



Oregon

Kate Brown, Governor

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DATE: February 22, 2021

TO: Honorable Members of the House Subcommittee on Equitable Policing

FROM: Linsay Hale, Professional Standards/Interim Training Division Director

SUBJECT: DPSST Testimony: HB 3145

Summary: HB 3145 requires the Department of Public Safety Standards and Training (DPSST) establish a statewide online database of all complaints, allegations and charges relating to a public safety employee (as defined by the bill) regardless of outcome. The DPSST must also collect and publish information related to the existence, status and finding of any disciplinary proceedings, certification action, federal criminal charges, civil proceedings related to conduct under color of law, judicial or prosecutor findings of deception, dishonesty, misrepresentation or excessive use of force, and all data related to investigations that are incomplete due to resignation or termination. The data published must include the public safety employee's name, the law enforcement unit in which they were employed, and a description of facts and findings underlying the misconduct.¹

The bill requires the DPSST to make this information available online within 10 days of becoming aware of any complaints, allegations and charges as listed above, and requires the DPSST keep all related records, regardless of format, for a period of 30 years after entry into the database. The bill further requires the DPSST make disciplinary actions pending arbitration available to law enforcement units only, unless the DPSST finds the matter is in the public's interest. The bill also creates an appeal process for any public safety employee who disagrees with the accuracy of the information contained in the database. Finally it requires the DPSST to analyze information found in the database and report to the Legislature annually.

HB 3145 further details the information required to be reported to the DPSST by law enforcement units and creates various timelines for which a law enforcement unit is required to report the required information. The bill staggers the implementation of the requirements based on the number of public safety employees employed by the law enforcement unit, and requires a law enforcement unit that holds historical data related to complaints, allegations and charges against public safety employees transfer that information to the DPSST for inclusion in its database.

Finally, the bill amends the crime of tampering with public records, creates the crime of recklessly tampering with public records, and removes from Public Records Law the discretionary exemption for records relating to public safety employee disciplinary investigations that don't result in discipline.

¹ The requirement that the DPSST publish "facts" and "findings" seems to contradict the requirement that law enforcement units report the receipt, status or existence of a complaint or charge to the DPSST within 10 days or 72 hours (depending on the allegation or charge). It should be noted that any obligation that the DPSST be responsible for investigating all or any part of complaints, allegations or charges of public safety employee misconduct would add significantly to the fiscal and operational impacts identified in this testimony.

Impact of HB 3145 on DPSST: The exact impact of HB 3145 on the DPSST, both fiscally and operationally, is unknown but expected to be significant.

The creation and publishing of a database capable of holding the amount of data required by HB 3145 as introduced would require a substantial investment in information technology systems. Given the amount of information required to be collected and made available (conditionally available with respect to records relating to a pending arbitration), as well as the required retention of 30 years following publishing, it is reasonable to expect the cost of implementation and maintenance of this database to be millions of dollars.

The DPSST would also expect a drastic increase in legal costs resulting from any litigation that may accompany the publishing of unfounded, unproven or false allegations of misconduct. Again, while the exact impact is impossible to know, it is expected to be significant.

Finally, the DPSST would reasonably expect to require no less than 10 additional full-time employees (FTE), to include Information Support Specialists to assist with the implementation, maintenance and troubleshooting of the database, multiple Compliance Specialists to manage any appeals and subsequent hearings or litigation, a Research Analyst to manage the data and reporting requirements, and multiple Administrative Specialists to receive, catalog and publish the information within the timeframes required by the bill.
