

Enrolled
Senate Bill 495

Sponsored by Senator GELSER, Representative WILLIAMSON; Senators BURDICK, FREDERICK, GOLDEN, MANNING JR, RILEY, STEINER HAYWARD, Representatives BYNUM, KENY-GUYER (at the request of Disability Rights Oregon) (Presession filed.)

CHAPTER

AN ACT

Relating to the use of dogs in correctional facilities; creating new provisions; and amending ORS 161.205 and 161.267.

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

SECTION 1. (1) As used in this section:

(a) "Correctional facility":

(A) Means any place used for the confinement of youth offenders, detained juveniles, persons charged with or convicted of a crime or persons otherwise confined under a court order.

(B) Includes but is not limited to a youth correction facility and a juvenile detention facility.

(C) Applies to a state hospital or a secure intensive community inpatient facility only as to persons detained therein charged with or convicted of a crime, or detained therein after having been found guilty except for insanity of a crime under ORS 161.290 to 161.370.

(b) "Inmate" means a youth offender confined in a youth correction facility, a juvenile detained in a juvenile detention facility, or any person incarcerated or detained in a correctional facility who is accused of, convicted of or sentenced for a violation of criminal law or for the violation of the terms and conditions of pretrial release, probation, parole, post-prison supervision or a diversion program.

(c) "Juvenile detention facility" has the meaning given that term in ORS 169.005.

(d) "Youth correction facility" has the meaning given that term in ORS 420.005.

(e) "Youth offender" has the meaning given that term in ORS 419A.004.

(2) An official of a correctional facility may not use a dog to extract an inmate from a cell.

(3) Nothing in this section prohibits:

(a) The use of a dog in a correctional facility for the purposes of tracking the location of an inmate or detecting contraband as defined in ORS 162.135.

(b) The use of a dog in a correctional facility to quell a disturbance, prevent an inmate escape or address an immediate health or safety risk to inmates or staff members.

(c) The use of dogs in a correctional facility as part of an inmate dog training program or for purposes relating to the rehabilitation, treatment, vocational education and skill-building of inmates.

SECTION 2. ORS 161.205 is amended to read:

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

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

(b) Personnel of a public education program, as that term is defined in ORS 339.285, may use reasonable physical force upon a student when and to the extent the application of force is consistent with ORS 339.291.

(2) **Subject to section 1 of this 2019 Act**, an authorized official of a jail, prison or correctional facility may use physical force when and to the extent that the official reasonably believes it necessary to maintain order and discipline or as is authorized by law.

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

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

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

SECTION 3. ORS 161.267 is amended to read:

161.267. (1) As used in this section:

(a) "Colocated minimum security facility" means a Department of Corrections institution that has been designated by the Department of Corrections as a minimum security facility and has been located by the department on the grounds of a medium or higher security Department of Corrections institution.

(b) "Department of Corrections institution" has the meaning given that term in ORS 421.005.

(c) "Stand-alone minimum security facility" means a Department of Corrections institution that has been designated by the department as a minimum security facility and that has been located by the department separate and apart from other Department of Corrections institutions.

(2) **Subject to section 1 of this 2019 Act**, a corrections officer or other official employed by the Department of Corrections is justified in using physical force, including deadly physical force, when and to the extent that the officer or official reasonably believes it necessary to:

(a) Prevent the escape of an inmate from a Department of Corrections institution, including the grounds of the institution, or from custody;

(b) Maintain or restore order and discipline in a Department of Corrections institution, or any part of the institution, in the event of a riot, disturbance or other occurrence that threatens the safety of inmates, department employees or other persons; or

(c) Prevent serious physical injury to or the death of the officer, official or another person.

(3) Notwithstanding subsection (2)(a) of this section, a corrections officer or other official employed by the department may not use deadly physical force to prevent the escape of an inmate from:

(a) A stand-alone minimum security facility;

(b) A colocated minimum security facility, if the corrections officer or other official knows that the inmate has been classified by the department as minimum custody; or

(c) Custody outside of a Department of Corrections institution:

(A) While the inmate is assigned to an inmate work crew; or

(B) During transport or other supervised activity, if the inmate is classified by the department as minimum custody and the inmate is not being transported or supervised with an inmate who has been classified by the department as medium or higher custody.

(4) Nothing in this section limits the authority of a person to use physical force under ORS 161.205 (2) or 161.265.

Passed by Senate March 21, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 3, 2019

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State