

Senate Bill 495

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

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**.

Prohibits use of dogs in correctional facilities for other than specified purposes.

A BILL FOR AN ACT

1
2 Relating to the use of dogs in correctional facilities; creating new provisions; and amending ORS
3 161.205 and 161.267.

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

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

5
6 (a) **“Correctional facility” means any place used for the confinement of persons charged**
7 **with or convicted of a crime or otherwise confined under a court order and includes but is**
8 **not limited to a youth correction facility. “Correctional facility” applies to a state hospital**
9 **or a secure intensive community inpatient facility only as to persons detained therein**
10 **charged with or convicted of a crime, or detained therein after having been found guilty ex-**
11 **cept for insanity of a crime under ORS 161.290 to 161.370.**

12 (b) **“Inmate” means a person incarcerated or detained in a correctional facility who is**
13 **accused of, convicted of or sentenced for a violation of criminal law or for the violation of**
14 **the terms and conditions of pretrial release, probation, parole, post-prison supervision or a**
15 **diversion program.**

16 (2) **An official of a correctional facility may not use a dog to intimidate or control an**
17 **inmate unless it is necessary:**

18 (a) **To prevent the escape from custody of the inmate;**

19 (b) **For self-defense; or**

20 (c) **To defend a third person from the use or imminent use of physical force.**

21 (3) **An official of a correctional facility may not use a dog to extract an inmate from a**
22 **cell.**

SECTION 2. ORS 161.205 is amended to read:

23 161.205. The use of physical force upon another person that would otherwise constitute an of-
24 fense is justifiable and not criminal under any of the following circumstances:

25
26 (1)(a) A parent, guardian or other person entrusted with the care and supervision of a minor or
27 an incompetent person may use reasonable physical force upon such minor or incompetent person
28 when and to the extent the person reasonably believes it necessary to maintain discipline or to
29 promote the welfare of the minor or incompetent person.

30 (b) Personnel of a public education program, as that term is defined in ORS 339.285, may use
31 reasonable physical force upon a student when and to the extent the application of force is con-

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 sistent with ORS 339.291.

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

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

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

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

16 **SECTION 3.** ORS 161.267 is amended to read:

17 161.267. (1) As used in this section:

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

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

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

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

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

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

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

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

37 (a) A stand-alone minimum security facility;

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

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

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

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

45 (4) Nothing in this section limits the authority of a person to use physical force under ORS

1 161.205 (2) or 161.265.

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