

# House Bill 2434

Sponsored by Representative GELSER; Representatives BAILEY, FREDERICK, MATTHEWS, TOMEI (Presession filed.)

## 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**.

Modifies scope of justifiable use of physical force for purposes of criminal prosecution.  
Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to use of physical force; creating new provisions; amending ORS 161.205; and declaring an  
3 emergency.

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

5 **SECTION 1.** ORS 161.205 is amended to read:

6 161.205. The use of physical force upon another person that would otherwise constitute an of-  
7 fense is justifiable and not criminal under any of the following circumstances:

8 (1)(a) A parent, guardian or other person entrusted with the care and supervision of a minor  
9 [*or an incompetent person*] may use reasonable physical force upon [*such minor or incompetent*  
10 *person*] **the minor** when and to the extent the person reasonably believes it necessary to maintain  
11 discipline or to promote the welfare of the minor [*or incompetent person*].

12 (b) Personnel of a public education program, as that term is defined in section 1, chapter 665,  
13 Oregon Laws 2011, may use reasonable physical force upon a student when and to the extent the  
14 application of force is consistent with section 3, chapter 665, Oregon Laws 2011.

15 (2) An authorized official of a jail, prison or correctional facility may use physical force when  
16 and to the extent that the official reasonably believes it necessary to maintain order and discipline  
17 or as is authorized by law.

18 (3) A person responsible for the maintenance of order in a common carrier of passengers, or a  
19 person acting under the direction of the person, may use physical force when and to the extent that  
20 the person reasonably believes it necessary to maintain order, but the person may use deadly phys-  
21 ical force only when the person reasonably believes it necessary to prevent death or serious physical  
22 injury.

23 (4) A person acting under a reasonable belief that another person is about to commit suicide  
24 or to inflict serious physical self-injury may use physical force upon that person to the extent that  
25 the person reasonably believes it necessary to thwart the result.

26 (5) A person may use physical force upon another person in self-defense or in defending a third  
27 person, in defending property, in making an arrest or in preventing an escape, as hereafter pre-  
28 scribed in chapter 743, Oregon Laws 1971.

29 **SECTION 2.** ORS 161.205, as amended by section 11, chapter 665, Oregon Laws 2011, is  
30 amended to read:

31 161.205. The use of physical force upon another person that would otherwise constitute an of-

**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 fense is justifiable and not criminal under any of the following circumstances:

2 (1) A parent, guardian or other person entrusted with the care and supervision of a minor [*or*  
3 *an incompetent person*] may use reasonable physical force upon [*such minor or incompetent person*]  
4 **the minor** when and to the extent the person reasonably believes it necessary to maintain discipline  
5 or to promote the welfare of the minor [*or incompetent person*]. A teacher may use reasonable  
6 physical force upon a student when and to the extent the teacher reasonably believes it necessary  
7 to maintain order in the school or classroom or at a school activity or event, whether or not it is  
8 held on school property.

9 (2) An authorized official of a jail, prison or correctional facility may use physical force when  
10 and to the extent that the official reasonably believes it necessary to maintain order and discipline  
11 or as is authorized by law.

12 (3) A person responsible for the maintenance of order in a common carrier of passengers, or a  
13 person acting under the direction of the person, may use physical force when and to the extent that  
14 the person reasonably believes it necessary to maintain order, but the person may use deadly phys-  
15 ical force only when the person reasonably believes it necessary to prevent death or serious physical  
16 injury.

17 (4) A person acting under a reasonable belief that another person is about to commit suicide  
18 or to inflict serious physical self-injury may use physical force upon that person to the extent that  
19 the person reasonably believes it necessary to thwart the result.

20 (5) A person may use physical force upon another person in self-defense or in defending a third  
21 person, in defending property, in making an arrest or in preventing an escape, as hereafter pre-  
22 scribed in chapter 743, Oregon Laws 1971.

23 **SECTION 3. The amendments to ORS 161.205 by sections 1 and 2 of this 2013 Act apply**  
24 **to conduct occurring on or after the effective date of this 2013 Act.**

25 **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**  
26 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
27 **on its passage.**

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