

D R A F T

SUMMARY

Provides that peace officer may not use force that impedes normal breathing or circulation of blood of another person by applying pressure on throat or neck under any circumstances.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to use of force by peace officers; amending ORS 161.239 and section
3 2, chapter 3, Oregon Laws 2020 (first special session) (Enrolled House Bill
4 4203); and declaring an emergency.

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

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6 **SECTION 1.** Section 2, chapter 3, Oregon Laws 2020 (first special session)
7 (Enrolled House Bill 4203), is amended to read:

8 **Sec. 2.** (1) A peace officer is not justified in any circumstance in know-
9 ingly using physical force that impedes the normal breathing or circulation
10 of the blood of another person by applying pressure on the throat or neck
11 of the other person[, *unless the circumstance is one in which the peace officer*
12 *may use deadly physical force as provided in ORS 161.239*].

13 (2) It is not reasonable under any circumstance for a peace officer to
14 knowingly use physical force that impedes the normal breathing or circu-
15 lation of the blood of another person by applying pressure on the throat or
16 neck of the other person[, *unless the circumstance is one in which the peace*
17 *officer may use deadly physical force as provided in ORS 161.239*].

18 **SECTION 2.** ORS 161.239 is amended to read:

19 161.239. (1) Notwithstanding the provisions of ORS 161.235, **and except**
20 **as provided in section 2, chapter 3, Oregon Laws 2020 (first special**

1 **session) (Enrolled House Bill 4203)**, a peace officer may use deadly phys-
2 ical force only when the peace officer reasonably believes that:

3 (a) The crime committed by the person was a felony or an attempt to
4 commit a felony involving the use or threatened imminent use of physical
5 force against a person; or

6 (b) The crime committed by the person was kidnapping, arson, escape in
7 the first degree, burglary in the first degree or any attempt to commit such
8 a crime; or

9 (c) Regardless of the particular offense which is the subject of the arrest
10 or attempted escape, the use of deadly physical force is necessary to defend
11 the peace officer or another person from the use or threatened imminent use
12 of deadly physical force; or

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

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

18 (2) Nothing in subsection (1) of this section constitutes justification for
19 reckless or criminally negligent conduct by a peace officer amounting to an
20 offense against or with respect to innocent persons whom the peace officer
21 is not seeking to arrest or retain in custody.

22 **SECTION 3. This 2021 Act being necessary for the immediate pres-**
23 **ervation of the public peace, health and safety, an emergency is de-**
24 **clared to exist, and this 2021 Act takes effect on its passage.**

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