

MAINE STATE LEGISLATURE

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L.D. 210
(Filing No. S-19)

STATE OF MAINE
SENATE
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A" to S.P. 125, L.D. 210, Bill, "An Act Concerning the Use of Deadly Force by Correctional Officers and Law Enforcement Officers"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting in its place the following:

'Sec. 1. 17-A MRSA §2, sub-§5-A is enacted to read:

5-A. "Corrections officer" has the same meaning as in Title 25, section 2805, subsection 2, paragraph C.

Sec. 2. 17-A MRSA §107, sub-§5, as amended by PL 1979, c. 512, §23, is further amended to read:

5. Except where otherwise expressly provided, a corrections officer or law enforcement officer in a facility where persons are confined, pursuant to an order of a court or as a result of an arrest, is justified in using deadly force against such persons under the circumstances described in subsection 2. He The officer or another individual responsible for the custody, care or treatment of those persons is justified in using a reasonable degree of nondeadly force when and to the extent he the officer or the individual reasonably believes it necessary to prevent any other escape from such-a-facility custody or to enforce the rules and-regulations of the facility.

Sec. 3. 17-A MRSA §107, sub-§5-A is enacted to read:

5-A. A corrections officer or law enforcement officer is justified in using deadly force against a person confined in the Maine State Prison or the Maine Correctional Institution - Warren when the officer reasonably believes that deadly force is necessary to prevent an escape from custody. The officer shall make reasonable efforts to advise the person that if the attempt to escape does not stop immediately, deadly force will be used. This subsection does not authorize any corrections officer or law

enforcement officer who is not employed by a state agency to use deadly force.'

STATEMENT OF FACT

This amendment replaces the text of the bill.

Section 1 provides a definition for "corrections officer" which will be the same as that found in the Maine Revised Statutes, Title 25, section 2805, subsection 2, paragraph C.

Section 2 clarifies that besides correctional officers and law enforcement officers, any other individual responsible for the custody, care and treatment of a confined person may use a reasonable degree of nondeadly force when the officer or individual reasonably believes it is necessary to prevent an escape from custody or to enforce the rules of the facility.

Section 3 defines under what circumstances deadly force can be used by a corrections officer at the Maine State Prison or the soon-to-be constructed Maine Correctional Institution - Warren in order to prevent an escape by an inmate. Both facilities are considered maximum security facilities. This bill expands the use of deadly force currently allowed to relieve corrections officers of the burden of making positive identification of an inmate attempting to escape from one of the 2 maximum security facilities, and of the responsibility of knowing, once that identification has been made, of the inmate's criminal record and the likelihood of the inmate using deadly force during or after the escape. The escape need not occur from the facility itself; it need only occur "from custody" and thus this subsection applies to escapes from custody outside the facilities, including escapes that occur while inmates are being transported from the facility to a court or hospital. This authority to use deadly force under the expressed conditions is not extended to county or local law enforcement or corrections officers.

Reported by Senator Hobbins for the Committee on Judiciary.
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