

Oregon

“Age as a Defense” law for sexual contact

- (1) In any prosecution under ORS [163.355 \(Rape in the third degree\)](#), [163.365 \(Rape in the second degree\)](#), [163.385 \(Sodomy in the third degree\)](#), [163.395 \(Sodomy in the second degree\)](#), [163.415 \(Sexual abuse in the third degree\)](#), [163.425 \(Sexual abuse in the second degree\)](#), [163.427 \(Sexual abuse in the first degree\)](#) or [163.435 \(Contributing to the sexual delinquency of a minor\)](#) in which the victims lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense.
- (2) In any prosecution under ORS [163.408 \(Unlawful sexual penetration in the second degree\)](#), when the object used to commit the unlawful sexual penetration was the hand or any part thereof of the actor and in which the victims lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense.
- (3) In any prosecution under ORS [163.445 \(Sexual misconduct\)](#) in which the victims lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense if the victim was at least 15 years of age at the time of the alleged offense.