

# Health Department

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March 11, 2021

Senate Committee on Judiciary and Ballot Measure 110 Implementation  
900 Court St. NE - Remote A  
Salem, Oregon 97301

Re: SB 566 - Removes the label of “mentally defective” from Oregon’s framework around capacity to consent to sexual contact.

Chair Prozanski, Vice-Chair Thatcher, and members of the Committee, my name is April Kayser and I am a Health Educator with the Multnomah County Health Department and coordinate the Sexual Health Equity for Individuals with Intellectual/Developmental Disabilities project. Thank you for the opportunity to provide testimony in support of SB 566.

SB 566 affirms and supports the rights of people with disabilities by removing the stigmatizing category of “mentally defective” from the sex offense statute. Removing this label from a large group of people honors their humanity and the fact that they are sexual beings with the right to express their sexuality. Instead, SB 566 takes a contextual approach to sexual activity, acknowledging that a person may be unable to appraise the nature of another’s conduct in a particular context, but that this may not always be true in all situations of sexual activity.

While the current law is intended to assess an alleged victim’s capacity to consent in a criminal case, the reality is that people also look to this law to inform whether or not an individual they support can legally consent to sexual activity. The law as it is written reinforces the stigmatizing view that people with disabilities are child-like, asexual and defective, which can play a part in how support teams set parameters around individuals’ access to education, goal setting, decision-making, and supports related to relationships and sexuality. We know that people with disabilities are at greater risk of sexual assault and exploitation. Perpetuating a view that they are not sexual beings, do not need comprehensive sexuality education, supports and services can increase this risk. Instead, holistic, trauma informed sexuality education is needed to support

informed decision-making and skill building around the development of safe, equitable and consensual relationships.<sup>1</sup>

In summary, joining other states in adopting a disability-neutral framework for evaluating capacity to consent is an opportunity to affirm the rights of people with disabilities as sexual beings and to honor the abilities and experiences of individuals by taking a context-specific approach.

Thank you for your time and I am happy to answer any questions you may have.

Best,

April Kayser  
Health Educator  
Multnomah County Health Department

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<sup>1</sup> In Their Own Words: Guidelines for Supporting the Sexual Health of Young People Experiencing Intellectual/Developmental Disabilities. (2018). Retrieved from <https://multco.us/school/sexual-health-youth-developmental-disabilities>.