

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

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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:

.....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