

House Bill 3108

Sponsored by Representative WILSON

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**.

Requires employer of parole and probation officer to authorize officer to carry firearm if officer meets certain requirements. Exempts parole and probation officer from prohibition on carrying firearm in public building.

A BILL FOR AN ACT

1
2 Relating to officers providing supervision to criminal defendants; amending ORS 166.263, 166.370 and
3 166.373.

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

5 **SECTION 1.** ORS 166.263 is amended to read:

6 166.263. [*When authorized by the officer's employer,*] **The employer of** a parole and probation
7 officer, as defined in ORS 181A.355, [*may*] **shall authorize the parole and probation officer to**
8 carry a firearm while engaged in official duties if the **parole and probation** officer has completed:

9 (1) A firearms training program recognized by the Board on Public Safety Standards and
10 Training; and

11 (2) A psychological screening.

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 (C) A firearm in a local court facility is guilty, upon conviction, of a Class C felony if, prior to
25 the offense, the presiding judge of the local court facility entered an order prohibiting firearms in
26 the area in which the court conducts business and during the hours in which the court operates.

27 (b) The presiding judge of a judicial district or a municipal court may enter an order permitting
28 the possession of specified weapons in a court facility.

29 (c) Within a shared court facility, the presiding judge of a municipal court or justice of the
30 peace district may not enter an order concerning the possession of weapons in the court facility that
31 is in conflict with an order entered by the presiding judge of the circuit court.

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.

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

(a) A police officer, a **parole and probation officer** or reserve officer, as those terms are defined in ORS 181A.355.

[(b) A parole and probation officer, as defined in ORS 181A.355, while the parole and probation officer is acting within the scope of employment.]

[(c)] (b) A federal officer, as defined in ORS 133.005, or a certified reserve officer or corrections officer, as those terms are defined in ORS 181A.355, while the federal officer, certified reserve officer or corrections officer is acting within the scope of employment.

[(d)] (c) A person summoned by an officer described in paragraph (a)[,] **or** (b) [*or* (c)] of this subsection to assist in making an arrest or preserving the peace, while the summoned person is engaged in assisting the officer.

[(e)] (d) An honorably retired law enforcement officer.

[(f)] (e) An active or reserve member of the military forces of this state or the United States, when engaged in the performance of duty.

[(g)] (f) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

[(h)] (g) A person who is authorized by the officer or agency that controls the public building to possess a firearm or dangerous weapon in that public building.

[(i)] (h) An employee of the United States Department of Agriculture, acting within the scope of employment, who possesses a firearm in the course of the lawful taking of wildlife.

[(j)] (i) Possession of a firearm on school property if the firearm:

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

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

(4)(a) The exceptions listed in subsection *[(3)(d) to (j)]* **(3)(c) to (i)** of this section constitute affirmative defenses to a charge of violating subsection (1) of this section.

(b) A person may not use the affirmative defense described in subsection *[(3)(e)]* **(3)(d)** of this section if the person has been convicted of an offense that would make the person ineligible to obtain a concealed handgun license under ORS 166.291 and 166.292.

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

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

(A) As part of a program approved by a school in the school by an individual who is participating in the program;

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

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

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

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

(8) As used in this section, "dangerous weapon" means a dangerous weapon as that term is defined in ORS 161.015.

SECTION 3. ORS 166.373 is amended to read:

166.373. (1) Notwithstanding ORS 166.370 (2) and except as provided in subsection (2) of this

1 section, a peace officer, as defined in ORS 161.015, **a parole and probation officer, as defined in**
 2 **ORS 181A.355**, or a federal officer, as defined in ORS 133.005, may possess a weapon in a court fa-
 3 cility if the officer:

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

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

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

9 (2) A judge may prohibit a peace officer, **a parole and probation officer** or a federal officer
 10 from possessing a weapon in a courtroom. A notice of the prohibition of the possession of a weapon
 11 by an officer in a courtroom must be posted outside the entrance to the courtroom.

12 (3) A presiding judge of a judicial district or a municipal court or the Chief Justice of the Su-
 13 preme Court may establish procedures regulating the possession of a weapon in a court facility by
 14 a peace officer, **a parole and probation officer** or a federal officer subject to the following:

15 (a) The procedures for a circuit court must be established through a plan for court security
 16 improvement, emergency preparedness and business continuity under ORS 1.177 or 1.180;

17 (b) The procedures for a justice court or a municipal court may only prohibit the possession of
 18 weapons within the area in which the court conducts business and during the hours in which the
 19 court operates;

20 (c) Within a shared court facility, the presiding judge of a municipal court or justice of the
 21 peace district may not establish procedures in conflict with the procedures established by the pre-
 22 siding judge of the circuit court; and

23 (d) Notice of the procedures must be posted at the entrance to the court facility, or at an en-
 24 trance for peace officers, **parole and probation officers** or federal officers if the entrance is sepa-
 25 rate from the entrance to the court facility, and at a security checkpoint in the court facility.

26 (4) A judge may establish procedures regulating the possession of a weapon in a courtroom by
 27 a peace officer, **a parole and probation officer** or a federal officer. A notice of the procedures
 28 regulating the possession of a weapon by an officer must be posted outside the entrance to the
 29 courtroom.

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