

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 210

S.P. 125

In Senate, February 16, 1989

Reference to the Committee on Legal Affairs suggested and ordered printed.

Joy J. O'Brien

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator PERKINS of Hancock.

Cosponsored by Senator BUSTIN of Kennebec, Representative MAYO of Thomaston and Representative MARSH of West Gardiner.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act Concerning the Use of Deadly Force by Correctional Officers and Law Enforcement Officers.

(EMERGENCY)



1 **Emergency preamble.** Whereas, Acts of the Legislature do not
2 become effective until 90 days after adjournment unless enacted
3 as emergencies; and

4 Whereas, the existing law poses serious obstacles to a
5 corrections officer or law enforcement officer in using deadly
6 force against a person confined in a maximum security facility
7 operated by the Maine Department of Corrections, when the officer
8 reasonably believes that deadly force is necessary to prevent an
9 escape from custody; and

10 Whereas, it is necessary to change the law in order to
11 increase the protection afforded the public; and

12 Whereas, in the judgment of the Legislature, these facts
13 create an emergency within the meaning of the Constitution of
14 Maine and require the following legislation as immediately
15 necessary for the preservation of the public peace, health and
16 safety; now, therefore,

17 **Be it enacted by the People of the State of Maine as follows:**

18 **Sec. 17-A MRSA §107, sub-§5,** as amended by PL 1979, c. 512,
19 §23, is further amended to read:

20 5. Except where otherwise expressly provided, a corrections
21 officer or law enforcement officer in a facility where persons
22 are confined, pursuant to an order of a court or as a result of
23 an arrest, is justified in using deadly force against such
24 persons under the circumstances described in subsection 2. A
25 corrections officer or law enforcement officer is justified in
26 using deadly force against a person confined in a maximum
27 security facility operated by the Department of Corrections when
28 the officer reasonably believes such force is necessary to
29 prevent an escape from custody. He An officer is justified in
30 using a reasonable degree of nondeadly force when and to the
31 extent he the officer reasonably believes it necessary to prevent
32 any other escape from such a facility or to enforce the rules and
33 regulations of the facility.

34 **Emergency clause.** In view of the emergency cited in the
35 preamble, this Act shall take effect when approved.

36 STATEMENT OF FACT

37 The purpose of this bill is to define under what
38 circumstances deadly force can be used by a correctional officer
39 at a maximum security facility operated by the Department of
40 Corrections in order to prevent an escape by an inmate. This
41 bill expands the use of deadly force currently allowed to relieve
42 corrections officers of the burden of making a positive

1 care staff. In addition, it requires that professional staff in
residential treatment centers be paid wages competitive with
3 state employees in similar positions.