

Senate Bill 111

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 Attorney General Hardy Myers for Department of Justice)

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 **as introduced**.

Creates planning authority in each county to develop plan concerning use of deadly physical force by police officers. Directs planning authority to submit plan to governing body of each law enforcement agency within county except Department of State Police and Department of Justice. Specifies required elements of plan. Directs governing body to approve or disapprove plan.

Authorizes Department of Justice, to extent funds are appropriated for such purposes, to make grants to law enforcement agencies for expenses incurred in implementing and revising approved plans.

Establishes procedures for law enforcement agencies to follow in dealing with use of deadly physical force and for grand jury proceedings in which use of deadly physical force is element.

Appropriates moneys from General Fund to Department of Justice for grants and for grand jury recording and transcription costs.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to use of physical force; creating new provisions; amending ORS 132.090, 132.330, 132.430,
3 146.135, 181.640 and 181.662; appropriating money; and declaring an emergency.

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

SECTION 1. As used in sections 1 to 7 of this 2007 Act:

5
6 (1) **"Employ," when used in the context of the relationship between a law enforcement**
7 **agency and a police officer, includes the assignment of law enforcement duties on a volunteer**
8 **basis to a reserve officer.**

9 (2) **"Law enforcement agency" means the Department of State Police, the Department**
10 **of Justice, a district attorney, a political subdivision of the State of Oregon and a municipal**
11 **corporation of the State of Oregon, that maintains a law enforcement unit as defined in ORS**
12 **181.610 (12)(a)(A).**

13 (3) **"Police officer" means a person who is:**

14 (a) **A police officer or reserve officer as defined in ORS 181.610; and**

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

16 **SECTION 2. (1) There is created in each county a deadly physical force planning author-**
17 **ity consisting of the following members:**

18 (a) **The district attorney and sheriff of the county.**

19 (b) **A nonmanagement police officer selected by the district attorney and sheriff. If there**
20 **are unions representing police officers within the county, the district attorney and sheriff**
21 **shall select the police officer from among candidates nominated by any union representing**
22 **police officers within the county.**

23 (c) **If at least one city within the county employs a police chief, a police chief selected**
24 **by the police chiefs within the county.**

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 (d) A representative of the public selected by the district attorney and sheriff. The person
 2 selected under this paragraph may not be employed by a law enforcement agency.

3 (e) A representative of the Oregon State Police selected by the Superintendent of State
 4 Police.

5 (2) The district attorney and sheriff are cochairpersons of the planning authority.

6 (3) The law enforcement agency that employs the police officer selected under subsection
 7 (1)(b) of this section shall release the officer from other duties for at least 16 hours per year
 8 to enable the officer to serve on the planning authority. The agency shall compensate the
 9 officer at the officer's regular hourly wage while the officer is engaged in planning authority
 10 activities.

11 (4) The planning authority shall develop a plan consisting of the following:

12 (a) An element dealing with education, outreach and training regarding the use of deadly
 13 physical force for police officers, attorneys employed by state or local government within the
 14 county and members of the community.

15 (b) An element dealing with the immediate aftermath of an incident in which a police
 16 officer used deadly physical force.

17 (c) An element dealing with the investigation of an incident in which a police officer used
 18 deadly physical force.

19 (d) An element dealing with the exercise of district attorney discretion to resolve issues
 20 of potential criminal responsibility resulting from a police officer's use of deadly physical
 21 force.

22 (e) An element dealing with collecting information regarding a police officer's use of
 23 deadly physical force, debriefing after an incident in which a police officer used deadly
 24 physical force and revising a plan developed under this subsection based on experience.

25 (f) An estimate of the fiscal impact on the law enforcement agencies to which the plan
 26 applies of each element described in paragraphs (a) to (e) of this subsection.

27 (5) The planning authority shall conduct at least one public hearing in the county before
 28 submitting a plan, or a revision of a plan, to the governing bodies in the county under sub-
 29 section (7) of this section.

30 (6) The planning authority may consult with anyone the planning authority determines
 31 may be helpful in carrying out its responsibilities.

32 (7) The planning authority shall submit the plan developed under subsection (4) of this
 33 section, and revisions of the plan, to the governing body of each law enforcement agency
 34 within the county except for the Department of State Police and the Department of Justice.

35 (8) A governing body shall approve or disapprove the plan submitted to it under sub-
 36 section (7) of this section within 60 days after receiving the plan. The governing body may
 37 not amend the plan.

38 (9) If the plan is not approved by at least two-thirds of the governing bodies to which the
 39 plan is submitted, the planning authority shall develop and submit a revised plan.

40 (10) If the plan is approved by at least two-thirds of the governing bodies to which the
 41 plan is submitted, the planning authority shall submit the approved plan to the Attorney
 42 General. No later than 30 days after receiving the plan, the Attorney General shall review
 43 the plan for compliance with the minimum requirements described in section 3 of this 2007
 44 Act. If the Attorney General determines that the plan complies with the minimum require-
 45 ments, the Attorney General shall approve the plan. Upon approval of the plan:

1 (a) Each law enforcement agency within the county to which the plan applies is subject
2 to the provisions of the plan; and

3 (b) Each law enforcement agency subject to the plan is entitled to grants as provided in
4 section 4 of this 2007 Act.

5 (11) If the plan is not approved by the Attorney General, the planning authority shall
6 develop and submit a revised plan.

7 (12) Notwithstanding subsection (10)(a) of this section, a law enforcement agency is not
8 subject to a provision of a plan approved under subsection (10) of this section that:

9 (a) Conflicts with a provision of a city or county charter or a general ordinance that
10 applies to the law enforcement agency; or

11 (b) Imposes an obligation not required by section 5 of this 2007 Act if complying with the
12 provision would require the law enforcement agency to budget moneys, or submit a revenue
13 measure for a vote of the people, in order to comply with the provision.

14 (13) The Attorney General shall periodically publish all approved plans.

15 (14) A law enforcement agency within a county has a duty to participate in good faith in
16 the planning process of the planning authority for the county.

17 (15) A person bringing an action challenging the validity or enforceability of a plan ap-
18 proved under subsection (10) of this section shall serve the Attorney General with a copy of
19 the complaint. If the Attorney General is not a party to the action, the Attorney General
20 may intervene in the action.

21 **SECTION 3.** In the plan required by section 2 (4) of this 2007 Act, a deadly physical force
22 planning authority shall, at a minimum:

23 (1)(a) Address, under section 2 (4)(a) of this 2007 Act, the manner in which each law
24 enforcement agency within the county will comply with section 5 (2) of this 2007 Act; and

25 (b) Attach a copy of each policy adopted under section 5 (2) of this 2007 Act to the plan.

26 (2) Address, under section 2 (4)(b) of this 2007 Act, the manner in which each law
27 enforcement agency within the county will comply with section 5 (3)(a) and (4) of this 2007
28 Act.

29 (3) Address, under section 2 (4)(c) of this 2007 Act, the manner in which each law
30 enforcement agency within the county will comply with section 5 (5)(a) of this 2007 Act.

31 (4) Address, under section 2 (4)(d) of this 2007 Act, the manner in which the district at-
32 torney of the county will comply with ORS 146.135 (2).

33 (5) Address, under section 2 (4)(e) of this 2007 Act, the manner in which each law
34 enforcement agency within the county will comply with section 5 (6) of this 2007 Act.

35 **SECTION 4.** (1) As used in this section, “expenses” does not include personnel costs.

36 (2) To the extent that funds are appropriated to it for such purposes, the Department
37 of Justice shall make grants to law enforcement agencies to reimburse the law enforcement
38 agencies for expenses incurred in implementing and revising the plans required by section 2
39 of this 2007 Act. A grant under this section may not exceed 75 percent of the expenses in-
40 curred by the law enforcement agency.

41 (3) The department may not make a grant under this section to a law enforcement
42 agency unless the law enforcement agency is subject to a plan that has been approved by the
43 Attorney General under section 2 (10) of this 2007 Act.

44 (4) The department shall adopt rules necessary for the administration of this section.

45 **SECTION 5.** (1) As used in this section, “involved officer” means:

1 (a) A police officer whose official conduct, or official order to use deadly physical force,
2 was a cause in fact of the death of a person. As used in this paragraph, “order to use deadly
3 physical force” means an order issued to another officer to use deadly physical force in a
4 specific incident or an order or directive establishing rules of engagement for the use of
5 deadly physical force for a specific incident.

6 (b) A police officer whose official conduct was not a cause in fact of the death of a person
7 but whose official involvement in an incident in which the use of deadly physical force by a
8 police officer resulted in the death of a person:

9 (A) Began before or during the use of the deadly physical force; and

10 (B) Was reasonably likely to have exposed the police officer to greater stresses or trauma
11 than other police officers experienced as a result of their involvement in the incident before
12 or during the use of the deadly physical force.

13 (2) A law enforcement agency shall adopt a policy dealing with the use of deadly physical
14 force by its police officers. At a minimum, the policy must include guidelines for the use of
15 deadly physical force.

16 (3)(a) For each involved officer employed by a law enforcement agency, the law enforce-
17 ment agency shall pay the costs of at least two sessions with a mental health professional
18 that are attended by the officer. The sessions must be held within six months after the in-
19 cident in which the officer was involved.

20 (b) An involved officer shall attend at least one of the sessions described in paragraph
21 (a) of this subsection.

22 (c) Sessions with a mental health professional under this subsection may not be substi-
23 tuted for a fitness for duty examination required or requested as a condition of employment
24 by the law enforcement agency that employs the involved officer.

25 (4) For at least 72 hours immediately following an incident in which the use of deadly
26 physical force by a police officer resulted in the death of a person, a law enforcement agency
27 may not return an involved officer to duties that might place the officer in a situation in
28 which the officer has to use deadly physical force. A law enforcement agency may not reduce
29 an involved officer’s pay or benefits as a result of the law enforcement agency’s compliance
30 with this subsection. Notwithstanding section 4 (1) of this 2007 Act, a personnel cost in-
31 curred in complying with this subsection by a law enforcement agency employing 40 or fewer
32 police officers is an expense for purposes of section 4 of this 2007 Act.

33 (5)(a) A law enforcement agency employing an involved officer shall include at least one
34 police officer from a different law enforcement agency in the investigation of the incident in
35 which the involved officer was involved.

36 (b) The failure of a law enforcement agency to comply with paragraph (a) of this sub-
37 section is not grounds for suppressing evidence obtained in the investigation.

38 (6)(a) A law enforcement agency shall collect at least the following information relating
39 to incidents in which a police officer’s use of deadly physical force resulted in the death of
40 a person:

41 (A) The name, gender, race, ethnicity and age of the decedent.

42 (B) The date, time and location of the incident.

43 (C) A brief description of the circumstances surrounding the incident.

44 (b) A law enforcement agency shall promptly submit the information collected under
45 paragraph (a) of this subsection to the Department of Justice.

1 **(7) The department shall compile and periodically publish information submitted under**
2 **subsection (6) of this section. The department, by rule, may specify a form to be used by law**
3 **enforcement agencies in submitting information under subsection (6) of this section.**

4 **SECTION 6. Conclusions and recommendations for future action made by or for a law**
5 **enforcement agency that result from activities conducted pursuant to the element of a plan**
6 **described in section 2 (4)(e) of this 2007 Act are not admissible as evidence in any subsequent**
7 **civil action or administrative proceeding.**

8 **SECTION 7. (1) Notwithstanding sections 2, 3, 5 (3) and (6) and 12 of this 2007 Act, if**
9 **sufficient moneys are not appropriated to the Department of Justice for purposes of making**
10 **grants under section 4 of this 2007 Act, a deadly physical force planning authority created**
11 **by section 2 of this 2007 Act or a law enforcement agency is not required to comply with any**
12 **requirement of section 2, 3 or 5 (3) or (6) of this 2007 Act for which the law enforcement**
13 **agency is entitled to reimbursement under section 4 of this 2007 Act.**

14 **(2) If sufficient moneys are not appropriated to the Department of Justice to pay the**
15 **costs of recording and transcribing testimony before a grand jury as required by section 12**
16 **of this 2007 Act:**

17 **(a) The Department of Justice is not required to comply with section 12 (5) of this 2007**
18 **Act; and**

19 **(b) A district attorney is not required to comply with section 12 of this 2007 Act.**

20 **SECTION 8. ORS 132.330 is amended to read:**

21 132.330. **(1) The district attorney may submit an indictment to the grand jury in any case when**
22 **the district attorney has good reason to believe that a crime has been committed which is triable**
23 **within the county.**

24 **(2) The district attorney may present facts to the grand jury about an incident in which**
25 **a police officer used deadly physical force.**

26 **SECTION 9. ORS 132.090 is amended to read:**

27 132.090. **(1) Except as provided in subsections (2) and (3) of this section and section 12 of this**
28 **2007 Act, no person other than the district attorney or a witness actually under examination shall**
29 **be present during the sittings of the grand jury.**

30 **(2) If not otherwise required under section 12 of this 2007 Act, upon a motion filed by the**
31 **district attorney in the circuit court, the circuit judge may appoint a reporter who shall attend the**
32 **sittings of the grand jury to take and report the testimony in any matters pending before the grand**
33 **jury, and may appoint a parent, guardian or other appropriate person 18 years of age or older to**
34 **accompany any child 12 years of age or younger, or any person with mental retardation, during an**
35 **appearance before the grand jury. The circuit judge, upon the district attorney's showing to the**
36 **court that it is necessary for the proper examination of a witness appearing before the grand jury,**
37 **may appoint a guard, medical or other special attendant or nurse, who shall be present in the grand**
38 **jury room and shall attend such sittings.**

39 **(3) The district attorney may designate an interpreter who is certified under ORS 45.291 to in-**
40 **terpret the testimony of witnesses appearing before the grand jury. The district attorney may des-**
41 **ignate a qualified interpreter, as defined in ORS 45.288, if the circuit court determines that a**
42 **certified interpreter is not available and that the person designated by the district attorney is a**
43 **qualified interpreter as defined in ORS 45.288. An interpreter designated under this subsection may**
44 **be present in the grand jury room and attend the sittings of the grand jury.**

45 **(4) No person other than members of the grand jury shall be present when the grand jury is**

1 deliberating or voting upon a matter before it.

2 (5) As used in this section, “mental retardation” has the meaning given that term in ORS
3 427.005. Mental retardation may be shown by attaching to the motion of the district attorney:

4 (a) Documentary evidence of intellectual functioning; or

5 (b) The affidavit of a qualified person familiar with the person with mental retardation. “Quali-
6 fied person” includes, but is not limited to, a teacher, therapist or physician.

7 **SECTION 10. The Legislative Assembly finds that:**

8 (1) **Grand juries originally were created and have existed for centuries as a check against
9 potential abuse of the government’s power to charge individuals with crimes.**

10 (2) **Grand jury proceedings are kept secret to help protect witnesses, victims and grand
11 jurors against retaliation and innocent persons against wrongful accusations of crime.**

12 (3) **As authorized by law and as guided by the policies of law enforcement agencies, police
13 officers may cause the death of a person by the use of deadly physical force.**

14 (4) **The use of deadly physical force by a police officer that results in the death of a
15 person requires a level of public scrutiny that uniquely justifies limited intrusions into the
16 secrecy historically accorded grand jury proceedings.**

17 **SECTION 11. Section 12 of this 2007 Act is added to and made a part of ORS 132.310 to
18 132.390.**

19 **SECTION 12. (1) As used in this section:**

20 (a) **“Certified shorthand reporter” has the meaning given that term in ORS 8.415.**

21 (b) **“Involved officer” has the meaning given that term in section 5 of this 2007 Act.**

22 (c) **“Police officer” has the meaning given that term in section 1 of this 2007 Act.**

23 (2) **A proceeding before a grand jury must be on the record and recorded by a certified
24 shorthand reporter as provided in this subsection if the proceeding has been convened to
25 examine the use of deadly physical force by a police officer that resulted in the death of a
26 person. When a proceeding is required to be on the record under this subsection, the district
27 attorney shall ensure that a certified shorthand reporter attends the sittings of the grand
28 jury to take and report the questioning and testimony of all witnesses. The certified short-
29 hand reporter may not record any information that reveals the identity of a grand juror. The
30 certified shorthand reporter may not be present during, or record, the deliberations of the
31 grand jury.**

32 (3) **Unless the certified shorthand reporter can show good cause why the time should be
33 extended, no later than seven days after a grand jury in a proceeding required to be on the
34 record under subsection (2) of this section determines that no criminal charges should be
35 returned or returns an indictment indorsed “not a true bill,” the certified shorthand reporter
36 shall provide a certified transcript of the report to the district attorney of the county in
37 which the incident occurred.**

38 (4)(a) **No later than five days after receiving the transcript from the certified shorthand
39 reporter, the district attorney shall send notice of the following to all witnesses who ap-
40 peared before the grand jury:**

41 (A) **The witness’s right to file a petition under subsection (6) of this section;**

42 (B) **The time period within which the petition must be filed; and**

43 (C) **The witness’s right to review the transcript and submit objections to the accuracy
44 of the transcript as provided in paragraph (b) of this subsection.**

45 (b) **No later than seven days after the district attorney sends the notice required by**

1 paragraph (a) of this subsection, a witness may:

2 (A) Review, under the supervision of the district attorney, the portion of the grand jury
3 transcript in which the witness's testimony is transcribed; and

4 (B) Submit an objection to the accuracy of the transcription of the witness's testimony.
5 A witness submitting an objection under this subparagraph shall attach the objection to the
6 transcript.

7 (c) No earlier than eight days after sending the notice required by paragraph (a) of this
8 subsection, the district attorney shall provide a copy of the complete transcript to each in-
9 volved officer in the incident and to the law enforcement agency that employs each involved
10 officer.

11 (5) The Department of Justice shall pay the costs of the recording and the transcripts
12 required by subsections (2) and (3) of this section.

13 (6)(a) No later than 14 days after the district attorney sends the notice required by sub-
14 section (4)(a) of this section, the district attorney, an involved officer, the law enforcement
15 agency employing the involved officer or any witness who appeared before the grand jury
16 may petition the circuit court for a judgment sealing all or part of the transcript or delaying
17 the public release of all or part of the transcript. The petition must be served on the district
18 attorney, the involved officer and the law enforcement agency employing the involved officer.
19 The petition must be supported by an affidavit showing why the public interest in disclosure
20 is outweighed by one of the factors listed in subsection (7)(b) of this section.

21 (b) If no petition is timely filed, the district attorney shall make the transcript available
22 to any person upon request and payment of copying fees set under ORS 192.440.

23 (7)(a) No later than seven days after service under subsection (6)(a) of this section, the
24 district attorney, an involved officer or the law enforcement agency that employs the in-
25 volved officer may file an objection to the petition. If no objection is timely filed, the court
26 may rule without a hearing on the petition. If an objection is timely filed, the court shall hold
27 a hearing on the petition no later than seven days after the time for filing objections has
28 expired.

29 (b) The court shall deny the petition unless the court finds that the public interest in
30 disclosure is outweighed by:

31 (A) The impairment of the proceeding or prosecution of any criminal matter related to
32 the proceeding;

33 (B) The probable prejudice to the right of a witness who appeared before the grand jury
34 or of an involved officer to a fair trial; or

35 (C) The privacy right of a witness who appeared before the grand jury.

36 (8) When the court determines that all or part of the transcript should be sealed or that
37 disclosure of all or part of the transcript should be delayed, the court shall enter a judgment
38 sealing the transcript or portions of the transcript or delaying the public release of the
39 transcript or portions of the transcript.

40 (9) A judgment sealing or delaying release of all or any portion of a transcript based on
41 subsection (7)(b)(B) or (C) of this section has no further effect with respect to public release
42 of the transcript after a witness whose testimony is subject to the judgment:

43 (a) Files a civil action against an involved officer or the law enforcement agency em-
44 ploying the involved officer; or

45 (b) Gives testimony, including depositions, in a civil or criminal action arising out of the

1 **incident in which deadly physical force was used.**

2 **(10) The testimony of a police officer who is the subject of an investigation of the use of**
 3 **deadly physical force and who is called as a witness before a grand jury in a proceeding re-**
 4 **quired to be on the record under subsection (2) of this section is not admissible evidence in**
 5 **a civil proceeding except:**

6 **(a) When the testimony before the grand jury is compelled under ORS 136.617; or**

7 **(b) When the testimony before the grand jury is offered as a prior inconsistent statement**
 8 **to impeach the witness.**

9 **(11) This section does not create a cause of action.**

10 **(12) The failure of a certified shorthand reporter to record all of the grand jury pro-**
 11 **ceeding required to be recorded under subsection (2) of this section does not affect the va-**
 12 **lidity of any indictment or prosecution that arises from the proceeding.**

13 **SECTION 13.** ORS 146.135 is amended to read:

14 146.135. (1) The district attorney for the county where the death occurs may order an inquest
 15 to obtain a jury finding of the cause and manner of death in any case requiring investigation.

16 **(2) The district attorney may not order an inquest under this section concerning a death**
 17 **that resulted from a police officer’s use of, or order to use, deadly physical force until after**
 18 **the district attorney has determined that the police officer did not commit a crime or a**
 19 **grand jury has received testimony concerning the incident and has declined to indict the**
 20 **police officer. As used in this subsection, “police officer” has the meaning given that term**
 21 **in section 1 of this 2007 Act.**

22 [(2)] (3) For the purpose of conducting an inquest, the district attorney shall have the powers
 23 of a judicial officer as described by ORS 1.240 and 1.250.

24 [(3)] (4) The district attorney shall advise the jury of inquest as to its duties and instruct the
 25 jury on questions of law.

26 [(4)] (5) The district attorney shall cause a record of the inquest proceedings to be made which
 27 shall include the written order of inquest, a record of the testimony of witnesses and the written
 28 verdict of the jury.

29 [(5)] (6) Within a reasonable time after the verdict is returned, the record of inquest shall be
 30 filed in the district medical examiner’s office for the county where the inquest was held.

31 [(6)] (7) A copy of the order of inquest and verdict of the jury shall be filed in the State Medical
 32 Examiner’s office.

33 [(7)] (8) The record of inquest shall be available for inspection as provided by ORS 146.035 (5).

34 **SECTION 14.** ORS 146.135, as amended by section 13 of this 2007 Act, is amended to read:

35 146.135. (1) The district attorney for the county where the death occurs may order an inquest
 36 to obtain a jury finding of the cause and manner of death in any case requiring investigation.

37 (2) The district attorney may not order an inquest under this section concerning a death that
 38 resulted from a police officer’s use of, or order to use, deadly physical force [*until after the district*
 39 *attorney has determined that the police officer did not commit a crime or a grand jury has received*
 40 *testimony concerning the incident and has declined to indict the police officer*]. As used in this sub-
 41 section, “police officer” has the meaning given that term in section 1 of this 2007 Act.

42 (3) For the purpose of conducting an inquest, the district attorney shall have the powers of a
 43 judicial officer as described by ORS 1.240 and 1.250.

44 (4) The district attorney shall advise the jury of inquest as to its duties and instruct the jury
 45 on questions of law.

1 (5) The district attorney shall cause a record of the inquest proceedings to be made which shall
 2 include the written order of inquest, a record of the testimony of witnesses and the written verdict
 3 of the jury.

4 (6) Within a reasonable time after the verdict is returned, the record of inquest shall be filed in
 5 the district medical examiner's office for the county where the inquest was held.

6 (7) A copy of the order of inquest and verdict of the jury shall be filed in the State Medical
 7 Examiner's office.

8 (8) The record of inquest shall be available for inspection as provided by ORS 146.035 (5).

9 **SECTION 15.** ORS 181.662 is amended to read:

10 181.662. (1) The Department of Public Safety Standards and Training may deny the application
 11 for training, or deny, suspend or revoke the certification, of any instructor or public safety officer,
 12 except a youth correction officer or fire service professional, after written notice and hearing con-
 13 sistent with the provisions of ORS 181.661, based upon a finding that:

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

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

19 (c) The public safety officer or instructor does not meet the applicable minimum standards,
 20 minimum training or the terms and conditions established under ORS 181.640 (1)(a) to (d).

21 **(d) The public safety officer failed to comply with section 5 (3)(b) of this 2007 Act.**

22 (2) The department shall deny, suspend or revoke the certification of a fire service professional,
 23 after written notice and hearing consistent with the provisions of ORS 181.661, based upon a finding
 24 that the fire service professional has been convicted in this state of a crime listed in ORS 137.700
 25 or in any other jurisdiction of a crime that, if committed in this state, would constitute a crime
 26 listed in ORS 137.700.

27 (3) The department may deny, suspend or revoke the certification of any fire service professional
 28 after written notice and hearing consistent with the provisions of ORS 181.661, based upon a finding:

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

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

34 (4) The department shall deny, suspend or revoke the certification of any public safety officer
 35 or instructor, except a youth correction officer, after written notice and hearing consistent with the
 36 provisions of ORS 181.661, based upon a finding that the public safety officer or instructor has been
 37 discharged for cause from employment as a public safety officer.

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

41 (6) Notwithstanding the lapse, suspension, revocation or surrender of the certification of a pub-
 42 lic safety officer or instructor, the department may:

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

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

1 (7) The department shall deny, suspend or revoke the accreditation of a training or educational
 2 program or any course, subject, facility or instruction thereof if the program, course, subject, facility
 3 or instruction is not in compliance with rules adopted or conditions prescribed under ORS 181.640
 4 (1)(g) or 181.650 (3).

5 **SECTION 16.** (1) A deadly physical force planning authority created by section 2 of this
 6 2007 Act shall submit the plan required by section 2 (4) of this 2007 Act to the governing
 7 bodies described in section 2 (7) of this 2007 Act no later than July 1, 2008.

8 (2) Notwithstanding section 2 (3) of this 2007 Act, for the period of time from the effective
 9 date of this 2007 Act to June 30, 2008, the law enforcement agency that employs the police
 10 officer selected under section 2 (1)(b) of this 2007 Act shall release the officer from other
 11 duties for at least 80 hours to enable the officer to serve on the planning authority. The
 12 agency shall compensate the officer at the officer's regular hourly wage while the officer is
 13 engaged in planning authority activities during that period of time.

14 **SECTION 17.** A law enforcement agency shall adopt the policy required by section 5 (2)
 15 of this 2007 Act no later than July 1, 2008.

16 **SECTION 18.** (1) A law enforcement agency that participates in the development of the
 17 plan required by section 2 (4) of this 2007 Act shall keep track of the expenses it incurs by
 18 reason of its participation. For purposes of this subsection and subsection (2) of this section,
 19 "expenses" includes, but is not limited to, personnel costs.

20 (2) The Department of Justice shall award a law enforcement agency one credit for each
 21 dollar of expenses incurred before July 1, 2008, by reason of the law enforcement agency's
 22 participation in the development of the plan required by section 2 (4) of this 2007 Act.

23 (3) Notwithstanding section 4 (2) of this 2007 Act, when a law enforcement agency applies
 24 for a grant under section 4 of this 2007 Act, the department, to the extent that funds are
 25 appropriated to the department for the purpose, shall make a grant that exceeds 75 percent
 26 of the expenses incurred by the law enforcement agency if the law enforcement agency has
 27 unused credits awarded under subsection (2) of this section. When the department makes a
 28 grant that exceeds 75 percent of the expenses incurred by a law enforcement agency, the
 29 department shall deduct the amount of the grant that exceeds 75 percent from the credits
 30 awarded the law enforcement agency under subsection (2) of this section.

31 (4) The department may adopt rules necessary for the administration of this section.

32 **SECTION 19.** ORS 132.430 is amended to read:

33 132.430. (1) When a person has been held to answer a criminal charge and the indictment in
 34 relation thereto is not found "a true bill," it must be indorsed "not a true bill," which indorsement
 35 must be signed by the foreman and filed with the clerk of the court, in whose office it shall remain
 36 a public record. **Except for the recording and transcript required by section 12 of this 2007**
 37 **Act,** in the case of an indictment not found "a true bill" against a person not so held, the same,
 38 together with the minutes of the evidence in relation thereto, must be destroyed by the grand jury.

39 (2) When an indictment indorsed "not a true bill" has been filed with the clerk of the court, the
 40 effect thereof is to dismiss the charge; and the same cannot be again submitted to or inquired of by
 41 the grand jury unless the court so orders.

42 **SECTION 20.** A law enforcement agency, as defined in section 1 of this 2007 Act, may not
 43 use moneys it receives under section 4 of this 2007 Act to supplant moneys from another
 44 source that the law enforcement agency has been previously authorized to expend.

45 **SECTION 21.** There is appropriated to the Department of Justice, for the biennium be-

1 **ginning July 1, 2007, out of the General Fund, the amount of \$300,000 for the purpose of**
2 **carrying out the provisions of sections 4 and 12 (5) of this 2007 Act.**

3 **SECTION 22.** ORS 181.640 is amended to read:

4 181.640. (1) In accordance with any applicable provision of ORS chapter 183, to promote
5 enforcement of law and fire services by improving the competence of public safety personnel and
6 their support staffs, and in consultation with the agencies for which the Board on Public Safety
7 Standards and Training and Department of Public Safety Standards and Training provide standards,
8 certification, accreditation and training:

9 (a) The department shall recommend and the board shall establish by rule reasonable minimum
10 standards of physical, emotional, intellectual and moral fitness for public safety personnel and in-
11 structors.

12 (b) The department shall recommend and the board shall establish by rule reasonable minimum
13 training for all levels of professional development, basic through executive, including but not limited
14 to courses or subjects for instruction and qualifications for public safety personnel and instructors.
15 Training requirements shall be consistent with the funding available in the department's
16 legislatively approved budget.

17 (c) The department, in consultation with the board, shall establish by rule a procedure or pro-
18 cedures to be used by law enforcement units, public or private safety agencies or the Oregon Youth
19 Authority to determine whether public safety personnel meet minimum standards or have minimum
20 training.

21 (d) Subject to such terms and conditions as the department may impose, the department shall
22 certify instructors and public safety personnel, except youth correction officers, as being qualified
23 under the rules established by the board.

24 (e) The department shall deny applications for training and deny, suspend and revoke certif-
25 ication in the manner provided in ORS 181.661, 181.662 and 181.664 (1).

26 (f) The department shall cause inspection of standards and training for instructors and public
27 safety personnel, except youth correction officers, to be made.

28 (g) The department may recommend and the board may establish by rule accreditation stan-
29 dards, levels and categories for mandated and nonmandated public safety personnel training or ed-
30 ucational programs. The department and board, in consultation, may establish to what extent
31 training or educational programs provided by an accredited university, college, community college
32 or public safety agency may serve as equivalent to mandated training or as a prerequisite to man-
33 dated training. Programs offered by accredited universities, colleges or community colleges may be
34 considered equivalent to mandated training only in academic areas.

35 (2) The department may:

36 (a) Contract or otherwise cooperate with any person or agency of government for the procure-
37 ment of services or property;

38 (b) Accept gifts or grants of services or property;

39 (c) Establish fees for determining whether a training or educational program meets the accred-
40 itation standards established under subsection (1)(g) of this section;

41 (d) Maintain and furnish to law enforcement units and public and private safety agencies infor-
42 mation on applicants for appointment as instructors or public safety personnel, except youth cor-
43 rection officers, in any part of the state; and

44 (e) Establish fees to allow recovery of the full costs incurred in providing services to private
45 entities or in providing services as experts or expert witnesses.

1 (3) The department, in consultation with the board, may:

2 (a) Upon the request of a law enforcement unit or public safety agency, conduct surveys or aid
3 cities and counties to conduct surveys through qualified public or private agencies and assist in the
4 implementation of any recommendations resulting from such surveys.

5 (b) Upon the request of law enforcement units or public safety agencies, conduct studies and
6 make recommendations concerning means by which requesting units can coordinate or combine their
7 resources.

8 (c) Stimulate research by public and private agencies to improve police, fire service, corrections
9 and adult parole and probation administration and law enforcement.

10 (d) Provide grants from funds appropriated or available therefor, to law enforcement units,
11 public safety agencies, special districts, cities, counties and private entities to carry out the pro-
12 visions of this subsection.

13 (e) Provide optional training programs for persons who operate lockups. The term "lockup" has
14 the meaning given it in ORS 169.005.

15 (f) Provide optional training programs for public safety personnel and their support staffs.

16 (g) Enter into agreements with federal, state or other governmental agencies to provide training
17 or other services in exchange for receiving training, fees or services of generally equivalent value.

18 (h) Upon the request of a law enforcement unit or public safety agency employing public safety
19 personnel, except youth correction officers, grant an officer, fire service professional, telecommu-
20 nicator or emergency medical dispatcher a multidiscipline certification consistent with the minimum
21 requirements adopted or approved by the board. Multidiscipline certification authorizes an officer,
22 fire service professional, telecommunicator or emergency medical dispatcher to work in any of the
23 disciplines for which the officer, fire service professional, telecommunicator or emergency medical
24 dispatcher is certified. The provisions of ORS 181.652, 181.653 and 181.667 relating to lapse of cer-
25 tification do not apply to an officer or fire service professional certified under this paragraph as
26 long as the officer or fire service professional maintains full-time employment in one of the certified
27 disciplines and meets the training standards established by the board.

28 (i) Establish fees and guidelines for the use of the facilities of the training academy operated
29 by the department and for nonmandated training provided to federal, state or other governmental
30 agencies, private entities or individuals.

31 (4) Pursuant to ORS chapter 183, the board, in consultation with the department, shall adopt
32 rules necessary to carry out the board's duties and powers.

33 (5) Pursuant to ORS chapter 183, the department, in consultation with the board, shall adopt
34 rules necessary to carry out the department's duties and powers.

35 (6) For efficiency, board and department rules may be adopted jointly as a single set of combined
36 rules with the approval of the board and the department.

37 (7) The department shall obtain approval of the board before submitting its legislative concepts,
38 Emergency Board request or budget requests to the Oregon Department of Administrative Services.

39 **(8) The Department of Public Safety Standards and Training shall develop a training**
40 **program for conducting investigations required under section 5 of this 2007 Act.**

41 **SECTION 23. The Department of Public Safety Standards and Training shall complete**
42 **development of the training program required by ORS 181.640 (8) no later than August 31,**
43 **2008. The department shall submit a report summarizing the training program to the legis-**
44 **lative interim committees dealing with the judiciary no later than September 30, 2008.**

45 **SECTION 24. (1) Sections 4, 10 to 12 and 20 of this 2007 Act and the amendments to ORS**

1 132.090, 132.430, 181.640 and 181.662 by sections 9, 15, 19 and 22 of this 2007 Act become op-
2 erative on July 1, 2008.

3 (2) The amendments to ORS 146.135 by section 14 of this 2007 Act become operative on
4 July 1, 2009.

5 **SECTION 25.** (1) Notwithstanding the effective date of section 5 of this 2007 Act, section
6 5 (3) to (7) of this 2007 Act applies to incidents occurring on or after July 1, 2008.

7 (2) Section 12 of this 2007 Act applies to incidents occurring on or after July 1, 2008.

8 **SECTION 26.** This 2007 Act being necessary for the immediate preservation of the public
9 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
10 on its passage.

11