

DRAFT

SUMMARY

Prohibits official action relating to employment or certification of police officer solely because police officer is on impeachment list or because of unproven allegation that police officer committed act or omission of kind for which name of police officer may be placed on impeachment list. Prohibits use of certain evidence regarding impeachment list in administrative hearing related to official action.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to police officers; creating new provisions; amending ORS 181A.355, 181A.490 and 181A.775; and declaring an emergency.

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

SECTION 1. Section 2 of this 2016 Act is added to and made a part of ORS 181A.355 to 181A.670.

SECTION 2. (1) No official action relating to the employment or certification of a police officer may be taken solely because the police officer has been placed on an impeachment list or because of an unproven allegation that the police officer has committed an act or omission of the kind for which the name of a police officer may be placed on an impeachment list.

(2)(a) Except as provided in paragraph (b) of this subsection, evidence that a police officer has been placed on an impeachment list or evidence of an unproven allegation that the police officer has committed an act or omission of the kind for which the name of a police officer may be placed on an impeachment list may not be introduced in an administrative hearing related to an official action relating to

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 **the employment or certification of a police officer.**

2 **(b) Evidence described in paragraph (a) of this subsection may be**
3 **introduced in an administrative hearing related to an official action**
4 **relating to the employment or certification of a police officer if, in the**
5 **administrative hearing, the act or omission for which the police officer**
6 **was placed on an impeachment list is proven and the police officer is**
7 **found to be subject to punitive action relating to the police officer's**
8 **employment or certification for the act or omission.**

9 **SECTION 3.** ORS 181A.355 is amended to read:

10 181A.355. As used in ORS 181A.355 to 181A.670, unless the context re-
11 quires otherwise:

12 (1) "Abuse" has the meaning given that term in ORS 107.705.

13 (2) "Board" means the Board on Public Safety Standards and Training
14 appointed pursuant to ORS 181A.360.

15 (3) "Certified reserve officer" means a reserve officer who has been des-
16 ignated by a local law enforcement unit, has received training necessary for
17 certification and has met the minimum standards and training requirements
18 established under ORS 181A.410.

19 (4) "Commissioned" means being authorized to perform various acts or
20 duties of a police officer, certified reserve officer or reserve officer and act-
21 ing under the supervision and responsibility of a county sheriff or as other-
22 wise provided by law.

23 (5) "Corrections officer" means an officer or member employed full-time
24 by a law enforcement unit who:

25 (a) Is charged with and primarily performs the duty of custody, control
26 or supervision of individuals convicted of or arrested for a criminal offense
27 and confined in a place of incarceration or detention other than a place used
28 exclusively for incarceration or detention of juveniles; or

29 (b) Has been certified as a corrections officer described in paragraph (a)
30 of this subsection and has supervisory or management authority for cor-
31 rections officers described in paragraph (a) of this subsection.

(6) “Department” means the Department of Public Safety Standards and Training.

(7) “Director” means the Director of the Department of Public Safety Standards and Training.

(8) “Domestic violence” means abuse between family or household members.

(9) “Emergency medical dispatcher” means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(10) “Family or household members” has the meaning given that term in ORS 107.705.

(11) “Fire service professional” means a paid or volunteer firefighter, an officer or a member of a public or private fire protection agency that is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. “Fire service professional” does not mean forest fire protection agency personnel.

(12) “Impeachment list” means any list, index, system or other record that is maintained by a prosecutor’s office and that contains the names of police officers whose personnel files are likely to contain evidence of dishonesty or bias.

[(12)] (13) “Law enforcement unit” means:

(a) A police force or organization of the state, a city, university that has established a police department under ORS 352.121 or 353.125, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in ORS 181A.680 that employs authorized tribal police officers as defined in ORS 181A.680, the Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, the Security and Emergency Preparedness Office of the Judicial

Department or common carrier railroad the primary duty of which, as prescribed by law, ordinance or directive, is one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(C) The control, supervision and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation;

(b) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area the employees of which are commissioned by a county sheriff;

(c) A district attorney's office;

(d) The Oregon Liquor Control Commission with regard to regulatory specialists; or

(e) A humane investigation agency as defined in ORS 181A.340.

~~[(13)]~~ (14) "Parole and probation officer" means:

(a) An officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(b) An officer who:

(A) Is certified and has been employed as a full-time parole and probation officer for more than one year;

(B) Is employed part-time by the Department of Corrections, a county or a court; and

(C) Is charged with and performs the duty of:

(i) Community protection by controlling, investigating, supervising and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(ii) Investigating adult offenders on parole or probation or being considered for parole or probation.

[(14)] **(15)** “Police officer” means:

(a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:

(A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in ORS 181A.680, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.121 or 353.125, the Governor or the Department of State Police; and

(B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(b) An investigator of a district attorney’s office if the investigator is or has been certified as a peace officer in this or another state;

(c) A humane special agent commissioned under ORS 181A.340;

(d) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181A.540; or

(e) An authorized tribal police officer as defined in ORS 181A.680.

[(15)] **(16)** “Public or private safety agency” means a unit of state or local government, a special purpose district or a private firm that provides, or has authority to provide, fire fighting, police, ambulance or emergency medical services.

[(16)] **(17)** “Public safety personnel” and “public safety officer” include corrections officers, youth correction officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers,

reserve officers, telecommunicators, regulatory specialists and fire service professionals.

[(17)] (18) "Regulatory specialist" has the meaning given that term in ORS 471.001.

[(18)] (19) "Reserve officer" means an officer or member of a law enforcement unit who is:

(a) A volunteer or employed less than full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in ORS 181A.680, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.121 or 353.125, the Governor or the Department of State Police;

(b) Armed with a firearm; and

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

[(19)] (20) "Telecommunicator" means a person employed as an emergency communications worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through the emergency communications system as defined in ORS 403.105.

[(20)] (21) "Youth correction officer" means an employee of the Oregon Youth Authority who is charged with and primarily performs the duty of custody, control or supervision of youth offenders confined in a youth correction facility.

SECTION 4. ORS 181A.490 is amended to read:

181A.490. (1) Except for a person who has requested and obtained an extension from the Department of Public Safety Standards and Training pursuant to subsection (2) of this section, a person may not be employed as a police officer, or utilized as a certified reserve officer, by any law enforcement unit for more than 18 months unless:

1 (a) The person is a citizen of the United States; and

2 (b) The person has been certified as being qualified as a police officer or
3 certified reserve officer under the provisions of ORS 181A.355 to 181A.670
4 and the certification has neither lapsed nor been revoked pursuant to ORS
5 181A.630, 181A.640 and 181A.650 (1) and not been reissued under ORS
6 181A.650 (2).

7 (2) The department, upon the facts contained in an affidavit accompanying
8 the request for an extension, may find good cause for failure to obtain cer-
9 tification within the time period described in subsection (1) of this section.
10 If the department finds that there is good cause for such failure, the de-
11 partment may extend for up to one year the period that a person may serve
12 as a police officer or reserve officer without certification. The grant or de-
13 nial of such an extension is within the sole discretion of the department.

14 (3) Except as provided in subsection (4) of this section, a person employed
15 as a police officer by any law enforcement unit shall commence the training
16 necessary for certification under ORS 181A.355 to 181A.670 at an academy
17 operated by the department not later than the 90th day after the date of the
18 officer's employment by the law enforcement unit.

19 (4) A law enforcement unit may delay the commencement of training of
20 a police officer for up to 120 days from the date of the officer's employment
21 when it considers the delay necessary. When a law enforcement unit delays
22 commencement of a police officer's training under this subsection, it shall
23 file a written statement of its reasons with the department.

24 (5) When a delay in the commencement of training necessary for certi-
25 fication under ORS 181A.355 to 181A.670 at an academy operated by the de-
26 partment is caused by the inability of the department, for any reason, to
27 provide that training, the period of such delay shall not be counted as part
28 of the periods set forth in subsections (3) and (4) of this section within which
29 the training must be commenced.

30 (6) A person utilized as a certified reserve officer by a law enforcement
31 unit must complete the training necessary for certification under ORS

1 181A.355 to 181A.670 at a site approved by the department.

2 (7) Notwithstanding any other provision of law, the law enforcement unit
3 described in ORS 181A.355 [(12)(e)] **(13)(e)** shall bear the expense of training
4 necessary for certification under ORS 181A.355 to 181A.670.

5 **SECTION 5.** ORS 181A.775 is amended to read:

6 181A.775. As used in ORS 181A.775 to 181A.805:

7 (1) “Employ,” when used in the context of the relationship between a law
8 enforcement agency and a police officer, includes the assignment of law
9 enforcement duties on a volunteer basis to a reserve officer.

10 (2) “Law enforcement agency” means the Department of State Police, the
11 Department of Justice, a district attorney, a political subdivision of the State
12 of Oregon, a municipal corporation of the State of Oregon, a tribal govern-
13 ment and a university, that maintains a law enforcement unit as defined in
14 ORS 181A.355 [(12)(a)(A)] **(13)(a)(A)**.

15 (3) “Police officer” means a person who is:

16 (a) A police officer or reserve officer as defined in ORS 181A.355; and

17 (b) Employed by a law enforcement agency to enforce the criminal laws
18 of this state.

19 (4) “Tribal government” means a tribal government as defined in ORS
20 181A.680:

21 (a) With land that is contiguous to the county in which the deadly phys-
22 ical force planning authority is created; and

23 (b) That has adopted the provision of tribal law described in ORS
24 181A.685 (4)(d)(A).

25 **SECTION 6.** **Section 2 of this 2016 Act and the amendments to ORS**
26 **181A.355 by section 3 of this 2016 Act apply to official actions and ad-**
27 **ministrative hearings conducted on or after the effective date of this**
28 **2016 Act.**

29 **SECTION 7.** **This 2016 Act being necessary for the immediate pres-**
30 **ervation of the public peace, health and safety, an emergency is de-**
31 **clared to exist, and this 2016 Act takes effect on its passage.**

