

**A-Engrossed**  
**House Bill 4205**

Ordered by the House June 26  
Including House Amendments dated June 26

Sponsored by Representative KOTEK; Representatives CLEM, HERNANDEZ, HOLVEY, LEWIS, MARSH, MITCHELL, PILUSO, SANCHEZ, WILDE (at the request of Joint Committee on the First Special Session of 2020)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Directs Department of Public Safety Standards and Training to adopt rules requiring police officer to intervene to stop another police officer from engaging in act that is unethical or that violates law, rules or policy. Directs department to adopt rules requiring police officer to report to appropriate authority when any police officer engages in act that is unethical or that violates law, rules or policy.]*

**Requires police officer or reserve officer to intervene to prevent or stop another officer engaged in certain misconduct, unless intervening officer cannot intervene safely.**

**Requires police officer or reserve officer who witnesses another officer engaged in certain misconduct to report misconduct to supervisor within 72 hours after witnessing misconduct.**

**Prohibits discrimination or retaliation against officer who intervenes or reports as required.**

**Directs Department of Public Safety Standards and Training to report annually to appropriate committee of Legislative Assembly on rules adopted by department to implement requirements.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to duties of police officers regarding prohibited behavior; and declaring an emergency.

3       Whereas Black Lives Matter; and

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

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

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

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

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

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

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

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

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

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

**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 to white people; and

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

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

5 **SECTION 1.** Section 2 of this 2020 special session Act is added to and made a part of ORS  
6 181A.355 to 181A.670.

7 **SECTION 2.** (1) As used in this section, “misconduct” means:

8 (a) Unjustified or excessive force that is objectively unreasonable under the circum-  
9 stances or in violation of the use of force policy for the law enforcement unit employing the  
10 offending officer;

11 (b) Sexual harassment or sexual misconduct;

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

14 (d) A crime; or

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

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

21 (3) A police officer or reserve officer who witnesses another police officer or reserve of-  
22 ficer engaging in misconduct shall report the misconduct to a supervisor as soon as practi-  
23 cable, but no later than 72 hours after witnessing the misconduct.

24 (4) Failure to intervene or report as required by subsections (2) and (3) of this section is  
25 grounds for disciplinary action against a police officer or reserve officer by the law enforce-  
26 ment unit employing the officer or for the Department of Public Safety Standards and  
27 Training to suspend or revoke the officer’s certification as provided in ORS 181A.630,  
28 181A.640 and 181A.650.

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

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

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

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