



LEGISLATIVE UPDATE

From the capitol steps

To: All OACP Members

From: Kevin Campbell, OACP Executive Director

Re: OACP LEGISLATIVE SESSION REPORT - 2nd Special Session Adjournes - Impacts to Law Enforcement

OACP Members,

The Oregon Legislature adjourned “Sine Die” the 2nd Special Session of 2020 (the 81st Legislative Assembly) late Monday evening after a one-day 15 hour marathon session. While the primary task was to address the state’s \$1.2 billion budget shortfall resulting from sharp COVID-related declines in income tax and lottery revenues, the legislature also addressed a limited number of policy measures during the one-day session. The Capitol building was closed to members of the public and legislators participated in committee hearings remotely from their offices. For committee and House and Senate Floor votes, legislators convened together wearing masks with proper social distancing. The Session was launched with an organizational session at 8:00 am where rules were adopted and two committees were formed – one to address policy bills and one to address budget.

During the Monday marathon Special Session, the Joint Committee on The Second Special Session of 2020 passed 8 measures focused on rebalancing the state’s budget through a combination of targeted cuts and transfers from reserve funds to address the shortfall caused by the COVID-19 pandemic. Concurrently, the Joint Committee on Policies for the Second Special Session considered policy measures designed to address fixes to the Unemployment Insurance System, a bill to increase the fees and application process for certain geological permits/off-shore exploration, and a Police Reform bill that updated antiquated statutes related to Use of Force by law enforcement officers and adjusted limitations on the use of chokeholds.

POLICY MEASURES: Police Accountability

Despite threats that as many as ten police accountability measures could be introduced during the 2nd Special Session, only HB 4301 was considered. After negotiations the end of last week and over the weekend, OACP, OSSA & OSP were able to remove damaging language and support the bill. The bill closely reflects current Supreme Court and 9th Circuit Court case law around use of force and actually loosens the restrictions on use of lateral vascular neck restraints/carotid artery holds. Here are the details:

HB 4301 – Police Reform: Use of Force Modernization & lateral vascular neck restraint/carotid artery hold Provisions

Final Version: [HB 4301 \(Click Here\)](#)

Status: Passed House 55 – 2 (Voting NO Barker, Wilson). Passed Senate 22 – 5 (Voting NO Baertschiger Jr, Girod, Heard, Linthicum, Thomsen)

Key Provisions: HB 4301 includes a number of key provisions including:

- Confirms in statute that use of force that impedes the normal breathing or circulation of blood of another person by applying pressure on the throat or neck is not recognized as an appropriate law enforcement tool. Importantly, the measure recognizes exceptions when physical force is justified under ORS 161.209 and 161.215 including situations where the life of the officer or a third person is threatened.

- Aligns Oregon Revised Statute with two landmark Supreme Court cases in Tennessee v. Garner (1985) and Graham v. Conner (1989) and the United States 9th Circuit Court of Appeals Enhanced Standards. The Oregon Law hasn't been updated since the 1970's and HB 4301 modernizes state law to reflect federal case law and the 9th Circuit Court of Appeals findings. The measure includes a number of key provisions including:

- Requires a peace officer to consider alternatives and providing a warning prior to using force when there is a reasonable opportunity to do so including:

- verbal de-escalation, waiting, using other available resources and techniques if reasonable, safe and feasible, or using a lesser degree of force; and

- a verbal warning to the person that deadly physical force may be used and provide the person with a reasonable opportunity to comply.

- Authorizes a peace officer to use physical force upon another person only to the degree that the peace officer reasonably believes is necessary to:

- Address an imminent threat of physical injury to the peace officer or to a third person;
or
- Make a lawful arrest when the peace officer has probable cause to believe the person has committed a crime; or
- Defend the peace officer or a third person from the imminent threat of physical injury;
or
- Prevent the escape from custody of the person when the peace officer has probable cause to believe the person has committed a crime.

View the OACP, OSSA & OSP Letter of Support: [Here](#)

View the DOJ Letter of Support [Here](#)

BUDGET MEASURES: Police Accountability

SB 5723 – Revenue Reduction/E-Board General Fund Allocation Bill

Final Version: [SB 5723 \(Click Here\)](#)

Status: Passed Senate 20-7. Passed House 36 – 22

Key Provisions: This bill serves as the omnibus reduction bill and also contains several General Fund appropriations that are within resources available as projected in the June 2020 economic and revenue forecast by the Department of Administrative Services Office of Economic Analysis. View Reduction Detail List [here](#) and Budget Report [here](#). As part of the 2019-21 biennium statewide rebalance plan, SB 5723 also adjusts the Emergency Fund and other special purpose appropriations made to the Emergency Board during the 2019 session.

Agency Reductions: For a detailed list of public safety reductions - [Here](#)

- **Department of Public Safety Standards and Training:** SB 5723 reduces the DPSST budget for the remainder of the 2020-2021 biennium by eliminating three police basic training classes. Without a restoration of these classes, the final basic training class will be the one that started this month and no basic training classes will be available until July of next year (next biennium). DPSST will seek a restoration of these classes through the Joint Emergency Board, a committee that appropriates funds when the legislature is not in session.
- **Oregon State Police:** General Fund reductions of \$6.9M were approved. The Committee approved a one-time reduction of \$790,090 for five trooper positions

that respond to Firearm Instant Background Check denials and General Fund support of \$99,038 for one Gaming Enforcement trooper position. The reductions also included cancellation of vehicle purchases, deferred purchase of forensic equipment and ammunition purchases.

- **Department of Corrections:** There are no closures of prisons in the final adopted bill. However, staff did note during the hearing that the Governor could move forward with the early closure discussion via executive action. The bill does include a budget note for DOC: “Oregon’s declining prison population requires an assessment of the state’s prison footprint. The Department of Corrections (DOC) is directed to assess the state’s prison system and report its findings to the Legislature. This assessment is to include physical plant conditions, including major repairs planned, the volume and estimated cost of deferred maintenance, and operating costs for utilities; operating conditions, including staff recruitment and retention considerations, the availability of health care services for adults in custody, and transportation and logistics costs; programming provided at each facility; and any other factors the agency deems relevant to prison capacity, costs, and efficient operations. Based on this assessment, on relevant prison population factors, and incorporating best practices for corrections outcomes, the agency shall include in its report recommendations to the Legislature for re-shaping Oregon’s prison footprint. The report shall include recommendations for prison closures, including the order in which institutions should close and the timeframes and resources necessary for closure. DOC shall report to the Legislature with its assessment and recommendations no later than January 1, 2021.”
- **Public Defense Services:** The Committee approved a one-time increase of \$200,000 General Fund for training public defense attorneys participating in the Parent Child Representation (PCRCP) program now operational in Clatsop, Deschutes, Douglas, Malheur, and Multnomah counties. A shift of \$4.5 million General Fund to \$4.5 million Other Funds was approved, to reflect the availability of federal reimbursements for state costs in foster care dependency cases. This amount rolls up to a reduction of \$9.0 million General Fund in 2021-23.
- **Oregon Youth Authority:** General Fund reductions of \$11.5M were approved including \$11 million in reduced community treatment beds and \$1.3 million in reduced funding for the East Multnomah County Gang Services.

I expect we will continue to see efforts to move forward additional police reform legislation in the next Special Session or in the next long session in 2021. We will continue to work hard to ensure that we prevent damaging legislation from moving forward.

Thank you for the privilege of serving such a heroic and honorable profession. Your leadership during this time of unprecedented crisis is inspiring and I wish you continued safety and determination to carry on despite the current environment!

Best,

Kevin



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