

# A-Engrossed Senate Bill 495

Ordered by the Senate March 18  
Including Senate Amendments dated March 18

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.

Prohibits use of *[dogs]* **dog to extract inmate from cell** 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:**

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

6 (a) **“Correctional facility”:**

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

10 (B) **Includes but is not limited to a youth correction facility and a juvenile detention fa-**  
11 **cility.**

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

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

20 (c) **“Juvenile detention facility” has the meaning given that term in ORS 169.005.**

21 (d) **“Youth correction facility” has the meaning given that term in ORS 420.005.**

22 (e) **“Youth offender” has the meaning given that term in ORS 419A.004.**

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

25 (3) **Nothing in this section prohibits:**

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

28 (b) **The use of a dog in a correctional facility to quell a disturbance, prevent an inmate**

**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 **escape or address an immediate health or safety risk to inmates or staff members.**

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

5 **SECTION 2.** ORS 161.205 is amended to read:

6 161.205. The use of physical force upon another person that would otherwise constitute an of-  
7 fense is justifiable and not criminal under any of the following circumstances:

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

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

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

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

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

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

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

30 161.267. (1) As used in this section:

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

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

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

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

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

44 (b) Maintain or restore order and discipline in a Department of Corrections institution, or any  
45 part of the institution, in the event of a riot, disturbance or other occurrence that threatens the

1 safety of inmates, department employees or other persons; or  
2 (c) Prevent serious physical injury to or the death of the officer, official or another person.  
3 (3) Notwithstanding subsection (2)(a) of this section, a corrections officer or other official em-  
4 ployed by the department may not use deadly physical force to prevent the escape of an inmate from:  
5 (a) A stand-alone minimum security facility;  
6 (b) A colocated minimum security facility, if the corrections officer or other official knows that  
7 the inmate has been classified by the department as minimum custody; or  
8 (c) Custody outside of a Department of Corrections institution:  
9 (A) While the inmate is assigned to an inmate work crew; or  
10 (B) During transport or other supervised activity, if the inmate is classified by the department  
11 as minimum custody and the inmate is not being transported or supervised with an inmate who has  
12 been classified by the department as medium or higher custody.  
13 (4) Nothing in this section limits the authority of a person to use physical force under ORS  
14 161.205 (2) or 161.265.

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