

Senate Bill 385

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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**.

Adds justice court and municipal court to definition of "court facility" in which firearms and other weapons are prohibited except in specified circumstances. Expands definition of "weapon" to include certain kinds of pocketknives. Authorizes judges of justice courts and municipal courts to establish procedures permitting or prohibiting possession of firearms and other weapons in court facilities.

A BILL FOR AN ACT

1
2 Relating to possession of weapons in courts; amending ORS 166.360, 166.370 and 166.373.

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

4 **SECTION 1.** ORS 166.360 is amended to read:

5 166.360. As used in ORS 166.360 to 166.380, unless the context requires otherwise:

6 (1) "Capitol building" means the Capitol, the State Office Building, the State Library Building,
7 the Labor and Industries Building, the State Transportation Building, the Agriculture Building or
8 the Public Service Building and includes any new buildings which may be constructed on the same
9 grounds as an addition to the group of buildings listed in this subsection.

10 (2) "Court facility" means a courthouse or that portion of any other building occupied by a
11 circuit court, **a justice court, a municipal court**, the Court of Appeals, the Supreme Court or the
12 Oregon Tax Court or occupied by personnel related to the operations of those courts, or in which
13 activities related to the operations of those courts take place.

14 (3) "**Judge**" means **a judge of a circuit court, the Court of Appeals, the Supreme Court,**
15 **the Oregon Tax Court or a municipal court or a justice of the peace.**

16 (4) "**Judicial district**" means **a circuit court district established under ORS 3.012 or a**
17 **justice of the peace district established under ORS 51.020.**

18 [(3)] (5) "Loaded firearm" means:

19 (a) A breech-loading firearm in which there is an unexpended cartridge or shell in or attached
20 to the firearm including but not limited to, in a chamber, magazine or clip which is attached to the
21 firearm.

22 (b) A muzzle-loading firearm which is capped or primed and has a powder charge and ball, shot
23 or projectile in the barrel or cylinder.

24 [(4)] (6) "Public building" means a hospital, a capitol building, a public or private school, as
25 defined in ORS 339.315, a college or university, a city hall or the residence of any state official
26 elected by the state at large, and the grounds adjacent to each such building. The term also includes
27 that portion of any other building occupied by an agency of the state or a municipal corporation,
28 as defined in ORS 297.405, other than a court facility.

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 [(5)] (7) "Weapon" means:

2 (a) A firearm;

3 (b) Any dirk, dagger, ice pick, slingshot, metal knuckles or any similar instrument or a knife,
 4 other than an ordinary pocketknife **with a blade less than four inches in length**, the use of which
 5 could inflict injury upon a person or property;

6 (c) Mace, tear gas, pepper mace or any similar deleterious agent as defined in ORS 163.211;

7 (d) An electrical stun gun or any similar instrument;

8 (e) A tear gas weapon as defined in ORS 163.211;

9 (f) A club, bat, baton, billy club, bludgeon, knobkerrie, nunchaku, nightstick, truncheon or any
 10 similar instrument, the use of which could inflict injury upon a person or property; or

11 (g) A dangerous or deadly weapon as those terms are defined in ORS 161.015.

12 **SECTION 2.** ORS 166.370 is amended to read:

13 166.370. (1) Any person who intentionally possesses a loaded or unloaded firearm or any other
 14 instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be
 15 guilty of a Class C felony.

16 (2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who inten-
 17 tionally possesses:

18 (A) A firearm in a court facility is guilty, upon conviction, of a Class C felony. A person who
 19 intentionally possesses a firearm in a court facility shall surrender the firearm to a law enforcement
 20 officer.

21 (B) A weapon, other than a firearm, in a court facility may be required to surrender the weapon
 22 to a law enforcement officer or to immediately remove it from the court facility. A person who fails
 23 to comply with this subparagraph is guilty, upon conviction, of a Class C felony.

24 (b) The presiding judge of a judicial district **or a municipal court** may enter an order permit-
 25 ting the possession of specified weapons in a court facility.

26 (3) Subsection (1) of this section does not apply to:

27 (a) A sheriff, police officer, other duly appointed peace officers or a corrections officer while
 28 acting within the scope of employment.

29 (b) A person summoned by a peace officer to assist in making an arrest or preserving the peace,
 30 while the summoned person is engaged in assisting the officer.

31 (c) An active or reserve member of the military forces of this state or the United States, when
 32 engaged in the performance of duty.

33 (d) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

34 (e) A person who is authorized by the officer or agency that controls the public building to
 35 possess a firearm or dangerous weapon in that public building.

36 (f) An employee of the United States Department of Agriculture, acting within the scope of em-
 37 ployment, who possesses a firearm in the course of the lawful taking of wildlife.

38 (g) Possession of a firearm on school property if the firearm:

39 (A) Is possessed by a person who is not otherwise prohibited from possessing the firearm; and

40 (B) Is unloaded and locked in a motor vehicle.

41 (4) The exceptions listed in subsection (3)(b) to (g) of this section constitute affirmative defenses
 42 to a charge of violating subsection (1) of this section.

43 (5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges
 44 or attempts to discharge a firearm at a place that the person knows is a school shall upon con-
 45 viction be guilty of a Class C felony.

1 (b) Paragraph (a) of this subsection does not apply to the discharge of a firearm:

2 (A) As part of a program approved by a school in the school by an individual who is partic-
 3 ipating in the program;

4 (B) By a law enforcement officer acting in the officer’s official capacity; or

5 (C) By an employee of the United States Department of Agriculture, acting within the scope of
 6 employment, in the course of the lawful taking of wildlife.

7 (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS
 8 166.279.

9 (7) Notwithstanding the fact that a person’s conduct in a single criminal episode constitutes a
 10 violation of both subsections (1) and (5) of this section, the district attorney may charge the person
 11 with only one of the offenses.

12 (8) As used in this section, “dangerous weapon” means a dangerous weapon as that term is de-
 13 fined in ORS 161.015.

14 **SECTION 3.** ORS 166.373 is amended to read:

15 166.373. (1) Notwithstanding ORS 166.370 (2) and except as provided in subsection (2) of this
 16 section, a peace officer, as defined in ORS 161.015, or a federal officer, as defined in ORS 133.005,
 17 may possess a weapon in a court facility if the officer:

18 (a) Is acting in an official capacity and is officially on duty;

19 (b) Is carrying a weapon that the employing agency of the officer has authorized the officer to
 20 carry; and

21 (c) Is in compliance with any security procedures established under subsections (3) and (4) of
 22 this section.

23 (2) A judge may prohibit a peace officer or a federal officer from possessing a weapon in a
 24 courtroom. A notice of the prohibition of the possession of a weapon by an officer in a courtroom
 25 must be posted outside the entrance to the courtroom.

26 (3) A presiding judge of a judicial district **or a municipal court** or the Chief Justice of the
 27 Supreme Court may establish procedures regulating the possession of a weapon in a court facility
 28 by a peace officer or a federal officer subject to the following:

29 (a) **With the exception of procedures for a municipal court or a justice court**, the proce-
 30 dures must be established through a plan for court security improvement, emergency preparedness
 31 and business continuity under ORS 1.177 or 1.180; and

32 (b) Notice of the procedures must be posted at the entrance to the court facility, or at an en-
 33 trance for peace officers or federal officers if the entrance is separate from the entrance to the court
 34 facility, and at a security checkpoint in the court facility.

35 (4) A judge may establish procedures regulating the possession of a weapon in a courtroom by
 36 a peace officer or a federal officer. A notice of the procedures regulating the possession of a weapon
 37 by an officer must be posted outside the entrance to the courtroom.

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