

# House Bill 3316

Sponsored by Representative CLEM (at the request of Kristen Wilson)

## 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 deadly physical force against adult in custody by corrections officer or other official employed by Department of Corrections unless officer or official reasonably believes use of deadly physical force is necessary for self-defense against imminent threat of death.

## A BILL FOR AN ACT

1  
2 Relating to use of deadly physical force against adult in custody; amending ORS 161.265 and 161.267.

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

4 **SECTION 1.** ORS 161.265, as amended by sections 4 and 11, chapter 3, Oregon Laws 2020  
5 (second special session), is amended to read:

6 161.265. *[(1)]* Except as provided in section 2, chapter 3, Oregon Laws 2020 (first special session),  
7 a guard or other peace officer employed in a correctional facility, as that term is defined in ORS  
8 162.135, is justified in using physical force~~[, including deadly physical force,]~~ upon another person if  
9 the person poses an imminent threat of physical injury to the guard or peace officer or to a third  
10 person or the guard or peace officer reasonably believes it necessary to prevent the escape of a  
11 prisoner from a correctional facility. The guard or peace officer may use physical force under this  
12 subsection only to the degree that the guard or peace officer reasonably believes necessary to pre-  
13 vent the physical injury or escape.

14 *[(2) Notwithstanding subsection (1) of this section, a guard or other peace officer employed by the*  
15 *Department of Corrections may not use deadly physical force in the circumstances described in ORS*  
16 *161.267 (3).]*

17 **SECTION 2.** ORS 161.267, as amended by section 5, chapter 3, Oregon Laws 2020 (second spe-  
18 cial session), is amended to read:

19 161.267. (1) As used in this section:

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

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

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

28 (2) Subject to ORS 421.107 and section 2, chapter 3, Oregon Laws 2020 (first special session), a  
29 corrections officer or other official employed by the Department of Corrections is justified in using  
30 physical force~~[, including deadly physical force,]~~ when and to the extent that the officer or official  
31 reasonably believes it necessary to:

**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 (a) Prevent the escape of an adult in custody from a Department of Corrections institution, in-  
2 cluding the grounds of the institution, or from custody;

3 (b) Maintain or restore order and discipline in a Department of Corrections institution, or any  
4 part of the institution, in the event of a riot, disturbance or other occurrence that threatens the  
5 safety of adults in custody, department employees or other persons; or

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

7 *[(3) Notwithstanding subsection (2)(a) of this section, a corrections officer or other official employed*  
8 *by the department may not use deadly physical force to prevent the escape of an adult in custody*  
9 *from:]*

10 *[(a) A stand-alone minimum security facility;]*

11 *[(b) A colocated minimum security facility, if the corrections officer or other official knows that the*  
12 *adult in custody has been classified by the department as minimum custody; or]*

13 *[(c) Custody outside of a Department of Corrections institution:]*

14 *[(A) While the adult in custody is assigned to an adult in custody work crew; or]*

15 *[(B) During transport or other supervised activity, if the adult in custody is classified by the de-*  
16 *partment as minimum custody and the adult in custody is not being transported or supervised with an*  
17 *adult in custody who has been classified by the department as medium or higher custody.]*

18 **(3) Notwithstanding ORS 161.265 and subsection (2) of this section, a corrections officer**  
19 **or other official employed by the Department of Corrections may not use deadly physical**  
20 **force against an adult in custody unless the corrections officer or official reasonably believes,**  
21 **under the totality of circumstances, that the use of deadly physical force is necessary for**  
22 **self-defense against an imminent threat of death.**

23 (4) Nothing in this section limits the authority of a person to use physical force under ORS  
24 161.205 (2) or 161.265.