

SB 577 -1, -2 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 1/31, 2/7

WHAT THE MEASURE DOES:

Deletes language related to use of physical force against incompetent adults; modifies provisions related to use of physical force against minors and students. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Updating ORS 161.205 to align with related statutes
- Need for exceptions such as force used in correctional facility

EFFECT OF AMENDMENT:

-1 Adds authorized official of a youth correctional facility to list of individuals who, subject to ORS 161.237 and 421.107, may use physical force and to what extent; adds language seeking to clarify that "corporal punishment" does not include use of physical force by an authorized official of a jail, prison or correctional facility in certain circumstances.

-2 Adds language seeking to clarify that a parent or legal guardian of a minor child may use reasonable physical force when and to the extent the person reasonable believes it is necessary to maintain discipline or promote the general welfare of the minor child, unless the physical force constitutes abuse.

BACKGROUND:

Currently, ORS 161.205 makes the use of physical force upon incompetent persons and students justifiable and not criminal in two limited circumstances. Those circumstances involve (1) use of force against a minor or incompetent person by the person's parent, guardian, or other person entrusted with their care and supervision, and (2) use of force by personnel of a public education program against a student. Use of force includes use of a stun gun, tear gas, or mace. ORS 161.205 is inconsistent with other state and federal laws related to use of physical force upon these populations.

Senate Bill 577 modifies provisions of ORS 161.205 related to use of force in public education programs and by parents against a minor child, seeking to align those provisions with current state law. It also deletes language related to use of force against incompetent adults.