revocation of the  
22 certification of a public safety officer or instructor.

23 [(6)] (7) Notwithstanding the lapse, suspension, revocation or surrender of the certification of a  
24 public safety officer or instructor, the department may:

25 (a) Proceed with any investigation of, or any action or disciplinary proceedings against, the  
26 public safety officer or instructor; or

27 (b) Revise or render void an order suspending or revoking the certification.

28 [(7)] (8) The department shall deny, suspend or revoke the accreditation of a training or educa-  
29 tional program or any course, subject, facility or instruction thereof if the program, course, subject,  
30 facility or instruction is not in compliance with rules adopted or conditions prescribed under ORS  
31 181A.410 (1)(g) or 181A.590 (3).

32 [(8)] (9) When the department completes an investigation relating to a person's qualifications for  
33 employment, training or certification under this section, the department shall issue a report.

34 [(9)] (10) In cases involving a proposed denial of training or certification of a public safety offi-  
35 cer or instructor by the department, the department has jurisdiction to proceed with any action  
36 against the public safety officer or instructor notwithstanding a subsequent change in the employ-  
37 ment status of the officer or instructor, if:

38 (a) The department has issued a notice of intent to deny training or certification; and

39 (b) The officer or instructor has requested a hearing.

40 **SECTION 7. (1) Section 3 of this 2020 special session Act becomes operative on January**  
41 **1, 2021.**

42 **(2) The Department of Public Safety Standards and Training may take any action before**  
43 **the operative date specified in subsection (1) of this section to enable the department, on and**  
44 **after the operative date specified in subsection (1) of this section, to exercise the duties,**  
45 **functions and powers conferred on the department by section 3 of this 2020 special session**

1 **Act.**

2 **SECTION 8. Sections 3 and 4 of this 2020 special session Act do not affect a collective**  
3 **bargaining agreement entered into before the effective date of this 2020 special session Act,**  
4 **to the extent compliance with the provisions of sections 3 and 4 of this 2020 special session**  
5 **Act would conflict with or impair the execution of the terms of the collective bargaining**  
6 **agreement.**

7 **SECTION 9. This 2020 special session Act being necessary for the immediate preservation**  
8 **of the public peace, health and safety, an emergency is declared to exist, and this 2020 special**  
9 **session Act takes effect on its passage.**

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