

D R A F T

SUMMARY

Provides that peace officer may not use force that limits ability of person to breathe, including but not limited to choke holds.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to use of force by peace officers; creating new provisions; amending
3 ORS 161.235 and 161.239; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2020 special session Act is added to**
6 **and made a part of ORS 161.195 to 161.275.**

7 **SECTION 2. (1) As used in this section, “force that impedes the**
8 **ability of a person to breathe” includes but is not limited to restrain-**
9 **ing a person around the neck, using a choke hold, putting the peace**
10 **officer’s knee on the person’s neck or acting in any other manner that**
11 **interferes with or results in the blocking or compromising of the**
12 **person’s airway.**

13 **(2) A peace officer is not justified in any circumstance in using**
14 **physical force or deadly physical force that impedes the ability of a**
15 **person to breathe.**

16 **(3) The use by a peace officer of force that impedes the ability of a**
17 **person to breathe is not reasonable under any circumstance.**

18 **SECTION 3. ORS 161.235 is amended to read:**

19 161.235. Except as provided in ORS 161.239 **and section 2 of this 2020**
20 **special session Act**, a peace officer is justified in using physical force upon

1 another person only when and to the extent that the peace officer reasonably
2 believes it necessary:

3 (1) To make an arrest or to prevent the escape from custody of an arrested
4 person unless the peace officer knows that the arrest is unlawful; or

5 (2) For self-defense or to defend a third person from what the peace officer
6 reasonably believes to be the use or imminent use of physical force while
7 making or attempting to make an arrest or while preventing or attempting
8 to prevent an escape.

9 **SECTION 4.** ORS 161.239 is amended to read:

10 161.239. (1) Notwithstanding the provisions of ORS 161.235 **and except**
11 **as provided in section 2 of this 2020 special session Act**, a peace officer
12 may use deadly physical force only when the peace officer reasonably be-
13 lieves that:

14 (a) The crime committed by the person was a felony or an attempt to
15 commit a felony involving the use or threatened imminent use of physical
16 force against a person; [*or*]

17 (b) The crime committed by the person was kidnapping, arson, escape in
18 the first degree, burglary in the first degree or any attempt to commit such
19 a crime; [*or*]

20 (c) Regardless of the particular offense which is the subject of the arrest
21 or attempted escape, the use of deadly physical force is necessary to defend
22 the peace officer or another person from the use or threatened imminent use
23 of deadly physical force; [*or*]

24 (d) The crime committed by the person was a felony or an attempt to
25 commit a felony and under the totality of the circumstances existing at the
26 time and place, the use of such force is necessary; or

27 (e) The officer's life or personal safety is endangered in the particular
28 circumstances involved.

29 (2) Nothing in subsection (1) of this section constitutes justification for
30 reckless or criminally negligent conduct by a peace officer amounting to an
31 offense against or with respect to innocent persons whom the peace officer

1 is not seeking to arrest or retain in custody.

2 **SECTION 5. This 2020 special session Act being necessary for the**
3 **immediate preservation of the public peace, health and safety, an**
4 **emergency is declared to exist, and this 2020 special session Act takes**
5 **effect on its passage.**

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