

Senate Bill 566

Sponsored by Senators GELSER BLOUIN, GORSEK, KNOPP; Senator DEMBROW, Representative GRAYBER
(Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that lack of verbal or physical resistance does not by itself constitute lack of consent or inability to consent in determination of whether sexual act is consensual.

A BILL FOR AN ACT

1
2 Relating to consent; creating new provisions; and amending ORS 163.315.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 163.315 is amended to read:

5 163.315. (1) A person is considered incapable of consenting to a sexual act if the person is:

6 (a) Under 18 years of age;

7 (b) Incapable of appraising the nature of the person's conduct;

8 (c) Mentally incapacitated; or

9 (d) Physically helpless.

10 (2) A lack of verbal or physical resistance does not, by itself, constitute consent, **lack of con-**
11 **sent or inability to consent**, but may be considered by the trier of fact along with all other rele-
12 vant evidence.

13 (3) A person is incapable of appraising the nature of the person's conduct if:

14 (a) The person is unable to understand the nature of the conduct;

15 (b) The person is unable to understand the right to choose whether and how to engage in con-
16 duct, including the right to revoke a prior decision to engage in conduct; or

17 (c) The person is unable to communicate a decision to engage in conduct.

18 **SECTION 2. The amendments to ORS 163.315 by section 1 of this 2023 Act apply to con-**
19 **duct occurring on or after the effective date of this 2023 Act.**

20

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.