

# House Bill 4203

Sponsored by Representative KOTEK (at the request of Joint Committee on the First Special Session of 2020)

## 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**.

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 ORS 161.235 and  
3 161.239; 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 and made a part of ORS**  
6 **161.195 to 161.275.**

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

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

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

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

16 161.235. Except as provided in ORS 161.239 **and section 2 of this 2020 special session Act**, a  
17 peace officer is justified in using physical force upon another person only when and to the extent  
18 that the peace officer reasonably believes it necessary:

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

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

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

25 161.239. (1) Notwithstanding the provisions of ORS 161.235 **and except as provided in section**  
26 **2 of this 2020 special session Act**, a peace officer may use deadly physical force only when the  
27 peace officer reasonably believes that:

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

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

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

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

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

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

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

14