

# Enrolled House Bill 4203

Sponsored by Representatives KOTEK, ALONSO LEON, BYNUM, MEEK, SALINAS, SANCHEZ, Senators FREDERICK, PROZANSKI; Representatives CLEM, DEXTER, FAHEY, HELT, HERNANDEZ, HOLVEY, KENY-GUYER, LAWRENCE SPENCE, MITCHELL, NATHANSON, NOBLE, NOSSE, PILUSO, PRUSAK, REARDON, SOLLMAN, WILDE, Senators FAGAN, HASS, MONNES ANDERSON, WAGNER (at the request of Joint Committee on the First Special Session of 2020)

CHAPTER .....

## AN ACT

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

Whereas Black Lives Matter; and

Whereas the lives of Kendra James, Jason Washington, Andre Gladen, Patrick Kimmons, Chase Arnae Peoples, Terrell Kyreem Johnson, Quanice Derrick Hayes, Denorris Laron McClendon and Darris Eugene Johnson mattered; and

Whereas George Floyd’s last words were, “I can’t breathe”; and

Whereas Eric Garner’s last words were, “I can’t breathe”; and

Whereas choke holds have led to deaths in several high-profile cases, and presumably in more cases than we will ever know; and

Whereas “I can’t breathe” chants are shouted in the streets throughout Oregon to draw attention to the incalculable consequences of police brutality and disproportionate policing; and

Whereas there have been at least 268 deadly force incidents in Oregon over the past 10 years; and

Whereas 12 of the 55 Portland shootings or deaths were of Black people, or 22 percent of the victims in a city that is six percent Black; and

Whereas the Oregon Justice Resource Center found that the Portland Police Bureau is more likely to search and arrest Black people, with over 17 percent of the bureau’s traffic and pedestrian stops involving Black people; and

Whereas choke holds or other restraint to the head, neck or back interferes with a person’s blood flow or ability to breathe, which can cause asphyxiation and death; now, therefore,

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

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

**SECTION 2.** (1) A peace officer is not justified in any circumstance in knowingly using physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person, unless the circumstance is one in which the peace officer may use deadly physical force as provided in ORS 161.239.

(2) It is not reasonable under any circumstance for a peace officer to knowingly use physical force that impedes the normal breathing or circulation of the blood of another per-

son by applying pressure on the throat or neck of the other person, unless the circumstance is one in which the peace officer may use deadly physical force as provided in ORS 161.239.

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

161.235. Except as provided in ORS 161.239 and section 2 of this 2020 special session Act, a peace officer is justified in using physical force upon another person only when and to the extent that the peace officer reasonably believes it necessary:

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

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

**SECTION 4.** Section 5 of this 2020 special session Act is added to and made a part of ORS 181A.355 to 181A.670.

**SECTION 5.** The Board on Public Safety Standards and Training shall adopt rules prohibiting the training of police officers and reserve officers to use physical force that impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person, except as a defensive maneuver.

**SECTION 6.** This 2020 special session Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2020 special session Act takes effect on its passage.

Passed by House June 26, 2020

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 26, 2020

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2020

Approved:

.....M.,....., 2020

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2020

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Bev Clarno, Secretary of State