

A-Engrossed
Senate Bill 385

Ordered by the Senate April 22
Including Senate Amendments dated April 22

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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.

[Adds justice court and municipal court to definition of "court facility" in which firearms and other weapons are prohibited except in specified circumstances.] **Defines "local court facility" as area in which justice court, municipal court, probate court or juvenile court conducts business, during hours of court operation. Provides that possession of firearm in local court facility with firearm prohibition is crime punishable by maximum of five years' imprisonment, \$125,000 fine, or both.** Expands definition of "weapon" to include certain kinds of pocketknives. Authorizes judges of justice courts and municipal courts to establish procedures permitting or prohibiting possession of firearms and other weapons in court facilities. **Requires that justice court and municipal court procedures not conflict with circuit court procedures in shared court facility.**

A BILL FOR AN ACT

Relating to possession of weapons in courts; amending ORS 166.360, 166.370 and 166.373.

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

SECTION 1. ORS 166.360 is amended to read:

166.360. As used in ORS 166.360 to 166.380, unless the context requires otherwise:

(1) "Capitol building" means the Capitol, the State Office Building, the State Library Building, the Labor and Industries Building, the State Transportation Building, the Agriculture Building or the Public Service Building and includes any new buildings which may be constructed on the same grounds as an addition to the group of buildings listed in this subsection.

(2) "Court facility" means a courthouse or that portion of any other building occupied by a circuit court, the Court of Appeals, the Supreme Court or the Oregon Tax Court or occupied by personnel related to the operations of those courts, or in which activities related to the operations of those courts take place.

(3) "Judge" means a judge of a circuit court, the Court of Appeals, the Supreme Court, the Oregon Tax Court, a municipal court, a probate court or a juvenile court or a justice of the peace.

(4) "Judicial district" means a circuit court district established under ORS 3.012 or a justice of the peace district established under ORS 51.020.

(5) "Juvenile court" has the meaning given that term in ORS 419A.004.

[(3)] (6) "Loaded firearm" means:

(a) A breech-loading firearm in which there is an unexpended cartridge or shell in or attached to the firearm including but not limited to, in a chamber, magazine or clip which is attached to the

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 firearm.

2 (b) A muzzle-loading firearm which is capped or primed and has a powder charge and ball, shot
3 or projectile in the barrel or cylinder.

4 (7) **“Local court facility” means the portion of a building in which a justice court, a mu-**
5 **nicipal court, a probate court or a juvenile court conducts business, during the hours in**
6 **which the court operates.**

7 (8) **“Probate court” has the meaning given that term in ORS 111.005.**

8 [(4)] (9) “Public building” means a hospital, a capitol building, a public or private school, as
9 defined in ORS 339.315, a college or university, a city hall or the residence of any state official
10 elected by the state at large, and the grounds adjacent to each such building. The term also includes
11 that portion of any other building occupied by an agency of the state or a municipal corporation,
12 as defined in ORS 297.405, other than a court facility.

13 [(5)] (10) “Weapon” means:

14 (a) A firearm;

15 (b) Any dirk, dagger, ice pick, slingshot, metal knuckles or any similar instrument or a knife,
16 other than an ordinary pocketknife **with a blade less than four inches in length**, the use of which
17 could inflict injury upon a person or property;

18 (c) Mace, tear gas, pepper mace or any similar deleterious agent as defined in ORS 163.211;

19 (d) An electrical stun gun or any similar instrument;

20 (e) A tear gas weapon as defined in ORS 163.211;

21 (f) A club, bat, baton, billy club, bludgeon, knobkerrie, nunchaku, nightstick, truncheon or any
22 similar instrument, the use of which could inflict injury upon a person or property; or

23 (g) A dangerous or deadly weapon as those terms are defined in ORS 161.015.

24 **SECTION 2.** ORS 166.370 is amended to read:

25 166.370. (1) Any person who intentionally possesses a loaded or unloaded firearm or any other
26 instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be
27 guilty of a Class C felony.

28 (2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who inten-
29 tionally possesses:

30 (A) A firearm in a court facility is guilty, upon conviction, of a Class C felony. A person who
31 intentionally possesses a firearm in a court facility shall surrender the firearm to a law enforcement
32 officer.

33 (B) A weapon, other than a firearm, in a court facility may be required to surrender the weapon
34 to a law enforcement officer or to immediately remove it from the court facility. A person who fails
35 to comply with this subparagraph is guilty, upon conviction, of a Class C felony.

36 (C) **A firearm in a local court facility is guilty, upon conviction, of a Class C felony if,**
37 **prior to the offense, the presiding judge of the local court facility entered an order prohib-**
38 **iting firearms in the area in which the court conducts business and during the hours in**
39 **which the court operates.**

40 (b) The presiding judge of a judicial district **or a municipal court** may enter an order permit-
41 ting the possession of specified weapons in a court facility.

42 (c) **Within a shared court facility, the presiding judge of a municipal court or justice of**
43 **the peace district may not enter an order concerning the possession of weapons in the court**
44 **facility that is in conflict with an order entered by the presiding judge of the circuit court.**

45 (3) Subsection (1) of this section does not apply to:

1 (a) A sheriff, police officer, other duly appointed peace officers or a corrections officer while
2 acting within the scope of employment.

3 (b) A person summoned by a peace officer to assist in making an arrest or preserving the peace,
4 while the summoned person is engaged in assisting the officer.

5 (c) An active or reserve member of the military forces of this state or the United States, when
6 engaged in the performance of duty.

7 (d) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

8 (e) A person who is authorized by the officer or agency that controls the public building to
9 possess a firearm or dangerous weapon in that public building.

10 (f) An employee of the United States Department of Agriculture, acting within the scope of em-
11 ployment, who possesses a firearm in the course of the lawful taking of wildlife.

12 (g) Possession of a firearm on school property if the firearm:

13 (A) Is possessed by a person who is not otherwise prohibited from possessing the firearm; and

14 (B) Is unloaded and locked in a motor vehicle.

15 (4) The exceptions listed in subsection (3)(b) to (g) of this section constitute affirmative defenses
16 to a charge of violating subsection (1) of this section.

17 (5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges
18 or attempts to discharge a firearm at a place that the person knows is a school shall upon con-
19 viction be guilty of a Class C felony.

20 (b) Paragraph (a) of this subsection does not apply to the discharge of a firearm:

21 (A) As part of a program approved by a school in the school by an individual who is partic-
22 ipating in the program;

23 (B) By a law enforcement officer acting in the officer's official capacity; or

24 (C) By an employee of the United States Department of Agriculture, acting within the scope of
25 employment, in the course of the lawful taking of wildlife.

26 (6) Any weapon carried in violation of this section is subject to the forfeiture provisions of ORS
27 166.279.

28 (7) Notwithstanding the fact that a person's conduct in a single criminal episode constitutes a
29 violation of both subsections (1) and (5) of this section, the district attorney may charge the person
30 with only one of the offenses.

31 (8) As used in this section, "dangerous weapon" means a dangerous weapon as that term is de-
32 fined in ORS 161.015.

33 **SECTION 3.** ORS 166.373 is amended to read:

34 166.373. (1) Notwithstanding ORS 166.370 (2) and except as provided in subsection (2) of this
35 section, a peace officer, as defined in ORS 161.015, or a federal officer, as defined in ORS 133.005,
36 may possess a weapon in a court facility if the officer:

37 (a) Is acting in an official capacity and is officially on duty;

38 (b) Is carrying a weapon that the employing agency of the officer has authorized the officer to
39 carry; and

40 (c) Is in compliance with any security procedures established under subsections (3) and (4) of
41 this section.

42 (2) A judge may prohibit a peace officer or a federal officer from possessing a weapon in a
43 courtroom. A notice of the prohibition of the possession of a weapon by an officer in a courtroom
44 must be posted outside the entrance to the courtroom.

45 (3) A presiding judge of a judicial district **or a municipal court** or the Chief Justice of the

1 Supreme Court may establish procedures regulating the possession of a weapon in a court facility
2 by a peace officer or a federal officer subject to the following:

3 *[(a) The procedures must be established through a plan for court security improvement, emergency*
4 *preparedness and business continuity under ORS 1.177 or 1.180; and]*

5 **(a) The procedures for a circuit court must be established through a plan for court se-**
6 **curity improvement, emergency preparedness and business continuity under ORS 1.177 or**
7 **1.180;**

8 **(b) The procedures for a justice court or a municipal court may only prohibit the pos-**
9 **session of weapons within the area in which the court conducts business and during the**
10 **hours in which the court operates;**

11 **(c) Within a shared court facility, the presiding judge of a municipal court or justice of**
12 **the peace district may not establish procedures in conflict with the procedures established**
13 **by the presiding judge of the circuit court; and**

14 *[(b)]* **(d)** Notice of the procedures must be posted at the entrance to the court facility, or at an
15 entrance for peace officers or federal officers if the entrance is separate from the entrance to the
16 court facility, and at a security checkpoint in the court facility.

17 (4) A judge may establish procedures regulating the possession of a weapon in a courtroom by
18 a peace officer or a federal officer. A notice of the procedures regulating the possession of a weapon
19 by an officer must be posted outside the entrance to the courtroom.

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