

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

—
H.P. 1145 - L.D. 1710

**An Act Regarding the Authority to Transport Prisoners Confined in Jail and
the Use of Physical Force with Respect to Prisoners and Persons Who Have
Been Arrested**

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

Sec. 1. 14 MRSA §5545, as amended by PL 2015, c. 335, §5, is further amended to read:

§5545. Habeas corpus for prisoner as witness

A court may issue a writ of habeas corpus, when necessary, to bring before it a prisoner for trial in a cause pending in such court, or to testify as a witness when ~~his~~ the prisoner's personal attendance is ~~deemed~~ determined necessary for the attainment of justice.

Whenever, under this section or under any other section in this chapter, a court issues a writ of habeas corpus ordering before it a prisoner confined in any penal or correctional institution under the control of the Department of Corrections, or confined in any ~~county~~ jail, its order as to the transportation of the prisoner to and from the court must be directed to the sheriff of the county in which the court is located. It is the responsibility of the sheriff or any one or more of the sheriff's authorized deputies, transport officers or corrections officers pursuant to any such order to safely transport a prisoner to and from the court and to provide safe and secure custody of the prisoner during the proceedings, as directed by the court. At the time of removal of a prisoner from an institution, the transporting officer shall leave with the head of the institution an attested copy of the order of the court, and upon return of the prisoner shall note that return on the copy.

Any prisoner who escapes from custody of the sheriff or any of ~~his~~ the sheriff's deputies, transport officers or corrections officers or any other law enforcement officer following removal for appearance in court, from a penal or correctional institution or from a ~~county~~ jail, and prior to return ~~thereto, shall be,~~ is chargeable with escape from the penal or correctional institution or ~~county~~ jail from which ~~he~~ the prisoner was removed, and ~~shall be punished~~ is subject to punishment in accordance with Title 17-A, section 755.

For purposes of this section, "corrections officer" has the same meaning as in Title 25, section 2801-A, subsection 2; and "transport officer" has the same meaning as in Title 25, section 2801-A, subsection 8.

Sec. 2. 17-A MRSA §2, sub-§25-A is enacted to read:

25-A. "Transport officer" has the same meaning as in Title 25, section 2801-A, subsection 8.

Sec. 3. 17-A MRSA §107, sub-§5, as amended by PL 1995, c. 215, §2, is repealed.

Sec. 4. 17-A MRSA §107, sub-§5-A, as amended by PL 2003, c. 143, §3, is repealed.

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

§107-A. Physical force in corrections

1. A corrections officer, corrections supervisor, transport officer, law enforcement officer or another individual responsible for the custody, care, treatment or transport of persons in custody pursuant to an order of a court or as a result of arrest is justified in using a reasonable degree of nondeadly force:

A. When and to the extent the individual reasonably believes it necessary to prevent an escape from custody or to enforce a rule of the Department of Corrections or a jail; or

B. In self-defense or to defend a 3rd person from what the individual reasonably believes to be the imminent use of unlawful nondeadly force encountered while seeking to prevent an escape or enforce a rule as described in paragraph A.

2. A corrections officer, corrections supervisor, transport officer or law enforcement officer responsible for the custody, care, treatment or transport of persons in custody pursuant to an order of a court or as a result of arrest is justified in using deadly force when the officer or supervisor reasonably believes such force is necessary:

A. For self-defense or to defend a 3rd person from what the officer or supervisor reasonably believes is the imminent use of unlawful deadly force; or

B. To prevent an escape from custody when the officer or supervisor reasonably believes the person has committed a crime involving the use or threatened use of deadly force, is using a dangerous weapon in attempting to escape or otherwise indicates that the person is likely to seriously endanger human life or to inflict serious bodily injury unless apprehended without delay and:

(1) The officer or supervisor has made reasonable efforts to advise the person that the officer or supervisor is attempting to prevent the escape from custody and the officer or supervisor reasonably believes that the person is aware of this advice; or

(2) The officer or supervisor reasonably believes that the person in custody otherwise knows the officer or supervisor is attempting to prevent the escape from custody.

For the purposes of this subsection, "a reasonable belief that another person has committed a crime involving use or threatened use of deadly force" is a reasonable belief in facts, circumstances and the law that, if true, would constitute such an offense by the person. If

the facts and circumstances reasonably believed would not constitute such an offense, an erroneous but reasonable belief that the law is otherwise justifies the use of deadly force to prevent an escape.

3. A corrections officer, corrections supervisor, transport officer or law enforcement officer is justified in using deadly force against a person in the custody of the Maine State Prison or in the custody of an officer or supervisor of the Maine State Prison when the officer or supervisor reasonably believes that deadly force is necessary to prevent an escape from custody by that person. The officer or supervisor 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, corrections supervisor, transport officer or law enforcement officer who is not employed by a state agency to use deadly force.

4. A private person who has been directed by a corrections officer, corrections supervisor, transport officer or law enforcement officer who is responsible for the custody, care, treatment or transport of persons in custody pursuant to an order of a court or as a result of arrest to assist the officer or supervisor in preventing an escape from custody is justified in using:

A. A reasonable degree of nondeadly force when and to the extent that the private person reasonably believes such force to be necessary to carry out the officer's or supervisor's direction, unless the private person reasonably believes the order is illegal; or

B. Deadly force only when the private person reasonably believes such force to be necessary for self-defense or to defend a 3rd person from what the private person reasonably believes to be the imminent use of unlawful deadly force or when the officer or supervisor directs the private person to use deadly force and the private person reasonably believes the officer or supervisor is authorized to use deadly force under the circumstances.

5. Notwithstanding any provision of this section to the contrary, a corrections officer or corrections supervisor is not justified in using nondeadly or deadly force, or in directing a private person in the use of such force, in accordance with this section unless the corrections officer or corrections supervisor has received in-service training pursuant to Title 25, section 2804-F, subsection 5 in the use of such force, or in directing a private person to use such force, in the setting in which the force is to be used.

Sec. 6. 17-A MRSA §110, as enacted by PL 1997, c. 289, §1, is amended to read:

§110. Threat to use deadly force against a law enforcement officer, transport officer, corrections officer or corrections supervisor

A person otherwise justified in threatening to use deadly force against another is not justified in doing so with the use of a firearm or other dangerous weapon if the person knows or should know that the other person is a law enforcement officer, transport officer, corrections officer or corrections supervisor, unless the person knows that the ~~law enforcement~~ officer or supervisor is not in fact engaged in the performance of the ~~law enforcement~~ officer's or supervisor's public duty, or unless the person is justified under this chapter in using deadly force against the ~~law enforcement~~ officer or supervisor. A law enforcement officer, transport officer, corrections officer or corrections supervisor may not

make a nonconsensual warrantless entry into a dwelling place solely in response to a threat not justified under this section.

Sec. 7. 17-A MRSA §1002-A, sub-§1, ¶B, as amended by PL 2001, c. 383, §112 and affected by §156, is further amended to read:

B. That other person is a law enforcement officer, transport officer, corrections officer or corrections supervisor in uniform. Violation of this paragraph is a Class D crime; or

Sec. 8. 17-A MRSA §1004, sub-§4, ¶A, as enacted by PL 2005, c. 264, §1, is amended to read:

A. A law enforcement officer, transport officer, corrections officer or corrections supervisor engaged in the performance of the law enforcement officer's, transport officer's, corrections officer's or corrections supervisor's public duty if the officer's or corrections supervisor's appointing authority has authorized such use of an electronic weapon; or

Sec. 9. 25 MRSA §2804-F, sub-§3, as amended by PL 2013, c. 147, §35, is further amended to read:

3. Provisions of in-service training. In-service training programs that meet the requirements established under subsection 2 or 5 or other in-service training may be provided by the Maine Criminal Justice Academy or the agency employing the corrections officer.

Sec. 10. 25 MRSA §2804-F, sub-§5 is enacted to read:

5. Additional certifications. The board shall establish additional in-service training requirements for corrections officers and corrections supervisors who are responsible as part of their official job duties for transferring or conveying from one place to another individuals who are confined in a jail, prison or state correctional facility pursuant to an order of a court or as a result of an arrest. These in-service training requirements must include training on the use of nondeadly or deadly force, or in directing a private person in the use of such force, that is used or directed outside of a jail, prison or state correctional facility. A corrections officer or corrections supervisor who fails to complete this in-service training is not justified in using or directing the use of force under Title 17-A, section 107-A, subsections 1, 2 and 4.