

HB 4207-2
(LC 78)
6/24/20 (MNJ/ps)

Requested by JOINT COMMITTEE ON THE FIRST SPECIAL SESSION OF 2020 (at the request of
People of Color Caucus)

**PROPOSED AMENDMENTS TO
HOUSE BILL 4207**

1 On page 1 of the printed bill, line 2, after “ORS” insert “181A.640 and”.

2 Delete lines 5 through 29 and delete page 2 and insert:

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

5 **“SECTION 2. The Legislative Assembly finds that:**

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

8 **“(2) It is in the public interest to ensure that information relating**
9 **to allegations of misconduct are not shielded in the employment pro-**
10 **cess, while ensuring due process and a fair chance for police officers**
11 **accused of misconduct in order to promote the hiring of individuals**
12 **who represent the highest values of policing.**

13 **“SECTION 3. (1) The Department of Public Safety Standards and**
14 **Training shall establish a statewide online database of discipline re-**
15 **ords of police officers and reserve officers that is accessible by the**
16 **public.**

17 **“(2) The department shall publish information on the database**
18 **when the department suspends or revokes the certification of a police**
19 **officer or reserve officer under ORS 181A.630, 181A.640 and 181A.650,**
20 **including but not limited to:**

21 **“(a) The name of the officer;**

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

3 **“(c) A description of the facts underlying the suspension or revo-**
4 **cation.**

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

7 **“(a) The time for filing an appeal of the department’s decision un-**
8 **der ORS 181A.650 has passed and no appeal has been filed; or**

9 **“(b) The decision of the department is appealed under ORS 181A.650**
10 **and the department’s decision has been sustained by the Court of Ap-**
11 **peals or the appeal has been dropped.**

12 **“(4) The department shall submit an annual report to an appropri-**
13 **ate committee of the Legislative Assembly summarizing and analyzing**
14 **the data in the database.**

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

16 **“(a) ‘Law enforcement agency’ has the meaning given that term in**
17 **ORS 181A.775.**

18 **“(b) ‘Personnel records’ means the entire personnel file of a police**
19 **officer or reserve officer, including but not limited to records of com-**
20 **plaints and disciplinary action against the officer.**

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

26 **“(3) A law enforcement agency shall provide the personnel records**
27 **of a police officer or reserve officer who was employed by the law**
28 **enforcement agency at any time to another law enforcement agency**
29 **that requests the records for review under subsection (2) of this sec-**
30 **tion.**

1 **“(4) A law enforcement agency shall retain the personnel records**
2 **of a police officer or reserve officer employed by the agency for at least**
3 **10 years after the officer leaves employment with the agency.**

4 **“(5)(a) A law enforcement agency that complies with subsection (2)**
5 **of this section is immune from civil liability for any harm arising from**
6 **relying on personnel records received under subsection (2) of this sec-**
7 **tion.**

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

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

14 **“(d) This subsection does not limit the liability of a law enforce-**
15 **ment agency for negligent hiring.**

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

17 **“181A.830. (1) As used in this section:**

18 **“(a) ‘Public body’ has the meaning given that term in ORS 192.311.**

19 **“(b) ‘Public safety employee’ means a certified reserve officer, corrections**
20 **officer, parole and probation officer, police officer or youth correction officer**
21 **as those terms are defined in ORS 181A.355.**

22 **“(2) A public body may not disclose a photograph of a public safety em-**
23 **ployee of the public body without the written consent of the employee. This**
24 **subsection does not apply to the use by the public body of a photograph of**
25 **a public safety employee.**

26 **“(3) A public body may not disclose information about a personnel inves-**
27 **tigation of a public safety employee of the public body if the investigation**
28 **does not result in discipline of the employee.**

29 **“(4) Subsection (3) of this section does not apply:**

30 **“(a) When the public interest requires disclosure of the information.**

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

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

5 “(d) **To disclosures required under section 4 of this 2020 special ses-**
6 **sion Act.**

7 “[*d*] (e) When the public body determines that nondisclosure of the in-
8 formation would adversely affect the confidence of the public in the public
9 body.

10 “(5) If an investigation of a public safety employee of a public body re-
11 sults from a complaint, the public body may disclose to the complainant the
12 disposition of the complaint and, to the extent the public body considers
13 necessary to explain the action of the public body on the complaint, a writ-
14 ten summary of information obtained in the investigation.

15 “(6) A public body must notify a public safety employee of the public body
16 if the public body receives a request for:

17 “(a) A photograph of the employee.

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

20 “(c) Information about the employee that is prohibited from disclosure by
21 subsection (3) of this section.

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

23 “181A.640. (1) The Department of Public Safety Standards and Training
24 may deny the application for training, or deny, suspend or revoke the certi-
25 fication, of any public safety officer or instructor, except a youth correction
26 officer or fire service professional, after written notice and hearing consist-
27 ent with the provisions of ORS 181A.630, based upon a finding that:

28 “(a) The public safety officer or instructor falsified any information sub-
29 mitted on the application for certification or on any documents submitted to
30 the Board on Public Safety Standards and Training or the department.

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

3 “(c) The public safety officer or instructor does not meet the applicable
4 minimum standards, minimum training or the terms and conditions estab-
5 lished under ORS 181A.410 (1)(a) to (d).

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

7 **“(2) The department shall deny the application for training or deny,
8 suspend or revoke the certification of a police officer, after written
9 notice and hearing consistent with the provisions of ORS 181A.630,
10 based upon a finding that:**

11 **“(a) The police officer has a conviction for any offense designated
12 under the law of the jurisdiction where the conviction occurred as
13 being punishable as a felony or as a crime for which a maximum term
14 of imprisonment of more than one year may be imposed;**

15 **“(b) The police officer has a conviction in any jurisdiction for any
16 offense involving the unlawful use, possession, delivery or manufac-
17 ture of a controlled substance, narcotic or dangerous drug, except for
18 criminal offenses involving the use or possession of marijuana;**

19 **“(c) The police officer has a conviction in any jurisdiction for any
20 offense involving domestic violence, as defined in ORS 135.230;**

21 **“(d) The police officer has a conviction in any jurisdiction for any
22 offense involving abuse, as defined in ORS 107.705, of a child who is
23 under 18 years of age and is a natural child, adopted child, stepchild,
24 a child under the guardianship of, or a child who regularly resides or
25 formerly resided in the same household as, the police officer;**

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

28 **“(f) The police officer has been discharged for cause from employ-
29 ment as a police officer as a result of intentional conduct performed
30 under the color of office to:**

1 **“(A) Obtain false confessions;**

2 **“(B) Make false arrests;**

3 **“(C) Create or use falsified evidence, including false testimony, or**
4 **to destroy evidence to create a false impression;**

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

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

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

11 **“[(2)] (3)** The department shall deny, suspend or revoke the certification
12 of a fire service professional, after written notice and hearing consistent
13 with the provisions of ORS 181A.630, based upon a finding that the fire ser-
14 vice professional has been convicted in this state of a crime listed in ORS
15 137.700 or in any other jurisdiction of a crime that, if committed in this
16 state, would constitute a crime listed in ORS 137.700.

17 **“[(3)] (4)** The department may deny, suspend or revoke the certification
18 of any fire service professional after written notice and hearing consistent
19 with the provisions of ORS 181A.630, based upon a finding:

20 **“(a)** That the fire service professional falsified any information submitted
21 on the application for certification or on any documents submitted to the
22 board or the department; or

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

27 **“[(4)] (5)** The department shall deny, suspend or revoke the certification
28 of any public safety officer or instructor, except a youth correction officer,
29 after written notice and hearing consistent with the provisions of ORS
30 181A.630, based upon a finding that the public safety officer or instructor

1 has been discharged for cause from employment as a public safety officer.

2 “[5] (6) The department, in consultation with the board, shall adopt
3 rules specifying those crimes and violations for which a conviction requires
4 the denial, suspension or revocation of the certification of a public safety
5 officer or instructor.

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

9 “(a) Proceed with any investigation of, or any action or disciplinary pro-
10 ceedings against, the public safety officer or instructor; or

11 “(b) Revise or render void an order suspending or revoking the certifica-
12 tion.

13 “[7] (8) The department shall deny, suspend or revoke the accreditation
14 of a training or educational program or any course, subject, facility or in-
15 struction thereof if the program, course, subject, facility or instruction is not
16 in compliance with rules adopted or conditions prescribed under ORS
17 181A.410 (1)(g) or 181A.590 (3).

18 “[8] (9) When the department completes an investigation relating to a
19 person’s qualifications for employment, training or certification under this
20 section, the department shall issue a report.

21 “[9] (10) In cases involving a proposed denial of training or certification
22 of a public safety officer or instructor by the department, the department has
23 jurisdiction to proceed with any action against the public safety officer or
24 instructor notwithstanding a subsequent change in the employment status
25 of the officer or instructor, if:

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

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

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

1 **“(2) The Department of Public Safety Standards and Training may**
2 **take any action before the operative date specified in subsection (1)**
3 **of this section to enable the department, on and after the operative**
4 **date specified in subsection (1) of this section, to exercise the duties,**
5 **functions and powers conferred on the department by section 3 of this**
6 **2020 special session Act.**

7 **“SECTION 8. Sections 3 and 4 of this 2020 special session Act do not**
8 **affect a collective bargaining agreement entered into before the effec-**
9 **tive date of this 2020 special session Act, to the extent compliance with**
10 **the provisions of sections 3 and 4 of this 2020 special session Act would**
11 **conflict with or impair the execution of the terms of the collective**
12 **bargaining agreement.**

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

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