



Oregon

Kate Brown, Governor

Residential Facilities Ombudsman Program

Office of the Long-Term Care Ombudsman

3855 Wolverine NE, Suite 6

Salem, OR 97305-1251

503.378-6852

1.844.674.4567

Fax: 503.373.0852

TTY 711

www.oregon.gov/LTCO

March 10, 2021

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

Chair Prozanski, Vice-Chair Thatcher, and members of the Senate Committee on the Judiciary:

My name is Toni Larson and I am the Residential Facilities Ombudsman (RFO) for people living in homes and facilities licensed or certified for Intellectual and Developmental Disabilities and Mental Health. Thank you for the opportunity to provide testimony in support of SB 566.

In our role providing advocacy and resident-directed complaint resolution services we support more than 10,000 Oregonians residing in 2,600 homes statewide. Individuals request assistance with a wide-range of issues regarding quality of care and life. Frequently, this involves relationships, sexuality and barriers to supports and decision making.

While the current law is intended to assess an alleged victim’s capacity to consent in a criminal case, it has made its way into other systems. Our experience in serving individuals in residential settings indicates that support teams of all types also look to this law to inform whether or not an individual they support can legally consent to sexual activity. In the case of individuals seeking assistance from our office, this is illustrated through actions taken by support teams, decision makers and other professionals that set limitations around an individuals’ access to education, goal setting, decision-making, and supports related to relationships and sexuality. These are very real barriers to individuals in their pursuit of full and happy lives.

We know that individuals with a disability are part of a larger group at greater risk of abuse, sexual assault and exploitation in their lifetimes. Terms such as “mental defect” and incapable of consent promote an infantile view of disability – maintaining individuals at increased risk. This is risk that can be significantly reduced by access to education, information and support.

We support SB566 as it removes the term “mentally defective” at the same time adopting a disability-neutral framework for evaluating capacity to consent that works for everyone.

Thank you,

Toni Larson

Residential Facilities Ombudsman