

A-Engrossed
Senate Bill 198

Ordered by the Senate April 26
Including Senate Amendments dated April 26

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

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 study public safety and to submit findings and recommendations for legislation to interim committee of Legislative Assembly related to judiciary.]

[Sunsets January 2, 2023.]

[Declares emergency, effective on passage.]

Provides that persons who contract with public body to provide services for purposes of community restoration or to restore fitness to proceed are state officers, employees or agents for purposes of provision requiring public body to defend and indemnify officers, employees and agents against tort claims.

A BILL FOR AN ACT

1
2 Relating to public safety; amending ORS 30.285.

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

4 **SECTION 1.** ORS 30.285 is amended to read:

5 30.285. (1) The governing body of any public body shall defend, save harmless and indemnify any
6 of its officers, employees and agents, whether elective or appointive, against any tort claim or de-
7 mand, whether groundless or otherwise, arising out of an alleged act or omission occurring in the
8 performance of duty.

9 (2) The provisions of subsection (1) of this section do not apply in case of malfeasance in office
10 or willful or wanton neglect of duty.

11 (3) If any civil action, suit or proceeding is brought against any state officer, employee or agent
12 which on its face falls within the provisions of subsection (1) of this section, or which the state of-
13 ficer, employee or agent asserts to be based in fact upon an alleged act or omission in the per-
14 formance of duty, the state officer, employee or agent may, after consulting with the Oregon
15 Department of Administrative Services file a written request for counsel with the Attorney General.
16 The Attorney General shall thereupon appear and defend the officer, employee or agent unless after
17 investigation the Attorney General finds that the claim or demand does not arise out of an alleged
18 act or omission occurring in the performance of duty, or that the act or omission complained of
19 amounted to malfeasance in office or willful or wanton neglect of duty, in which case the Attorney
20 General shall reject defense of the claim.

21 (4) Any officer, employee or agent of the state against whom a claim within the scope of this
22 section is made shall cooperate fully with the Attorney General and the department in the defense
23 of such claim. If the Attorney General after consulting with the department determines that such

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 officer, employee or agent has not so cooperated or has otherwise acted to prejudice defense of the
2 claim, the Attorney General may at any time reject the defense of the claim.

3 (5) If the Attorney General rejects defense of a claim under subsection (3) of this section or this
4 subsection, no public funds shall be paid in settlement of said claim or in payment of any judgment
5 against such officer, employee or agent. Such action by the Attorney General shall not prejudice the
6 right of the officer, employee or agent to assert and establish an appropriate proceedings that the
7 claim or demand in fact arose out of an alleged act or omission occurring in the performance of
8 duty, or that the act or omission complained of did not amount to malfeasance in office or willful
9 or wanton neglect of duty, in which case the officer, employee or agent shall be indemnified against
10 liability and reasonable costs of defending the claim, cost of such indemnification to be a charge
11 against the Insurance Fund established by ORS 278.425.

12 (6) Nothing in subsection (3), (4) or (5) of this section shall be deemed to increase the limits of
13 liability of any public officer, agent or employee under ORS 30.260 to 30.300, or obviate the necessity
14 of compliance with ORS 30.275 by any claimant, nor to affect the liability of the state itself or of
15 any other public officer, agent or employee on any claim arising out of the same accident or oc-
16 currence.

17 (7) As used in this section, "state officer, employee or agent" includes:

18 (a) District attorneys and deputy district attorneys, special prosecutors and law clerks of the
19 office of district attorney who act in a prosecutorial capacity, but does not include any other em-
20 ployee of the office of district attorney or any employee of the justice or circuit courts whose salary
21 is paid wholly or in part by the county.

22 (b) **Persons who contract with a public body to provide services pursuant to ORS 161.365**
23 **to 161.370 for the purposes of community restoration or to restore fitness to proceed.**

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