

Law Enforcement Related Bill List

SB 1604 Enrolled

Relating to arbitration awards; creating new provisions; amending ORS 243.650 and 243.706; and declaring an emergency. In arbitration proceeding if arbitrator makes a finding that misconduct has occurred consistent with the law enforcement agency's finding of misconduct, the arbitration award may not order any disciplinary action that differs from the disciplinary action imposed by the agency, if the disciplinary action imposed by the agency is consistent with the provisions of a discipline guide or discipline matrix adopted by the agency as a result of collective bargaining and incorporated into the agency's disciplinary policies; discipline matrix to be bargained.

HB 4201 Enrolled

Relating to the use of force by police officers. Established the Joint Committee on Transparent Policing and Use of Force Reform, members, duties, make recommendations.

HB 4203 Enrolled

Relating to use of force by peace officers. Prohibits a peace officer from knowingly using physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person, unless the circumstance is one in which the peace officer may use deadly physical force as provided in ORS 161.239.

HB 4205 Enrolled

Relating to duties of police officers regarding prohibited behavior. Defines "misconduct"; requires police officer to intervene to prevent misconduct, provides safeguards for police officers that intervene to prevent misconduct.

HB 4207 Enrolled

Relating to records of discipline of police officers; creating new provisions; amending ORS 181A.640 and 181A.830; and declaring an emergency. Requires DPSST to maintain a statewide online database of suspensions and revocations of the certifications of police officers that is accessible by the public. Requires law enforcement agency to review, or upon request provide for review to law enforcement agency, police officer personnel records including but not limited to records of complaints and disciplinary action against the officer. Provides safeguards for release of information. DPSST to deny, suspend or revoke the certification of a police officer convicted of certain crimes.

HB 4208 Enrolled

Relating to the use of tools by law enforcement agencies; and declaring an emergency. Prohibits use of tear gas for crowd control except for riot conditions with procedures.

Enrolled
Senate Bill 1604

Sponsored by Senators COURTNEY, FREDERICK, Representative MEEK; Senators HASS, WAGNER, Representatives ALONSO LEON, BYNUM, CLEM, GORSEK, HELT, HERNANDEZ, KENY-GUYER, MITCHELL, NOBLE, NOSSE, PILUSO, REARDON, SALINAS, SANCHEZ, SCHOUTEN, SOLLMAN (at the request of Joint Committee on the First Special Session of 2020)

CHAPTER

AN ACT

Relating to arbitration awards; creating new provisions; amending ORS 243.650 and 243.706; and declaring an emergency.

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

SECTION 1. ORS 243.706 is amended to read:

243.706. (1) A public employer may enter into a written agreement with the exclusive representative of an appropriate bargaining unit setting forth a grievance procedure culminating in binding arbitration or any other dispute resolution process agreed to by the parties. As a condition of enforceability, any arbitration award that orders the reinstatement of a public employee or otherwise relieves the public employee of responsibility for misconduct shall comply with public policy requirements as clearly defined in statutes or judicial decisions including but not limited to policies respecting sexual harassment or sexual misconduct, unjustified and egregious use of physical or deadly force and serious criminal misconduct, related to work. In addition, with respect to claims that a grievant should be reinstated or otherwise relieved of responsibility for misconduct based upon the public employer's alleged previous differential treatment of employees for the same or similar conduct, the arbitration award must conform to the following principles:

(a) Some misconduct is so egregious that no employee can reasonably rely on past treatment for similar offenses as a justification or defense to discharge or other discipline.

(b) Public managers have a right to change disciplinary policies at any time, notwithstanding prior practices, if such managers give reasonable advance notice to affected employees and the change does not otherwise violate a collective bargaining agreement.

(2) In addition to subsection (1) of this section, a public employer may enter into a written agreement with the exclusive representative of its employees providing that a labor dispute over conditions and terms of a contract may be resolved through binding arbitration.

(3) **Notwithstanding subsection (1) of this section, when an arbitration proceeding involves alleged misconduct by a sworn law enforcement officer of any law enforcement agency, as those terms are defined in ORS 131.930, and the arbitrator makes a finding that misconduct has occurred consistent with the law enforcement agency's finding of misconduct, the arbitration award may not order any disciplinary action that differs from the disciplinary action imposed by the agency, if the disciplinary action imposed by the agency is consistent with the provisions of a discipline guide or discipline matrix adopted by the agency as a result of collective bargaining and incorporated into the agency's disciplinary policies.**

[(3)] (4) In an arbitration proceeding under this section, the arbitrators, or a majority of the arbitrators, may:

- (a) Issue subpoenas on their own motion or at the request of a party to the proceeding to:
 - (A) Compel the attendance of a witness properly served by either party; and
 - (B) Require from either party the production of books, papers and documents the arbitrators find are relevant to the proceeding;
 - (b) Administer oaths or affirmations to witnesses; and
 - (c) Adjourn a hearing from day to day, or for a longer time, and from place to place.
- [(4)] (5) The arbitrators shall promptly provide a copy of a subpoena issued under this section to each party to the arbitration proceeding.

[(5)] (6) The arbitrators issuing a subpoena under this section may rule on objections to the issuance of the subpoena.

[(6)] (7) If a person fails to comply with a subpoena issued under this section or if a witness refuses to testify on a matter on which the witness may be lawfully questioned, the party who requested the subpoena or seeks the testimony may apply to the arbitrators for an order authorizing the party to apply to the circuit court of any county to enforce the subpoena or compel the testimony. On the application of the attorney of record for the party or on the application of the arbitrators, or a majority of the arbitrators, the court may require the person or witness to show cause why the person or witness should not be punished for contempt of court to the same extent and purpose as if the proceedings were pending before the court.

[(7)] (8) Witnesses appearing pursuant to subpoena, other than parties or officers or employees of the public employer, shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2).

(9) **As used in this section:**

(a) **"Discipline guide" means a grid that is designed to provide parameters for the level of discipline to be imposed for an act of misconduct that is categorized by the severity of the misconduct and that take into account the presumptive level of discipline for the misconduct and any aggravating or mitigating factors.**

(b) **"Discipline matrix" means a grid used to determine the level of discipline to be imposed for an act of misconduct that is categorized by the severity of the misconduct, according to the intersection where the category of misconduct and the level of disciplinary action meet.**

SECTION 2. ORS 243.650 is amended to read:

243.650. As used in ORS 243.650 to 243.806, unless the context requires otherwise:

(1) **"Appropriate bargaining unit" means the unit designated by the Employment Relations Board or voluntarily recognized by the public employer to be appropriate for collective bargaining. However, an appropriate bargaining unit may not include both academically licensed and unlicensed or nonacademically licensed school employees. Academically licensed units may include but are not limited to teachers, nurses, counselors, therapists, psychologists, child development specialists and similar positions. This limitation does not apply to any bargaining unit certified or recognized prior to June 6, 1995, or to any school district with fewer than 50 employees.**

(2) **"Board" means the Employment Relations Board.**

(3) **"Certification" means official recognition by the board that a labor organization is the exclusive representative for all of the employees in the appropriate bargaining unit.**

(4) **"Collective bargaining" means the performance of the mutual obligation of a public employer and the representative of its employees to meet at reasonable times and confer in good faith with respect to employment relations for the purpose of negotiations concerning mandatory subjects of bargaining, to meet and confer in good faith in accordance with law with respect to any dispute concerning the interpretation or application of a collective bargaining agreement, and to execute written contracts incorporating agreements that have been reached on behalf of the public employer and the employees in the bargaining unit covered by such negotiations. The obligation to meet and negotiate does not compel either party to agree to a proposal or require the making of a concession.**

This subsection may not be construed to prohibit a public employer and a certified or recognized representative of its employees from discussing or executing written agreements regarding matters other than mandatory subjects of bargaining that are not prohibited by law as long as there is mutual agreement of the parties to discuss these matters, which are permissive subjects of bargaining.

(5) "Compulsory arbitration" means the procedure whereby parties involved in a labor dispute are required by law to submit their differences to a third party for a final and binding decision.

(6) "Confidential employee" means one who assists and acts in a confidential capacity to a person who formulates, determines and effectuates management policies in the area of collective bargaining.

(7)(a) "Employment relations" includes, but is not limited to, matters concerning direct or indirect monetary benefits, hours, vacations, sick leave, labor organization access to and communication with represented employees, grievance procedures and other conditions of employment.

(b) "Employment relations" does not include subjects determined to be permissive, nonmandatory subjects of bargaining by the Employment Relations Board prior to June 6, 1995.

(c) After June 6, 1995, "employment relations" does not include subjects that the Employment Relations Board determines to have a greater impact on management's prerogative than on employee wages, hours, or other terms and conditions of employment.

(d) "Employment relations" does not include subjects that have an insubstantial or de minimis effect on public employee wages, hours, and other terms and conditions of employment.

(e) For school district bargaining, "employment relations" excludes class size, the school or educational calendar, standards of performance or criteria for evaluation of teachers, the school curriculum, reasonable dress, grooming and at-work personal conduct requirements respecting smoking, gum chewing and similar matters of personal conduct, the standards and procedures for student discipline, the time between student classes, the selection, agendas and decisions of 21st Century Schools Councils established under ORS 329.704, requirements for expressing milk under ORS 653.077, and any other subject proposed that is permissive under paragraphs (b), (c) and (d) of this subsection.

(f) For employee bargaining involving employees covered by ORS 243.736 and employees of the Department of Corrections who have direct contact with adults in custody, "employment relations" includes safety issues that have an impact on the on-the-job safety of the employees or staffing levels that have a significant impact on the on-the-job safety of the employees.

(g) For employee bargaining involving sworn law enforcement officers of a law enforcement agency, as those terms are defined in ORS 131.930, "employment relations" includes the development of a discipline guide or discipline matrix as those terms are defined in ORS 243.706.

[(g)] (h) For all other employee bargaining except school district bargaining and except as provided in paragraph (f) of this subsection, "employment relations" excludes staffing levels and safety issues (except those staffing levels and safety issues that have a direct and substantial effect on the on-the-job safety of public employees), scheduling of services provided to the public, determination of the minimum qualifications necessary for any position, criteria for evaluation or performance appraisal, assignment of duties, workload when the effect on duties is insubstantial, reasonable dress, grooming, and at-work personal conduct requirements respecting smoking, gum chewing, and similar matters of personal conduct at work, and any other subject proposed that is permissive under paragraphs (b), (c) and (d) of this subsection.

(8) "Exclusive representative" means the labor organization that, as a result of certification by the board or recognition by the employer, has the right to be the collective bargaining agent of all employees in an appropriate bargaining unit.

(9) "Fact-finding" means identification of the major issues in a particular labor dispute by one or more impartial individuals who review the positions of the parties, resolve factual differences and make recommendations for settlement of the dispute.

(10) "Fair-share agreement" means an agreement between the public employer and the recognized or certified bargaining representative of public employees whereby employees who are not

members of the employee organization are required to make an in-lieu-of-dues payment to an employee organization except as provided in ORS 243.666. Upon the filing with the board of a petition by 30 percent or more of the employees in an appropriate bargaining unit covered by such union security agreement declaring they desire that the agreement be rescinded, the board shall take a secret ballot of the employees in the unit and certify the results thereof to the recognized or certified bargaining representative and to the public employer. Unless a majority of the votes cast in an election favor the union security agreement, the board shall certify deauthorization of the agreement. A petition for deauthorization of a union security agreement must be filed not more than 90 calendar days after the collective bargaining agreement is executed. Only one such election may be conducted in any appropriate bargaining unit during the term of a collective bargaining agreement between a public employer and the recognized or certified bargaining representative.

(11) "Final offer" means the proposed contract language and cost summary submitted to the mediator within seven days of the declaration of impasse.

(12) "Labor dispute" means any controversy concerning employment relations or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment relations, regardless of whether the disputants stand in the proximate relation of employer and employee.

(13) "Labor organization" means any organization that has as one of its purposes representing employees in their employment relations with public employers.

(14) "Last best offer package" means the offer exchanged by parties not less than 14 days prior to the date scheduled for an interest arbitration hearing.

(15) "Legislative body" means the Legislative Assembly, the city council, the county commission and any other board or commission empowered to levy taxes.

(16) "Managerial employee" means an employee of the State of Oregon or a public university listed in ORS 352.002 who possesses authority to formulate and carry out management decisions or who represents management's interest by taking or effectively recommending discretionary actions that control or implement employer policy, and who has discretion in the performance of these management responsibilities beyond the routine discharge of duties. A "managerial employee" need not act in a supervisory capacity in relation to other employees. Notwithstanding this subsection, "managerial employee" does not include faculty members at a community college, college or university.

(17) "Mediation" means assistance by an impartial third party in reconciling a labor dispute between the public employer and the exclusive representative regarding employment relations.

(18) "Payment-in-lieu-of-dues" means an assessment to defray the cost for services by the exclusive representative in negotiations and contract administration of all persons in an appropriate bargaining unit who are not members of the organization serving as exclusive representative of the employees. The payment must be equivalent to regular union dues and assessments, if any, or must be an amount agreed upon by the public employer and the exclusive representative of the employees.

(19) "Public employee" means an employee of a public employer but does not include elected officials, persons appointed to serve on boards or commissions, incarcerated persons working under [section 41,] Article I, **section 41**, of the Oregon Constitution, or persons who are confidential employees, supervisory employees or managerial employees.

(20) "Public employer" means the State of Oregon, and the following political subdivisions: Cities, counties, community colleges, school districts, special districts, mass transit districts, metropolitan service districts, public service corporations or municipal corporations and public and quasi-public corporations.

(21) "Public employer representative" includes any individual or individuals specifically designated by the public employer to act in its interests in all matters dealing with employee representation, collective bargaining and related issues.

(22) "Strike" means a public employee's refusal in concerted action with others to report for duty, or his or her willful absence from his or her position, or his or her stoppage of work, or his or her absence in whole or in part from the full, faithful or proper performance of his or her duties

of employment, for the purpose of inducing, influencing or coercing a change in the conditions, compensation, rights, privileges or obligations of public employment; however, nothing shall limit or impair the right of any public employee to lawfully express or communicate a complaint or opinion on any matter related to the conditions of employment.

(23)(a) "Supervisory employee" means any individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection therewith, the exercise of the authority is not of a merely routine or clerical nature but requires the use of independent judgment. Failure to assert supervisory status in any Employment Relations Board proceeding or in negotiations for any collective bargaining agreement does not thereafter prevent assertion of supervisory status in any subsequent board proceeding or contract negotiation.

(b) "Supervisory employee" includes a faculty member of a public university listed in ORS 352.002 or the Oregon Health and Science University who:

(A) Is employed as a president, vice president, provost, vice provost, dean, associate dean, assistant dean, head or equivalent position; or

(B) Is employed in an administrative position without a reasonable expectation of teaching, research or other scholarly accomplishments.

(c) "Supervisory employee" does not include:

(A) A nurse, charge nurse or nurse holding a similar position if that position has not traditionally been classified as supervisory;

(B) A firefighter prohibited from striking by ORS 243.736 who assigns, transfers or directs the work of other employees but does not have the authority to hire, discharge or impose economic discipline on those employees;

(C) A faculty member of a public university listed in ORS 352.002 or the Oregon Health and Science University who is not a faculty member described in paragraph (b) of this subsection; or

(D) An employee of the Oregon State Police who:

(i) Serves in a rank equivalent to or below the rank of sergeant;

(ii) Is prohibited from striking by ORS 243.736; and

(iii) Assigns, transfers or directs the work of other employees but does not hire, discharge or impose economic discipline on those employees.

(24) "Unfair labor practice" means the commission of an act designated an unfair labor practice in ORS 243.672.

(25) "Voluntary arbitration" means the procedure whereby parties involved in a labor dispute mutually agree to submit their differences to a third party for a final and binding decision.

SECTION 3. ORS 243.650, as amended by section 2, chapter 146, Oregon Laws 2019, is amended to read:

243.650. As used in ORS 243.650 to 243.806, unless the context requires otherwise:

(1) "Appropriate bargaining unit" means the unit designated by the Employment Relations Board or voluntarily recognized by the public employer to be appropriate for collective bargaining. However, an appropriate bargaining unit may not include both academically licensed and unlicensed or nonacademically licensed school employees. Academically licensed units may include but are not limited to teachers, nurses, counselors, therapists, psychologists, child development specialists and similar positions. This limitation does not apply to any bargaining unit certified or recognized prior to June 6, 1995, or to any school district with fewer than 50 employees.

(2) "Board" means the Employment Relations Board.

(3) "Certification" means official recognition by the board that a labor organization is the exclusive representative for all of the employees in the appropriate bargaining unit.

(4) "Collective bargaining" means the performance of the mutual obligation of a public employer and the representative of its employees to meet at reasonable times and confer in good faith with respect to employment relations for the purpose of negotiations concerning mandatory subjects of bargaining, to meet and confer in good faith in accordance with law with respect to any dispute

concerning the interpretation or application of a collective bargaining agreement, and to execute written contracts incorporating agreements that have been reached on behalf of the public employer and the employees in the bargaining unit covered by such negotiations. The obligation to meet and negotiate does not compel either party to agree to a proposal or require the making of a concession. This subsection may not be construed to prohibit a public employer and a certified or recognized representative of its employees from discussing or executing written agreements regarding matters other than mandatory subjects of bargaining that are not prohibited by law as long as there is mutual agreement of the parties to discuss these matters, which are permissive subjects of bargaining.

(5) "Compulsory arbitration" means the procedure whereby parties involved in a labor dispute are required by law to submit their differences to a third party for a final and binding decision.

(6) "Confidential employee" means one who assists and acts in a confidential capacity to a person who formulates, determines and effectuates management policies in the area of collective bargaining.

(7)(a) "Employment relations" includes, but is not limited to, matters concerning direct or indirect monetary benefits, hours, vacations, sick leave, labor organization access to and communication with represented employees, grievance procedures and other conditions of employment.

(b) "Employment relations" does not include subjects determined to be permissive, nonmandatory subjects of bargaining by the Employment Relations Board prior to June 6, 1995.

(c) After June 6, 1995, "employment relations" does not include subjects that the Employment Relations Board determines to have a greater impact on management's prerogative than on employee wages, hours, or other terms and conditions of employment.

(d) "Employment relations" does not include subjects that have an insubstantial or de minimis effect on public employee wages, hours, and other terms and conditions of employment.

(e) For school district bargaining, "employment relations" excludes class size, the school or educational calendar, standards of performance or criteria for evaluation of teachers, the school curriculum, reasonable dress, grooming and at-work personal conduct requirements respecting smoking, gum chewing and similar matters of personal conduct, the standards and procedures for student discipline, the time between student classes, the selection, agendas and decisions of 21st Century Schools Councils established under ORS 329.704, requirements for expressing milk under ORS 653.077, and any other subject proposed that is permissive under paragraphs (b), (c) and (d) of this subsection.

(f) For employee bargaining involving employees covered by ORS 243.736 and employees of the Department of Corrections who have direct contact with adults in custody, "employment relations" includes safety issues that have an impact on the on-the-job safety of the employees or staffing levels that have a significant impact on the on-the-job safety of the employees.

(g) For employee bargaining involving sworn law enforcement officers of a law enforcement agency, as those terms are defined in ORS 131.930, "employment relations" includes the development of a discipline guide or discipline matrix as those terms are defined in ORS 243.706.

[(g)] **(h)** For all other employee bargaining except school district bargaining and except as provided in paragraph (f) of this subsection, "employment relations" excludes staffing levels and safety issues (except those staffing levels and safety issues that have a direct and substantial effect on the on-the-job safety of public employees), scheduling of services provided to the public, determination of the minimum qualifications necessary for any position, criteria for evaluation or performance appraisal, assignment of duties, workload when the effect on duties is insubstantial, reasonable dress, grooming, and at-work personal conduct requirements respecting smoking, gum chewing, and similar matters of personal conduct at work, and any other subject proposed that is permissive under paragraphs (b), (c) and (d) of this subsection.

(8) "Exclusive representative" means the labor organization that, as a result of certification by the board or recognition by the employer, has the right to be the collective bargaining agent of all employees in an appropriate bargaining unit.

(9) "Fact-finding" means identification of the major issues in a particular labor dispute by one or more impartial individuals who review the positions of the parties, resolve factual differences and make recommendations for settlement of the dispute.

(10) "Fair-share agreement" means an agreement between the public employer and the recognized or certified bargaining representative of public employees whereby employees who are not members of the employee organization are required to make an in-lieu-of-dues payment to an employee organization except as provided in ORS 243.666. Upon the filing with the board of a petition by 30 percent or more of the employees in an appropriate bargaining unit covered by such union security agreement declaring they desire that the agreement be rescinded, the board shall take a secret ballot of the employees in the unit and certify the results thereof to the recognized or certified bargaining representative and to the public employer. Unless a majority of the votes cast in an election favor the union security agreement, the board shall certify deauthorization of the agreement. A petition for deauthorization of a union security agreement must be filed not more than 90 calendar days after the collective bargaining agreement is executed. Only one such election may be conducted in any appropriate bargaining unit during the term of a collective bargaining agreement between a public employer and the recognized or certified bargaining representative.

(11) "Final offer" means the proposed contract language and cost summary submitted to the mediator within seven days of the declaration of impasse.

(12) "Labor dispute" means any controversy concerning employment relations or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment relations, regardless of whether the disputants stand in the proximate relation of employer and employee.

(13) "Labor organization" means any organization that has as one of its purposes representing employees in their employment relations with public employers.

(14) "Last best offer package" means the offer exchanged by parties not less than 14 days prior to the date scheduled for an interest arbitration hearing.

(15) "Legislative body" means the Legislative Assembly, the city council, the county commission and any other board or commission empowered to levy taxes.

(16) "Managerial employee" means an employee of the State of Oregon or a public university listed in ORS 352.002 who possesses authority to formulate and carry out management decisions or who represents management's interest by taking or effectively recommending discretionary actions that control or implement employer policy, and who has discretion in the performance of these management responsibilities beyond the routine discharge of duties. A "managerial employee" need not act in a supervisory capacity in relation to other employees. Notwithstanding this subsection, "managerial employee" does not include faculty members at a community college, college or university.

(17) "Mediation" means assistance by an impartial third party in reconciling a labor dispute between the public employer and the exclusive representative regarding employment relations.

(18) "Payment-in-lieu-of-dues" means an assessment to defray the cost for services by the exclusive representative in negotiations and contract administration of all persons in an appropriate bargaining unit who are not members of the organization serving as exclusive representative of the employees. The payment must be equivalent to regular union dues and assessments, if any, or must be an amount agreed upon by the public employer and the exclusive representative of the employees.

(19) "Public employee" means an employee of a public employer but does not include elected officials, persons appointed to serve on boards or commissions, incarcerated persons working under [section 41,] Article I, **section 41**, of the Oregon Constitution, or persons who are confidential employees, supervisory employees or managerial employees.

(20) "Public employer" means the State of Oregon, and the following political subdivisions: Cities, counties, community colleges, school districts, special districts, mass transit districts, metropolitan service districts, public service corporations or municipal corporations and public and quasi-public corporations.

(21) "Public employer representative" includes any individual or individuals specifically designated by the public employer to act in its interests in all matters dealing with employee representation, collective bargaining and related issues.

(22) "Strike" means a public employee's refusal in concerted action with others to report for duty, or his or her willful absence from his or her position, or his or her stoppage of work, or his or her absence in whole or in part from the full, faithful or proper performance of his or her duties of employment, for the purpose of inducing, influencing or coercing a change in the conditions, compensation, rights, privileges or obligations of public employment; however, nothing shall limit or impair the right of any public employee to lawfully express or communicate a complaint or opinion on any matter related to the conditions of employment.

(23)(a) "Supervisory employee" means any individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection therewith, the exercise of the authority is not of a merely routine or clerical nature but requires the use of independent judgment. Failure to assert supervisory status in any Employment Relations Board proceeding or in negotiations for any collective bargaining agreement does not thereafter prevent assertion of supervisory status in any subsequent board proceeding or contract negotiation.

(b) "Supervisory employee" includes a faculty member of a public university listed in ORS 352.002 or the Oregon Health and Science University who:

(A) Is employed as a president, vice president, provost, vice provost, dean, associate dean, assistant dean, head or equivalent position; or

(B) Is employed in an administrative position without a reasonable expectation of teaching, research or other scholarly accomplishments.

(c) "Supervisory employee" does not include:

(A) A nurse, charge nurse or nurse holding a similar position if that position has not traditionally been classified as supervisory;

(B) A firefighter prohibited from striking by ORS 243.736 who assigns, transfers or directs the work of other employees but does not have the authority to hire, discharge or impose economic discipline on those employees; or

(C) A faculty member of a public university listed in ORS 352.002 or the Oregon Health and Science University who is not a faculty member described in paragraph (b) of this subsection.

(24) "Unfair labor practice" means the commission of an act designated an unfair labor practice in ORS 243.672.

(25) "Voluntary arbitration" means the procedure whereby parties involved in a labor dispute mutually agree to submit their differences to a third party for a final and binding decision.

SECTION 4. The amendments to ORS 243.650 and 243.706 by sections 1 to 3 of this 2020 special session Act apply to collective bargaining agreements entered into on or after the effective date of this 2020 special session Act.

SECTION 5. This 2020 special session Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2020 special session Act takes effect on its passage.

Passed by Senate June 26, 2020

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Lori L. Bocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 26, 2020

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2020

Approved:

.....M.,....., 2020

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2020

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Bev Clarno, Secretary of State

Enrolled House Bill 4201

Sponsored by Representatives KOTEK, ALONSO LEON, BYNUM, LAWRENCE SPENCE, MEEK, SALINAS, SANCHEZ, Senators FREDERICK, PROZANSKI; Representatives CLEM, DEXTER, FAHEY, HERNANDEZ, HOLVEY, KENY-GUYER, LEWIS, MITCHELL, NATHANSON, NERON, NOBLE, NOSSE, PILUSO, PRUSAK, REARDON, SCHOUTEN, SOLLMAN, WILDE, WILLIAMS, Senators FAGAN, HASS, WAGNER (at the request of Joint Committee on the First Special Session of 2020)

CHAPTER

AN ACT

Relating to the use of force by police officers; and declaring an emergency.

Whereas Black Lives Matter; and

Whereas the lives of Kendra James and Jason Washington mattered; and

Whereas there is an inherent conflict of interest in asking local district attorneys to investigate the officers upon whom they rely to obtain convictions in criminal cases; and

Whereas internal investigations and local investigations have resulted in a lack of justice for communities of color, which breeds distrust of law enforcement and causes both direct and vicarious trauma upon those communities; and

Whereas no matter how late it may come, Black, Indigenous and People of Color communities deserve justice for the past, and also deserve justice for the present; and

Whereas countless protesters, members of the media, medics and legal observers across Oregon who have been exercising their First Amendment rights have been victimized by a failure of local civilian oversight to rein in abuses of the use of force by law enforcement; now, therefore,

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

SECTION 1. (1) There is established the Joint Committee on Transparent Policing and Use of Force Reform.

(2) The joint committee consists of members of the Senate appointed by the President of the Senate and members of the House of Representatives appointed by the Speaker of the House of Representatives.

(3) The President of the Senate shall appoint one cochair for the joint committee and the Speaker of the House of Representatives shall appoint one cochair for the joint committee with the duties and powers necessary for the performance of the functions of the offices as the President and the Speaker determine.

(4) The joint committee has a continuing existence and may meet, act and conduct its business during sessions of the Legislative Assembly or any recess thereof and in the interim between sessions.

(5) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(6) Members of the joint committee shall receive an amount equal to that authorized under ORS 171.072 from funds appropriated to the Legislative Assembly for each day spent

in the performance of their duties as members of the joint committee or any subcommittee thereof in lieu of reimbursement for in-state travel expenses. However, when engaged in out-of-state travel, members shall be entitled to receive their actual and necessary expenses therefor in lieu of the amount authorized by this subsection. Payment shall be made from funds appropriated to the Legislative Assembly.

(7) The joint committee may not transact business unless a quorum is present. A quorum consists of a majority of joint committee members from the House of Representatives and a majority of joint committee members from the Senate.

(8) Action by the joint committee requires the affirmative vote of a majority of joint committee members from the House of Representatives and a majority of joint committee members from the Senate.

(9) The joint committee may adopt rules necessary for the operation of the joint committee.

(10) The Legislative Policy and Research Director may employ persons necessary for the performance of the functions of the joint committee. The Legislative Policy and Research Director shall fix the duties and amounts of compensation of the employees. The joint committee shall use the services of continuing legislative staff, without employing additional persons, to the greatest extent practicable.

(11) All agencies of state government, as defined in ORS 174.111, are directed to assist the joint committee in the performance of the duties of the joint committee and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the joint committee consider necessary to perform their duties.

SECTION 2. The Joint Committee on Transparent Policing and Use of Force Reform shall:

(1) Examine policies that improve transparency in investigations into and complaints regarding the use of force by police officers, and increase transparency in police protocols and processes to build public trust in policing;

(2) Examine policies that reduce the prevalence of serious physical injury or death caused by the use of force by police officers by analyzing the use of force, the authorization of the use of force under state law and the disparate impact of the use of force on communities of color;

(3) Determine the most appropriate policy for independent review of the use of deadly force by police officers, including an analysis of procedures and policies used in other states;

(4) Examine any other policies that increase transparency in policing and reform the use of force by police officers; and

(5) Make recommendations for legislation to the committees of the Legislative Assembly related to the judiciary on or before December 31, 2020.

SECTION 3. Sections 1 and 2 of this 2020 special session Act are repealed on December 31, 2020.

SECTION 4. This 2020 special session Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2020 special session Act takes effect on its passage.

Passed by House June 26, 2020

.....
Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 26, 2020

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2020

Approved:

.....M,....., 2020

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2020

.....
Bev Clarno, Secretary of State

Enrolled
House Bill 4203

Sponsored by Representatives KOTEK, ALONSO LEON, BYNUM, MEEK, SALINAS, SANCHEZ, Senators FREDERICK, PROZANSKI; Representatives CLEM, DEXTER, FAHEY, HELT, HERNANDEZ, HOLVEY, KENY-GUYER, LAWRENCE SPENCE, MITCHELL, NATHANSON, NOBLE, NOSSE, PILUSO, PRUSAK, REARDON, SOLLMAN, WILDE, Senators FAGAN, HASS, MONNES ANDERSON, WAGNER (at the request of Joint Committee on the First Special Session of 2020)

CHAPTER

AN ACT

Relating to use of force by peace officers; creating new provisions; amending ORS 161.235; and declaring an emergency.

Whereas Black Lives Matter; and

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

Whereas George Floyd's last words were, "I can't breathe"; and

Whereas Eric Garner's last words were, "I can't breathe"; and

Whereas choke holds have led to deaths in several high-profile cases, and presumably in more cases than we will ever know; and

Whereas "I can't breathe" chants are shouted in the streets throughout Oregon to draw attention to the incalculable consequences of police brutality and disproportionate policing; and

Whereas there have been at least 268 deadly force incidents in Oregon over the past 10 years; and

Whereas 12 of the 55 Portland shootings or deaths were of Black people, or 22 percent of the victims in a city that is six percent Black; and

Whereas the Oregon Justice Resource Center found that the Portland Police Bureau is more likely to search and arrest Black people, with over 17 percent of the bureau's traffic and pedestrian stops involving Black people; and

Whereas choke holds or other restraint to the head, neck or back interferes with a person's blood flow or ability to breathe, which can cause asphyxiation and death; now, therefore,

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

SECTION 1. Section 2 of this 2020 special session Act is added to and made a part of ORS 161.195 to 161.275.

SECTION 2. (1) A peace officer is not justified in any circumstance in knowingly using physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person, unless the circumstance is one in which the peace officer may use deadly physical force as provided in ORS 161.239.

(2) It is not reasonable under any circumstance for a peace officer to knowingly use physical force that impedes the normal breathing or circulation of the blood of another per-

son by applying pressure on the throat or neck of the other person, unless the circumstance is one in which the peace officer may use deadly physical force as provided in ORS 161.239.

SECTION 3. ORS 161.235 is amended to read:

161.235. Except as provided in ORS 161.239 and section 2 of this 2020 special session Act, a peace officer is justified in using physical force upon another person only when and to the extent that the peace officer reasonably believes it necessary:

(1) To make an arrest or to prevent the escape from custody of an arrested person unless the peace officer knows that the arrest is unlawful; or

(2) For self-defense or to defend a third person from what the peace officer reasonably believes to be the use or imminent use of physical force while making or attempting to make an arrest or while preventing or attempting to prevent an escape.

SECTION 4. Section 5 of this 2020 special session Act is added to and made a part of ORS 181A.355 to 181A.670.

SECTION 5. The Board on Public Safety Standards and Training shall adopt rules prohibiting the training of police officers and reserve officers to use physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person, except as a defensive maneuver.

SECTION 6. This 2020 special session Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2020 special session Act takes effect on its passage.

Passed by House June 26, 2020

Received by Governor:

.....M.,....., 2020

.....
Timothy G. Sekerak, Chief Clerk of House

Approved:

.....M.,....., 2020

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Tina Kotek, Speaker of House

.....
Kate Brown, Governor

Passed by Senate June 26, 2020

Filed in Office of Secretary of State:

.....M.,....., 2020

.....
Peter Courtney, President of Senate

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Bev Clarno, Secretary of State

Enrolled
House Bill 4205

Sponsored by Representatives KOTEK, ALONSO LEON, BYNUM, LAWRENCE SPENCE, MEEK, SALINAS, SANCHEZ, Senators FREDERICK, MANNING JR, PROZANSKI; Representatives CLEM, DEXTER, FAHEY, HELT, HERNANDEZ, HOLVEY, KENY-GUYER, LEWIS, MARSH, MCKEOWN, MITCHELL, NERON, NOBLE, NOSSE, PILUSO, POWER, PRUSAK, REARDON, SOLLMAN, WILDE, WILLIAMS, Senators FAGAN, HASS, WAGNER (at the request of Joint Committee on the First Special Session of 2020)

CHAPTER

AN ACT

Relating to duties of police officers regarding prohibited behavior; and declaring an emergency.

Whereas Black Lives Matter; and

Whereas the three other police officers present at George Floyd's arrest had 8 minutes and 46 seconds to save his life; and

Whereas the history of racial violence in America, including public lynchings, deeply implicates police officers that did not intervene to stop extrajudicial murders of Black Americans, creating a culture of distrust between law enforcement and the Black community that persists to this day; and

Whereas police officers swear an oath to serve the public; and

Whereas police officers need to be trusted to step in when lives are endangered; and

Whereas two-thirds of Black Americans do not trust that they will be treated equally by the police; and

Whereas Black youth experience hypervigilance, a symptom of post-traumatic stress disorder, in the presence of police officers; and

Whereas Black children deserve to feel safe around the police; and

Whereas we all deserve to feel safe around the police; and

Whereas restoring trust in the police is not possible without real accountability measures; and

Whereas the United States Department of Justice's October 2018 Special Report found that Black people and Latinx people are twice as likely to experience the threat or use of force compared to white people; and

Whereas intervening and reporting misconduct protects the reputation of police officers who are acting in good faith and within the bounds of the law; now, therefore,

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

SECTION 1. Section 2 of this 2020 special session Act is added to and made a part of ORS 181A.355 to 181A.670.

SECTION 2. (1) As used in this section, "misconduct" means:

(a) Unjustified or excessive force that is objectively unreasonable under the circumstances or in violation of the use of force policy for the law enforcement unit employing the offending officer;

(b) Sexual harassment or sexual misconduct;

(c) Discrimination against a person based on race, color, religion, sex, sexual orientation, national origin, disability or age;

(d) A crime; or

(e) A violation of the minimum standards for physical, emotional, intellectual and moral fitness for public safety personnel established under ORS 181A.410.

(2) Without regard to rank or assignment, a police officer or reserve officer shall intervene to prevent or stop another police officer or reserve officer engaged in any act the intervening officer knows or reasonably should know is misconduct, unless the intervening officer cannot intervene safely.

(3) A police officer or reserve officer who witnesses another police officer or reserve officer engaging in misconduct shall report the misconduct to a supervisor as soon as practicable, but no later than 72 hours after witnessing the misconduct.

(4) Failure to intervene or report as required by subsections (2) and (3) of this section is grounds for disciplinary action against a police officer or reserve officer by the law enforcement unit employing the officer or for the Department of Public Safety Standards and Training to suspend or revoke the officer's certification as provided in ORS 181A.630, 181A.640 and 181A.650.

(5) An employer may not discharge, demote, suspend or in any manner discriminate or retaliate against a police officer or reserve officer with regard to promotion, compensation or other terms, conditions or privileges of employment for the reason that the officer intervened or reported as required by subsections (2) and (3) of this section. Violation of this subsection is an unlawful employment practice as provided in ORS 659A.199.

(6) The Department of Public Safety Standards and Training shall report at least annually to an appropriate committee of the Legislative Assembly on any rules adopted by the department implementing this section.

SECTION 3. This 2020 special session Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2020 special session Act takes effect on its passage.

Passed by House June 26, 2020

Received by Governor:

.....M.,..... 2020

.....
Timothy G. Sekerak, Chief Clerk of House

Approved:

.....M.,..... 2020

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Tina Kotek, Speaker of House

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Kate Brown, Governor

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Filed in Office of Secretary of State:

.....M.,..... 2020

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Peter Courtney, President of Senate

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Bev Clarno, Secretary of State

Enrolled House Bill 4207

Sponsored by Representatives KOTEK, ALONSO LEON, BYNUM, LAWRENCE SPENCE, MEEK, SALINAS, SANCHEZ, Senators FREDERICK, MANNING JR, PROZANSKI; Representatives CLEM, DEXTER, FAHEY, HELT, HERNANDEZ, HOLVEY, KENY-GUYER, LEWIS, MARSH, MITCHELL, NATHANSON, NERON, NOBLE, NOSSE, PILUSO, POWER, PRUSAK, REARDON, SOLLMAN, WILDE, WILLIAMS, Senators FAGAN, HASS, MONNES ANDERSON, WAGNER (at the request of Joint Committee on the First Special Session of 2020)

CHAPTER

AN ACT

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

Whereas Black Lives Matter; and

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

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

Whereas accountability is a vital element of American policing; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2. The Legislative Assembly finds that:

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

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

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

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

- (a) The name of the officer;
- (b) The law enforcement unit at which the officer was employed; and
- (c) A description of the facts underlying the suspension or revocation.

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

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

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

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

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

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

(b) "Personnel records" means the entire personnel file of a police officer or reserve officer, including but not limited to records of complaints and disciplinary action against the officer.

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

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

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

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

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

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

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

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

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

(a) "Public body" has the meaning given that term in ORS 192.311.

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

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

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

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

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

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

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

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

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

(5) If an investigation of a public safety employee of a public body results from a complaint, the public body may disclose to the complainant the disposition of the complaint and, to the extent the public body considers necessary to explain the action of the public body on the complaint, a written summary of information obtained in the investigation.

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

(a) A photograph of the employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Obtain false confessions;

(B) Make false arrests;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Passed by House June 26, 2020

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 26, 2020

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Peter Courtney, President of Senate

Received by Governor:

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Approved:

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Kate Brown, Governor

Filed in Office of Secretary of State:

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Bev Clarno, Secretary of State

Enrolled House Bill 4208

Sponsored by Representatives KOTEK, ALONSO LEON, BYNUM, LAWRENCE SPENCE, MEEK, SALINAS, SANCHEZ, Senators FREDERICK, MANNING JR, PROZANSKI; Representatives CLEM, DEXTER, EVANS, FAHEY, GORSEK, HERNANDEZ, HOLVEY, KENY-GUYER, LEWIS, MARSH, MITCHELL, NERON, NOBLE, NOSSE, PILUSO, POWER, PRUSAK, SCHOUTEN, SOLLMAN, WILDE, Senators BURDICK, FAGAN, HASS, MONNES ANDERSON, WAGNER (at the request of Joint Committee on the First Special Session of 2020)

CHAPTER

AN ACT

Relating to the use of tools by law enforcement agencies; and declaring an emergency.

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

SECTION 1. (1) As used in this section:

(a) "Law enforcement agency" means the Department of State Police, the Department of Justice, a district attorney, a political subdivision of the State of Oregon, a municipal corporation of the State of Oregon and a university, that maintains a law enforcement unit as defined in ORS 181A.355 (12)(a)(A).

(b) "Tear gas" means oleoresin capsicum or orthochlorobenzalmalononitrile, or other similar chemicals meant to accomplish the same effect, administered by any shell, cartridge or bomb capable of being discharged or exploded, when the discharge or explosion will cause or permit the release or emission of the chemicals.

(2) A law enforcement agency may not use tear gas for the purposes of crowd control except in circumstances constituting a riot, as described in ORS 166.015.

(3) Before using tear gas in circumstances constituting a riot, a law enforcement agency shall, in the following order:

(a) Announce the agency's intent to use tear gas;

(b) Allow sufficient time for individuals to evacuate the area; and

(c) Announce for a second time, immediately before using the tear gas, the agency's intent to use tear gas.

SECTION 2. This 2020 special session Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2020 special session Act takes effect on its passage.

Passed by House June 26, 2020

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

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Peter Courtney, President of Senate

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Bev Clarno, Secretary of State